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House of Representatives

TRANSPORTATION, TREASURY,
AND INDEPENDENT AGENCIES
APPROPRIATIONS ACT, 2005—Con-
tinued

□ 1800

The CHAIRMAN. Do any other Members wish to be heard on the point of order? If not, the Chair is prepared to rule.

The paragraph proposes to appropriate certain funds for specified objects. Under clause 2(a) of rule XXI, such an earmarking must be specifically authorized by law. The burden of establishing the authorization in law rests with the committee. Finding that this burden has not been carried, the Chair sustains the point of order, and the paragraph is stricken from the bill.

The Clerk will read.

The Clerk read as follows:

FEDERAL-AID HIGHWAYS
(LIMITATION ON OBLIGATIONS)
(HIGHWAY TRUST FUND)

None of the funds in this Act shall be available for the implementation or execution of programs, the obligations for which are in excess of \$34,641,000,000 for Federal-aid highways and highway safety construction programs for fiscal year 2005: *Provided*, That within the \$34,641,000,000 obligation limitation on Federal-aid highways and highway safety construction programs, not more than \$478,000,000 shall be available for the implementation or execution of programs for transportation research (sections 502, 503, 504, 506, 507, and 508 of title 23, United States Code, as amended; section 5505 of title 49, United States Code, as amended; and sections 5112 and 5204-5209 of Public Law 105-178) for fiscal year 2005: *Provided further*, That this limitation on transportation research programs shall not apply to any authority previously made available for obligation.

POINT OF ORDER

Mr. YOUNG of Florida. Mr. Chairman, again I rise to offer a point of order.

Mr. Chairman, on page 15, line 4, to page 15, line 22, I raise a point of order on that language because it provides an appropriation for an unauthorized pro-

gram and, therefore, violates section 2(a) of rule XXI. Clause 2 of rule XXI states in pertinent part, an appropriation may not be in order for an expenditure not previously authorized by law.

Mr. Chairman, this program is not authorized, and I insist on my point of order.

The CHAIRMAN. Are there further Members desiring to be heard on the point of order? The Chair is prepared to rule.

The paragraph proposes to appropriate certain funds for specified objects. Under clause 2(a) of rule XXI, such an earmarking must be specifically authorized by law. The burden of establishing the authorization in law rests with the committee. Finding that this burden has not been carried, the Chair sustains the point of order. The paragraph is stricken from the bill.

The Clerk will read.

The Clerk read as follows:

FEDERAL-AID HIGHWAYS
(LIQUIDATION OF CONTRACT AUTHORIZATION)
(HIGHWAY TRUST FUND)

Notwithstanding any other provision of law, for carrying out the provisions of title 23, United States Code, that are attributable to Federal-aid highways, including the National Scenic and Recreational Highway as authorized by 23 U.S.C. 148, not otherwise provided, including reimbursement for sums expended pursuant to the provisions of 23 U.S.C. 308, \$35,000,000,000 or so much thereof as may be available in and derived from the Highway Trust Fund, to remain available until expended.

POINT OF ORDER

Mr. MICA. Mr. Chairman, I raise a point of order against the phrase "notwithstanding any other provision of law," on page 16, line 4.

This phrase violates clause 2 of rule XXI. It changes existing law and, therefore, constitutes legislating on an appropriations bill, in violation of House rules.

The CHAIRMAN. Do any further Members wish to be heard on the point of order? If not, the Chair is prepared to rule.

The Chair finds that this language explicitly supersedes existing law. The language, therefore, constitutes legislation in violation of clause 2 of rule XXI. The point of order is sustained, and the phrase identified by the point of order is stricken from the bill.

The Clerk will read.

The Clerk read as follows:

FEDERAL-AID HIGHWAYS
HIGHWAY TRUST FUND
(RESCISSION)

Of the unobligated balances of funds apportioned to each State under the programs authorized under sections 1101(a)(1), 1101(a)(2), 1101(a)(3), 1101(a)(4), and 1101(a)(5) of Public Law 105-178, as amended, \$386,000,000 are rescinded.

POINT OF ORDER

Mr. MICA. Mr. Chairman, I raise a point of order against page 16, line 13, through line 20. This provision violates clause 2 of rule XXI. It changes existing law and, therefore, constitutes legislating on an appropriations bill in violation of the House rules.

The CHAIRMAN. Does any other Member desire to be heard on the point of order? If not, the Chair is prepared to rule.

The paragraph identified in the point of order by the gentleman from Florida rescinds contract authority provided in a law other than an appropriation Act. As such, the paragraph constitutes legislation on an appropriation bill in violation of clause 2 of rule XXI. The point of order is sustained, and the paragraph is stricken from the bill.

The Clerk will read.

The Clerk read as follows:

GENERAL PROVISIONS—FEDERAL HIGHWAY
ADMINISTRATION

SEC. 121. (a) For fiscal year 2005, the Secretary of Transportation shall—

(1) not distribute from the obligation limitation for Federal-aid Highways amounts authorized for administrative expenses by section 104(a)(1)(A) and 104(a)(1)(B) of title 23, United States Code, for the highway use tax evasion program, and for the Bureau of Transportation Statistics;

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.



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(2) not distribute an amount from the obligation limitation for Federal-aid Highways that is equal to the unobligated balance of amounts made available from the Highway Trust Fund (other than the Mass Transit Account) for Federal-aid highways and highway safety programs for the previous fiscal year the funds for which are allocated by the Secretary;

(3) determine the ratio that—

(A) the obligation limitation for Federal-aid Highways less the aggregate of amounts not distributed under paragraphs (1) and (2), bears to

(B) the total of the sums authorized to be appropriated for Federal-aid highways and highway safety construction programs (other than sums authorized to be appropriated for sections set forth in paragraphs (1) through (7) of subsection (b) and sums authorized to be appropriated for section 105 of title 23, United States Code, equal to the amount referred to in subsection (b)(8)) for such fiscal year less the aggregate of the amounts not distributed under paragraph (1) of this subsection;

(4) distribute the obligation limitation for Federal-aid Highways less the aggregate amounts not distributed under paragraphs (1) and (2) for section 201 of the Appalachian Regional Development Act of 1965, and \$2,000,000,000 for such fiscal year under section 105 of title 23, United States Code (relating to minimum guarantee) so that the amount of obligation authority available for each of such sections is equal to the amount determined by multiplying the ratio determined under paragraph (3) by the sums authorized to be appropriated for such section (except in the case of section 105, \$2,000,000,000) for such fiscal year;

(5) distribute the obligation limitation provided for Federal-aid Highways less the aggregate amounts not distributed under paragraphs (1) and (2) and amounts distributed under paragraph (4) for each of the programs that are allocated by the Secretary under title 23, United States Code (other than activities to which paragraph (1) applies and programs to which paragraph (4) applies) by multiplying the ratio determined under paragraph (3) by the sums authorized to be appropriated for such program for such fiscal year; and

(6) distribute the obligation limitation provided for Federal-aid Highways less the aggregate amounts not distributed under paragraphs (1) and (2) and amounts distributed under paragraphs (4) and (5) for Federal-aid highways and highway safety construction programs (other than the minimum guarantee program, but only to the extent that amounts apportioned for the minimum guarantee program for such fiscal year exceed \$2,639,000,000, and the Appalachian development highway system program) that are apportioned by the Secretary under title 23, United States Code, in the ratio that—

(A) sums authorized to be appropriated for such programs that are apportioned to each State for such fiscal year, bear to

(B) the total of the sums authorized to be appropriated for such programs that are apportioned to all States for such fiscal year.

(b) The obligation limitation for Federal-aid Highways shall not apply to obligations: (1) under section 125 of title 23, United States Code; (2) under section 147 of the Surface Transportation Assistance Act of 1978; (3) under section 9 of the Federal-Aid Highway Act of 1981; (4) under sections 131(b) and 131(j) of the Surface Transportation Assistance Act of 1982; (5) under sections 149(b) and 149(c) of the Surface Transportation and Uniform Relocation Assistance Act of 1987; (6) under sections 1103 through 1108 of the Intermodal Surface Transportation Efficiency Act of 1991; (7) under section 157 of title 23,

United States Code, as in effect on the day before the date of the enactment of the Transportation Equity Act for the 21st Century; and (8) under section 105 of title 23, United States Code (but, only in an amount equal to \$639,000,000 for such fiscal year); and for Federal-aid highway programs for which obligation authority was made available under the Transportation Equity Act for the 21st Century or subsequent public laws for multiple years or to remain available until used, but only to the extent that such obligation authority has not lapsed or been used.

(c) Notwithstanding subsection (a), the Secretary shall after August 1 for such fiscal year revise a distribution of the obligation limitation made available under subsection (a) if a State will not obligate the amount distributed during that fiscal year and redistribute sufficient amounts to those States able to obligate amounts in addition to those previously distributed during that fiscal year giving priority to those States having large unobligated balances of funds apportioned under sections 104 and 144 of title 23, United States Code, section 160 (as in effect on the day before the enactment of the Transportation Equity Act for the 21st Century) of title 23, United States Code, and under section 1015 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 1943-1945).

(d) The obligation limitation shall apply to transportation research programs carried out under chapter 5 of title 23, United States Code, except that obligation authority made available for such programs under such limitation shall remain available for a period of 3 fiscal years.

(e) Not later than 30 days after the date of the distribution of obligation limitation under subsection (a), the Secretary shall distribute to the States any funds: (1) that are authorized to be appropriated for such fiscal year for Federal-aid highways programs (other than the program under section 160 of title 23, United States Code) and for carrying out subchapter I of chapter 311 of title 49, United States Code, and highway-related programs under chapter 4 of title 23, United States Code; and (2) that the Secretary determines will not be allocated to the States, and will not be available for obligation, in such fiscal year due to the imposition of any obligation limitation for such fiscal year. Such distribution to the States shall be made in the same ratio as the distribution of obligation authority under subsection (a)(6). The funds so distributed shall be available for any purposes described in section 133(b) of title 23, United States Code.

(f) Obligation limitation distributed for a fiscal year under subsection (a)(4) of this section for a section set forth in subsection (a)(4) shall remain available until used and shall be in addition to the amount of any limitation imposed on obligations for federal-aid highway and highway safety construction programs for future fiscal years.

Mr. OBEY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to make a couple of observations, in a sense give a progress report on what has happened on this bill so far, given what the Rules Committee did in exposing this bill to these points of order. There are a lot of things that have happened to this bill so far, but I would like to simply talk about the values that have led the House at this point to strike certain programs from the bill, while not striking others.

As I understand the actions that have been taken so far by points of order

raised by Members of the majority, as I understand it, we have so far eliminated formula highway grants to the States; we have done serious damage to the essential airline service for small rural airports; we have done significant damage to FAA grants for airports, all of which will impact States' and localities' ability to develop their economies. But let me describe something that has not been eliminated from this bill.

This bill still contains—and it is interesting that this provision was not stricken by any of those who lodged their motions—this bill contains a provision that extends government-offered reduced rate insurance for airlines operating in the domestic United States. Premiums are set under that program at no more than twice what commercial rates were 3 years ago. This means that airlines only pay about one-fifth what they would pay if they were forced to obtain their insurance from the private sector.

My understanding is that this year airlines will pay about \$150 million for government-subsidized risk insurance as opposed to \$700 million they would have to pay on the open market. So, once again, we are keeping a let-us-pretend industry afloat, an industry which for all practical purposes is bankrupt. All you have to do is watch what has happened with USAir, I do not know how many times USAir, Continental will go bankrupt before they are bankrupt; but all you have to do is watch that to understand that if you are big enough in this society, you have a safety net created which holds you up no matter how many times you tend to fall. But we do not provide that same kind of safety net to average workers in this country.

What it demonstrates, for instance, is that the Federal Government is now willing to provide this huge subsidy in order to provide insurance to big airline corporations around the world or around the country, at the same time that this Congress continuously refuses to provide health insurance for 45 million Americans. I find that distinction interesting. I do not find it surprising, given the values of this Congress that I have come to expect, unfortunately; but it does say something about our national priorities.

If we are willing to exempt from our parliamentary purity our concern about language in this bill when it affects some of the big industries in the country, but we are not willing to skip over it when it comes to inconveniencing and damaging State economies and the transportation ability of small units of government, I find it especially interesting that while the Congress continues to deny actions that would provide health insurance for the 45 million Americans who do not have it, and every time we talk about doing that work we are being for socialized medicine; yet we are willing to socialize risk when it comes to insurance costs for the airline industry. That is a great set of values, isn't it?

Mr. MICA. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I will not take the 5 minutes, but just very briefly in response, I did start out the consideration of this bill with the point that the Committee on Transportation and Infrastructure has certain prerogatives, and that is what we wanted to exercise tonight.

This House of Representatives works under a set of rules, and that rule is our charter of jurisdiction; and if we go outside of the rules or outside of the committee's jurisdiction and get into other areas, we can create chaos.

Each of the points of order that have been, in fact, raised, that I have raised, tonight deal with the charter that is set forth of responsibilities for conduct of legislative business of this House, and each of those have been ruled on by the Chair in a favorable manner.

I chose to propose a narrow scope in some of the limitations and some of the points of order that have I raised because we want programs to continue; and quite frankly, they are going to continue. I did not choose to expand them to wipe out these programs. So I think some of the accusations that have just been made are not accurate.

We are concerned about essential air service. We are concerned about airlines that may be going out of business, although I do not support the government underwriting losing-business propositions. I do support health care for everyone and am concerned about those who may lose their benefits if businesses go out of business, but that is not the intent of this.

We have a set of rules by which we operate, by which the Committee on Transportation and Infrastructure can operate. I cannot get up here and appropriate money. I would love to have that power. These are some of the most powerful people in the United States of America. The chairman of the full committee I respect from Florida; the gentleman who controls a lot of the transportation agenda and appropriations, the gentleman from Oklahoma (Mr. ISTOOK). All are honorable individuals and doing their job.

I am trying to do my job on behalf of the 70-plus members of the Committee on Transportation and Infrastructure and do it in a responsible fashion.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 122. Notwithstanding 31 U.S.C. 3302, funds received by the Bureau of Transportation Statistics from the sale of data products, for necessary expenses incurred pursuant to 49 U.S.C. 111 may be credited to the Federal-aid highways account for the purpose of reimbursing the Bureau for such expenses: *Provided*, That such funds shall be subject to the obligation limitation for Federal-aid highways and highway safety construction.

SEC. 123. Notwithstanding any other provision of law, in section 1602 of the Transportation Equity Act for the 21st Century, item number 89 is amended by striking "Construct I-495/Route 2 interchange east of existing interchange to provide access to commuter rail station, Littleton" and inserting

"Ayer commuter rail station improvements, land acquisition and parking improvements".

POINT OF ORDER

Mr. MICA. Mr. Chairman, I stand and graciously and humbly raise a point of order against section 123 on page 22, line 20, through page 23, line 2.

This provision clearly violates clause 2 of rule XXI. It does, in fact, change existing law; and, therefore, it constitutes legislating on an appropriations bill, which is in clear violation of House rules.

The CHAIRMAN. Do any Members desire to be heard on the point of order? If not, the Chair is prepared to rule.

The Chair finds that this section explicitly supersedes existing law. The section, therefore, constitutes legislation in violation of clause 2 of rule XXI. The point of order is sustained. Section 123 is stricken from the bill.

The Clerk will read.

The Clerk read as follows:

SEC. 124. Of the \$6,000,000 portion of the funds appropriated under the heading "Highway Demonstration Projects" in title I of Public Law 102-143 (105 Stat. 929) that was allocated for Routes 70/38 Circle Elimination, NJ, \$4,500,000 shall be transferred to, and made available for, the following projects in the specified amounts: Mantua Creek Overpass in Paulsboro, NJ, \$2,000,000; Delsea Drive Route 47 Timber Creek in Westville, NJ, \$787,000; Camden Northern End Parking Garage in Camden, NJ, \$1,213,000; and Route 47 Chapel Heights Avenue in Gloucester, NJ, \$500,000.

SEC. 125. Division F, title I, section 115 of Public Law 108-199 is amended by inserting before the period at the end the following: "Provided further, That notwithstanding any other provision of law and the preceding clauses of this provision, the Secretary of Transportation may use amounts made available by this section to make grants for any surface transportation project otherwise eligible for funding under title 23 or title 49, United States Code".

POINT OF ORDER

Mr. MICA. Mr. Chairman, I raise a point of order against section 125 on page 23, line 14, through line 22.

This provision violates clause 2 of rule XXI. It changes existing law and, therefore, constitutes legislating on an appropriations bill, in clear violation of House rules.

The CHAIRMAN. Are there any other Members who wish to be heard on the point of order? If not, the Chair is prepared to rule.

The Chair finds that this section directly amends existing law. The section, therefore, constitutes legislation in violation of clause 2 of rule XXI. The point of order is sustained. Section 125 is stricken from the bill.

□ 1815

The Clerk will read.

The Clerk read as follows:

SEC. 126. None of the funds made available in this Act may be used to require a State or local government to post a traffic control device or variable message sign, or any other type of traffic warning sign, in a language other than English, except with respect to the names of cities, streets, places, events, or signs related to an international border.

SEC. 127. Of the funds available under section 104(a)(1)(A) of title 23, United States Code, \$4,000,000 shall be available for environmental streamlining activities, which may include making grants to, or entering into contracts, cooperative agreements, and other transactions, with a Federal agency, State agency, local agency, authority, association, non-profit or for-profit corporation, or institution of higher education.

POINT OF ORDER

Mr. MICA. Mr. Chairman, I raise a point of order against section 127.

The CHAIRMAN. The gentleman will state his point of order.

Mr. MICA. Mr. Chairman, I raise a point of order against section 127 on page 24, line 5 through line 12. This provision clearly violates clause 2 of rule XXI. It changes existing law by addressing funds in other acts and therefore constitutes legislating on an appropriations bill in violation of House rules.

The CHAIRMAN. Do any other Members wish to be heard on the point of order? If not, the Chair is prepared to rule.

The Chair finds that this section addresses funds in other acts. The section, therefore, constitutes legislation in violation of clause 2 of rule XXI. The point of order is sustained. Section 127 is stricken from the bill.

The Clerk will read.

The Clerk read as follows:

FEDERAL MOTOR CARRIER SAFETY
ADMINISTRATION

MOTOR CARRIER SAFETY

LIMITATION ON ADMINISTRATIVE EXPENSES
(LIQUIDATION OF CONTRACT AUTHORIZATION)
(HIGHWAY TRUST FUND)
(INCLUDING TRANSFER OF FUNDS)

Notwithstanding any other provision of law, none of the funds in this Act shall be available for expenses for administration of motor carrier safety programs and motor carrier safety research, and grants, the obligations for which are in excess of \$248,480,000 for fiscal year 2005: *Provided*, That \$33,000,000 shall be available to make grants to, or enter into contracts with, States, local governments, or other persons for carrying out border commercial motor vehicle safety programs and enforcement activities and projects for the purposes described in 49 U.S.C. 31104(f)(2)(B), and the Federal share payable under such grants shall be 100 percent; \$20,000,000 shall be available to make grants to, or enter into contracts with, States, local governments, or other persons for commercial driver's licenses program improvements, and the Federal share payable under such grants shall be 100 percent; and \$14,200,000 shall be available to make grants to States for implementation of section 210 of the Motor Carrier Safety Improvement Act of 1999, and the Federal share payable under such grant shall be 100 percent: *Provided further*, That notwithstanding any other provision of law, for payment of obligations incurred to pay administrative expenses of and grants by the Federal Motor Carrier Safety Administration, \$248,480,000, to be derived from the Highway Trust Fund, together with advances and reimbursements received by the Federal Motor Carrier Safety Administration, the sum of which shall remain available until expended.

POINT OF ORDER

Mr. YOUNG of Florida. Mr. Chairman, I raise a point of order on page 24,

line 15, to page 25, line 20, because it provides an appropriation for an unauthorized program and therefore violates section 2(a) of rule XXI.

Clause 2 of rule XXI states in pertinent part, "An appropriation may not be in order for an expenditure not previously authorized by law." Mr. Chairman, this program is not authorized.

The CHAIRMAN. Do any other Members desire to be heard on the point of order? If not, the Chair is prepared to rule.

The paragraph proposes to appropriate certain funds for specified objects. Under clause 2(a) of rule XXI such an earmarking must be specifically authorized by law. The burden of establishing the authorization in law rests with the committee.

Finding that the burden has not been carried, the chair sustains the point of order. The paragraph is stricken from the bill.

The Clerk will read.

The Clerk read as follows:

NATIONAL MOTOR CARRIER SAFETY PROGRAM
(LIQUIDATION OF CONTRACT AUTHORIZATION)
(LIMITATION ON OBLIGATIONS)
(HIGHWAY TRUST FUND)

Notwithstanding any other provision of law, for payment of obligations incurred in carrying out 49 U.S.C. 31102, 31106, and 31309, \$190,000,000 to be derived from the Highway Trust Fund and to remain available until expended: *Provided*, That none of the funds in this Act shall be available for the implementation or execution of programs the obligations for which are in excess of \$190,000,000 for "Motor Carrier Safety Grants" and "Information Systems," and of which \$17,000,000 shall be available for grants to States for implementation of section 210 of the Motor Carrier Safety Improvement Act of 1999 (113 Stat. 1764-1765) and \$1,000,000 shall be available for grants to States, local governments, or other entities for commercial driver's license program improvements: *Provided further*, That for grants made to States for implementation of section 210 of the Motor Carrier Safety Improvement Act of 1999 (113 Stat. 1764-1765), and for grants to States, local governments, or other entities for commercial driver's license program improvements, the Federal share payable under such grants shall be 100 percent.

POINT OF ORDER

Mr. YOUNG of Florida. Mr. Chairman, I raise a point of order on page 25, line 21, to page 26, line 19, because it provides an appropriation for an unauthorized program and therefore violates section 2(a) of rule XXI.

Clause 2 of rule XXI states in pertinent part "An appropriation may not be in order for an expenditure not previously authorized by law." Mr. Chairman, this program is not authorized by law.

The CHAIRMAN. Do other Members desire to be heard on the point of order? If not, the Chair is prepared to rule.

The paragraph proposes to appropriate certain funds for specified objects. Under clause 2(a) of rule XXI, such an earmarking must be specifically authorized by law. The burden of establishing the authorization in law rests with the committee.

Finding that this burden has not been carried, the chair sustains the point of order. The paragraph is stricken from the bill.

The Clerk will read:

The Clerk read as follows:

GENERAL PROVISIONS—FEDERAL MOTOR
CARRIER SAFETY ADMINISTRATION

SEC. 141. Funds appropriated or limited in this Act shall be subject to the terms and conditions stipulated in section 350 of Public Law 107-87, including that the Secretary submit a report to the House and Senate Appropriations Committees annually on the safety and security of transportation into the United States by Mexico-domiciled motor carriers.

SEC. 142. 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 the operators of utility service vehicles, as that term is defined in section 395.2 of title 49, Code of Federal Regulations.

SEC. 143. None of the funds appropriated or otherwise made available by this Act shall be used to implement or enforce 49 CFR sub-sections 395.3 or 395.8 as they may apply to operators of utility service vehicles as defined in 49 CFR 395.2. This prohibition on implementing or enforcing such regulations shall also apply to any State or agency receiving funds pursuant to chapter 311 of title 49 U.S.C.

POINT OF ORDER

Mr. BLUMENAUER. Mr. Chairman, I make a point of order against section 143, on page 27, lines 10 through 17.

The CHAIRMAN. The gentleman will state his point of order.

Mr. BLUMENAUER. Mr. Chairman, the second sentence of section 143 would prevent any State or agency from enforcing the U.S. Department of Transportation hours-of-service regulations for operators of utility service vehicles. This provision imposes a new duty on the Department and the States and agencies. This section is legislative in nature and is in violation of clause 2 of rule XXI.

The CHAIRMAN. Do any other Members desire to be heard on the point of order? If not, the Chair is prepared to rule.

The Chair finds that the sentence beginning on page 27, line 14, constitutes legislation in violation of clause 2 of rule XXI. The point of order is sustained. Section 143 is stricken from the bill.

The Clerk will read.

The Clerk read as follows:

NATIONAL HIGHWAY TRAFFIC SAFETY
ADMINISTRATION
OPERATIONS AND RESEARCH

For expenses necessary to discharge the functions of the Secretary, with respect to traffic and highway safety under chapter 301 of title 49, United States Code, and part C of subtitle VI of title 49, United States Code, \$129,514,000, of which \$107,000,000 shall remain available until September 30, 2007: *Provided*, That none of the funds appropriated by this Act may be obligated or expended to plan, finalize, or implement any rulemaking to add to section 575.104 of title 49 of the Code of Federal Regulations any requirement pertaining to a grading standard that is different from the three grading standards (treadwear, traction, and temperature resist-

ance) already in effect: *Provided further*, That none of the funds in this Act may be used to augment information technology or computer support funds provided to NHTSA beyond \$2,620,000.

POINT OF ORDER

Mr. YOUNG of Florida. Mr. Chairman, I raise a point of order on page 27, line 19, to page 28, line 10, because it provides an appropriation for an unauthorized program and therefore violates section 2(a) of rule XXI.

Clause 2 of rule XXI states in pertinent part "An appropriation may not be in order for an expenditure not previously authorized by law." Mr. Chairman, this program is not authorized, and I insist on my point of order.

The CHAIRMAN. Are there further Members desiring to be heard on the point of order? If not, the Chair is prepared to rule.

The paragraph proposes to appropriate certain funds for specified objects. Under clause 2(a) of rule XXI, such an earmarking must be specifically authorized by law. The burden of establishing the authorization in law rests with the committee.

Finding that the burden has not been carried, the Chair sustains the point of order. The paragraph is stricken from the bill.

The Clerk will read.

The Clerk read as follows:

OPERATIONS AND RESEARCH
(LIQUIDATION OF CONTRACT AUTHORIZATION)
(LIMITATION ON OBLIGATIONS)
(HIGHWAY TRUST FUND)

For payment of obligations incurred in carrying out the provisions of 23 U.S.C. 403, to remain available until expended, \$90,000,000, to be derived from the Highway Trust Fund: *Provided*, That none of the funds in this Act shall be available for the planning or execution of programs the total obligations for which, in fiscal year 2005, are in excess of \$90,000,000 for programs authorized under 23 U.S.C. 403.

POINT OF ORDER

Mr. YOUNG of Florida. Mr. Chairman, I raise a point of order on page 28, line 11, to page 28, line 22, because it provides an appropriation for an unauthorized program and therefore violates section 2(a) of rule XXI.

Clause 2 of rule XXI states in pertinent part "An appropriation may not be in order for an expenditure not previously authorized by law." Mr. Chairman, this program is not authorized, and I insist on my point of order.

The CHAIRMAN. Are there further Members desiring to be heard on the point of order? If not, the Chair is prepared to rule.

The paragraph proposes to appropriate certain funds for specified objects. Under clause 2(a) of rule XXI, such an earmarking must be specifically authorized by law. The burden of establishing the authorization in law rests with the committee.

Finding that this burden has not been carried, the Chair sustains the point of order. The paragraph is stricken from the bill.

The Clerk will read.

The Clerk read as follows:

NATIONAL DRIVER REGISTER
(LIQUIDATION OF CONTRACT AUTHORIZATION)
(LIMITATION ON OBLIGATIONS)
(HIGHWAY TRUST FUND)

For expenses necessary to discharge the functions of the Secretary with respect to the National Driver Register under payment of obligations incurred in carrying out chapter 303 of title 49, United States Code, \$3,600,000 to be derived from the Highway Trust Fund: *Provided*, That none of the funds in this Act shall be available for the implementation or execution of programs the obligations for which are in excess of \$3,600,000 for the National Driver Register authorized under chapter 303 of title 49, United States Code.

POINT OF ORDER

Mr. YOUNG of Florida. Mr. Chairman, I raise a point of order on page 29, line 1, to page 29, line 14, because it provides an appropriation for an unauthorized program and therefore violates section 2(a) of rule XXI.

Clause 2 of rule XXI states in pertinent part, "An appropriation may not be in order for an expenditure not previously authorized by law." Mr. Chairman, this program is unauthorized, and I insist on my point of order.

The CHAIRMAN. Do other Members desire to be heard on the point of order? If not, the Chair is prepared to rule.

The paragraph proposes to appropriate certain funds for specified objects. Under clause 2(a) of rule XXI, such an earmarking must be specifically authorized by law. The burden of establishing the authorization in law rests with the committee.

Finding that the burden has not been carried, the Chair sustains the point of order. The paragraph is stricken from the bill.

Mr. ISTOOK. Mr. Chairman, I move to strike the last word.

Mr. YOUNG of Florida. Mr. Chairman, will the gentleman yield?

Mr. ISTOOK. I yield to the gentleman from Florida.

Mr. YOUNG of Florida. Mr. Chairman, I thank the gentleman for yielding to me.

Again, I want to explain, for those who did not hear the first explanation, that the reason for these points of order is very simple.

The authorizing committee has decided to raise certain points of order in this bill that will make the bill at least \$1 billion over our 302(b) allocation. So in order to bring the bill back down to within the 302(b) allocation, we have to raise these additional points of order to strike out projects that were not authorized.

Mr. Chairman, everybody knows the way this system works; that is, we have authorizing committees and we have appropriating committees. The Committee on Appropriations appropriates for those projects and programs that are authorized. In this case, the authorizing committee did not pass a bill; did not pass authorizations; and, frankly, are not even able to extend the existing transportation authorizations to keep the programs going. That

is why we find ourselves in this dilemma.

The system is not working the way it is supposed to. The authorizers did not authorize, so the appropriators had to do the best we could within our budgetary limitations to make this bill stay within the 302(b) allocations as set by our 302(a) budget allocation.

I appreciate the chairman of this subcommittee for yielding to me so that I could make this brief explanation.

Mr. OBEY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to note my agreement with the comments of the distinguished gentleman from Florida. Even before this bill came to the floor, we were faced with the prospect of having a miserable record in producing appropriation bills and finishing them before the end of the fiscal year before we go home to face our constituents in the new elections.

The House has passed all but, I believe, two appropriation bills, this one and the VA-HUD bill. And many of the bills that have passed have, I think, been in pitiful shape, but at least they have passed. None of them, except Defense, has been signed into law.

This bill was at least on track to pass in inadequate though meaningful form before we leave here for the election, but now, as the gentleman from Florida has said, we are facing an even bleaker situation. We are going to leave here in October with even less of the people's business done than would have been the case if this debacle had not occurred on the floor today.

What has happened is essentially this: The transportation authorizing committee, the Committee on Transportation and Infrastructure, or the No Transportation, No Infrastructure Committee, as it probably ought to be called, their basic highway authorization, for instance, expired 9 months ago. They have not yet been able to renew that basic legislation. The reason for that is that they have a three-corner debate going with themselves.

There is a debate between the Committee on Transportation and Infrastructure members in the House, those in the Senate, and the wizards in the White House Budget Office, and none of them want to give. So, as a result, what do we have here? The authorizing committee has not been able to get its job done, so the Committee on Appropriations has tried to at least keep these programs afloat while we continue to go through this Little League debate between the White House and the authorizers.

But in fact now I guess the situation is that if the Committee on Transportation and Infrastructure cannot pass their legislation, they do not want anybody else to pass meaningful legislation either, or perhaps they somehow think they are producing leverage for themselves by shredding this bill. This is, as I said earlier, this is a sad case.

My great friend and mentor Dick Bolling, who used to be the chairman

of the Committee on Rules, and in my view is the greatest Member of this body who never became Speaker. Dick Bolling used to deride Members who practiced what he called dung hill politics, Members who were more interested in protecting the jurisdiction of their own committee than they were in protecting the legislative reputation and record of the House as a whole.

□ 1830

What we have seen today is a sad, sad example of what Dick Bolling worried about when he referred to that practice of "dung hill politics." I wish the House were in a more mature mood, and I wish that the leadership had led so we could have avoided this point today.

There is no point, in my view, in proceeding further with this bill. I intend to vote against it on final passage because there will be nothing left of it except the title. We have a motion around here called "striking the enacting clause." Instead, I suggest today we should probably strike everything except the enacting clause because we will have almost done that by the time we get to the last page of this bill. All we will have done is waste a day and a half of the House's time when we could have been dealing with more serious business, and that, indeed, is a shame.

The CHAIRMAN. The Clerk will read. The Clerk read as follows:

HIGHWAY TRAFFIC SAFETY GRANTS
(LIQUIDATION OF CONTRACT AUTHORIZATION)
(LIMITATION ON OBLIGATIONS)
(HIGHWAY TRUST FUND)

Notwithstanding any other provision of law, for payment of obligations incurred in carrying out the provisions of 23 U.S.C. 402, 405, and 410, to remain available until expended, \$225,000,000, to be derived from the Highway Trust Fund: *Provided*, That none of the funds in this Act shall be available for the planning or execution of programs the total obligations for which, in fiscal year 2005, are in excess of \$225,000,000 for programs authorized under 23 U.S.C. 402, 405, and 410, of which \$165,000,000 shall be for "Highway Safety Programs" under 23 U.S.C. 402, \$20,000,000 shall be for "Occupant Protection Incentive Grants" under 23 U.S.C. 405, and \$40,000,000 shall be for "Alcohol-Impaired Driving Countermeasures Grants" under 23 U.S.C. 410: *Provided further*, That none of these funds shall be used for construction, rehabilitation, or remodeling costs, or for office furnishings and fixtures for State, local, or private buildings or structures: *Provided further*, That not to exceed \$10,000,000 of the funds made available for section 402, not to exceed \$2,306,000 of the funds made available for section 405, and not to exceed \$2,000,000 of the funds made available for section 410 shall be available to NHTSA for administering highway safety grants under chapter 4 of title 23, United States Code: *Provided further*, That not to exceed \$500,000 of the funds made available for section 410 "Alcohol-Impaired Driving Countermeasures Grants" shall be available for technical assistance to the States.

POINT OF ORDER

Mr. YOUNG of Florida. Mr. Chairman, I raise a point of order on page 29, line 15 to page 30, line 20, because it provides an appropriation for an unauthorized program and therefore violates section 2(a) of rule XXI.

Clause 2 of rule XXI states in pertinent part: "An appropriation may not be in order for an expenditure not previously authorized by law."

Mr. Chairman, this program is not authorized by law, and I insist on my point of order.

The CHAIRMAN. Are there further Members wishing to be heard on the point of order?

If not, the Chair is prepared to rule on the point of order.

As previously stated by the Chair, the burden of demonstrating authorization has not been met.

The point of order is sustained. The paragraph is stricken from the bill.

The Clerk will read.

The Clerk read as follows:

GENERAL PROVISIONS—NATIONAL HIGHWAY
TRAFFIC SAFETY ADMINISTRATION

SEC. 151. Notwithstanding any other provision of law, States may use funds provided in this Act under section 402 of title 23, United States Code, to produce and place highway safety public service messages in television, radio, cinema, and print media, and on the Internet in accordance with guidance issued by the Secretary of Transportation: *Provided*, That any State that uses funds for such public service messages shall submit to the Secretary a report describing and assessing the effectiveness of the messages: *Provided further*, That \$10,000,000 of the funds allocated under section 157 of title 23, United States Code, shall be used as directed by the National Highway Traffic Safety Administrator to purchase national paid advertising (including production and placement) to support national safety belt mobilizations: *Provided further*, That, of the funds allocated under section 163 of title 23, United States Code, \$7,000,000 shall be used as directed by the Administrator to support national impaired driving mobilizations and enforcement efforts, \$12,000,000 shall be used as directed by the Administrator to purchase national paid advertising (including production and placement) to support such national impaired driving mobilizations and enforcement efforts.

POINT OF ORDER

Mr. PETRI. Mr. Chairman, I raise a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. PETRI. Mr. Chairman, I raise a point of order against page 31, line 6, beginning with "provided further" through line 19.

This provision violates clause 2 of rule XXI. It changes existing law and therefore constitutes legislating on an appropriation bill in violation of House rules.

The CHAIRMAN. Are there further Members wishing to be heard on the point of order?

Mr. ISTOOK. Mr. Chairman, I insist the point of order be expanded to lie against the entire paragraph; and as so expanded, I would concede the point of order.

The CHAIRMAN. The point of order is expanded; and the point of order being conceded, it is sustained. The section is stricken from the bill.

The Clerk will read.

The Clerk read as follows:

SEC. 152. Funds appropriated or limited in this Act to educate the motoring public on

how to share the road safely with commercial motor vehicles shall be jointly administered and implemented by the National Highway Traffic Safety Administration and the Federal Motor Carrier Safety Administration.

FEDERAL RAILROAD ADMINISTRATION
SAFETY AND OPERATIONS

For necessary expenses of the Federal Railroad Administration, not otherwise provided for, \$137,738,000, of which \$15,350,000 shall remain available until expended.

POINT OF ORDER

Mr. TANCREDO. Mr. Chairman, I raise a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. TANCREDO. Mr. Chairman, I raise a point of order on page 32, line 2, through page 32, line 6, because it provides an appropriation for an unauthorized program and therefore violates section 2(a) of rule XXI.

The CHAIRMAN. Are there further Members wishing to be heard on the point of order?

If not, the Chair is prepared to rule on the point of order.

As previously stated by the Chair, the burden of demonstrating authorization has not been met.

The point of order is sustained. The paragraph is stricken from the bill.

The Clerk will read.

The Clerk read as follows:

RAILROAD RESEARCH AND DEVELOPMENT

For necessary expenses for railroad research and development, \$33,289,000, to remain available until expended.

POINT OF ORDER

Mr. TANCREDO. Mr. Chairman, I raise a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. TANCREDO. Mr. Chairman, I raise a point of order on page 32, line 7, to page 32, line 10, because it provides an appropriation for unauthorized programs and therefore violates section 2(a) of rule XXI.

The CHAIRMAN. Are there further Members wishing to be heard on the point of order?

If not, the Chair is prepared to rule on the point of order.

As previously stated by the Chair, the burden of demonstrating authorization has not been met.

The point of order is sustained. The paragraph is stricken from the bill.

The Clerk will read.

The Clerk read as follows:

RAILROAD REHABILITATION AND IMPROVEMENT
PROGRAM

The Secretary of Transportation is authorized to issue to the Secretary of the Treasury notes or other obligations pursuant to section 512 of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94-210), as amended, in such amounts and at such times as may be necessary to pay any amounts required pursuant to the guarantee of the principal amount of obligations under sections 511 through 513 of such Act, such authority to exist as long as any such guaranteed obligation is outstanding: *Provided*, That pursuant to section 502 of such Act, as amended, no new direct loans or loan guarantee commitments shall be made

using Federal funds for the credit risk premium during fiscal year 2005: *Provided further*, That within thirty days of enactment of this Act, the National Railroad Passenger Corporation shall make full payment of all principal and interest to the Federal Railroad Administrator in satisfaction of the Corporation's July 3, 2002, direct loan from the Federal Railroad Administration.

POINT OF ORDER

Mr. BLUMENAUER. Mr. Chairman, I raise a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. BLUMENAUER. Mr. Chairman, page 32, line 26, through page 33, line 5, I would make a point of order against the last proviso of the Railroad Rehabilitation and Improvement Program paragraph. The proviso begins on page 32, line 26, and ends on page 33, line 5. This proviso would require Amtrak to repay its loan and interest in full to the Federal Railroad Administration within 30 days; it is legislative in nature and in violation of clause 2 of rule XXI.

The CHAIRMAN. Are there further Members wishing to be heard on the point of order?

Mr. ISTOOK. Mr. Chairman, I insist that the point of order be expanded to lie against the entire paragraph; and as so expanded, I would concede the point of order.

The CHAIRMAN. The point of order is expanded to the entire paragraph.

The point of order is conceded and is therefore sustained. The paragraph is stricken from the bill.

The Clerk will read.

The Clerk read as follows:

NEXT GENERATION HIGH-SPEED RAIL

For necessary expenses for the Next Generation High-Speed Rail program as authorized under 49 U.S.C. 26101 and 26102, \$11,000,000, to remain available until expended.

POINT OF ORDER

Mr. TANCREDO. Mr. Chairman, I raise a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. TANCREDO. Mr. Chairman, I raise a point of order on page 33, line 6, to page 33, line 10, because it provides an appropriation for an unauthorized program and therefore violates section 2(a) of rule XXI.

The CHAIRMAN. Are there further Members wishing to be heard on the point of order?

If not, the Chair is prepared to rule on the point of order.

As previously stated by the Chair, the burden of demonstrating authorization has not been met.

The point of order is sustained. The paragraph is stricken from the bill.

The Clerk will read.

The Clerk read as follows:

PENNSYLVANIA STATION REDEVELOPMENT
PROJECT

(TRANSFER OF FUNDS)

Of the unobligated balances of funds made available in section 232 of appendix E of Public Law 106-113, \$39,827,000 are hereby transferred to and merged with funds for the Federal Transit Administration, Capital Investment Grants, for the purposes of constructing the New York Long Island Rail Road East Side Access (Extension).

GRANTS TO THE NATIONAL RAILROAD
PASSENGER CORPORATION

To enable the Secretary of Transportation to make quarterly grants to the National Railroad Passenger Corporation, \$900,000,000, to remain available until September 30, 2005: *Provided*, That not less than \$500,000,000 shall be provided in quarterly grants for capital expenses: *Provided further*, That the Secretary of Transportation shall approve funding to cover operating losses and capital expenditures, including advance purchase orders, for the National Railroad Passenger Corporation only after receiving and reviewing a grant request for each specific train route: *Provided further*, That each such grant request shall be accompanied by a detailed financial analysis, revenue projection, and capital expenditure projection justifying the Federal support to the Secretary's satisfaction: *Provided further*, That the Secretary of Transportation shall reserve \$60,000,000 of the funds provided under this heading and is authorized to transfer such sums to the Surface Transportation Board, upon request from said Board, to carry out directed service orders issued pursuant to section 11123 of title 49, United States Code to respond to the cessation of commuter rail operations by the National Railroad Passenger Corporation: *Provided further*, That the Secretary of Transportation shall make the reserved funds available to the National Railroad Passenger Corporation through an appropriate grant instrument during the end of the fourth quarter of fiscal year 2005 to the extent that no directed service orders have been issued by the Surface Transportation Board as of the date of transfer or there is a balance of reserved funds not needed by the Board to pay for any directed service order issued through September 30, 2005: *Provided further*, That not later than 60 days after enactment of this Act, Amtrak shall transmit, in electronic format, to the Secretary of Transportation, the House and Senate Committees on Appropriations, the House Committee on Transportation and Infrastructure and the Senate Committee on Commerce, Science, and Transportation a comprehensive business plan approved by the Board of Directors for fiscal year 2005 under section 24104(a) of title 49, United States Code: *Provided further*, That the business plan shall include, as applicable, targets for ridership, revenues, and capital and operating expenses: *Provided further*, That the plan shall also include a separate accounting of such targets for the Northeast Corridor; commuter service; long-distance Amtrak service; state-supported service; each intercity train route; including Autotrain; and commercial activities including contract operations and mail and express: *Provided further*, That the business plan shall include a description of the work to be funded, along with cost estimates and an estimated timetable for completion of the projects covered by this business plan: *Provided further*, That not later than October 1, 2004 and no later than 30 days following the last business day of the previous month thereafter, Amtrak shall submit to the Secretary of Transportation and the House and Senate Committees on Appropriations a supplemental report, in electronic format, regarding the pending busi-

ness plan, which shall describe the work completed to date, any changes to the business plan, and the reasons for such changes: *Provided further*, That none of the funds in this Act may be used for operating expenses, including advance purchase orders, and capital projects not approved by the Secretary of Transportation nor on the National Railroad Passenger Corporation's fiscal year 2005 business plan: *Provided further*, That Amtrak shall display the business plan and all subsequent supplemental plans on the Corporation's website within a reasonable timeframe following their submission to the appropriate entities: *Provided further*, That none of the funds under this heading may be obligated or expended until the National Railroad Passenger Corporation agrees to continue abiding by the provisions of paragraphs 1, 2, 3, 5, 9, and 11 of the summary of conditions for the direct loan agreement of June 28, 2002, in the same manner as in effect on the date of enactment of this Act: *Provided further*, That the Secretary of Transportation is authorized to retain up to \$4,000,000 of the funds provided to be used to retain a consultant or consultants to assist the Secretary in preparing a comprehensive valuation of Amtrak's assets to be completed not later than September 30, 2005: *Provided further*, That these funds shall be available to the Secretary of Transportation until expended: *Provided further*, That this valuation shall be used to retain a consultant or consultants to develop to the Secretary's satisfaction a methodology for determining the avoidable and fully allocated costs of each Amtrak route: *Provided further*, That once the Secretary has approved the methodology for determining the avoidable and fully allocated costs of each Amtrak route, Amtrak shall apply that methodology in compiling an annual report to Congress on the avoidable and fully allocated costs of each of its routes, with the initial report for fiscal year 2005 to be submitted to the House and Senate Committees on Appropriations, the House Committee on Transportation and Infrastructure, and the Senate Committee on Commerce, Science, and Transportation before December 31, 2005, and each subsequent report to be submitted within ninety days after the end of the fiscal year to which the report pertains.

POINT OF ORDER

Mr. TANCREDO. Mr. Chairman, I raise a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. TANCREDO. Mr. Chairman, I raise a point of order on page 33, line 20, through page 37, line 20, because it provides an appropriation for an unauthorized program and therefore violates section 2(a) of rule XXI.

The CHAIRMAN. Are there further Members wishing to be heard on the point of order?

The gentleman from Massachusetts (Mr. OLVER) is recognized on the point of order.

Mr. OLVER. Mr. Chairman, I think we now have reached a second level of ignominy at this point because here we are now into a whole second bill which has not been authorized. It has not been authorized. It is not a bill that is only 9 months or 11 months late of authorization, but rather the bill for the Federal Rail Administration and Amtrak is one that is a year and 11 months late at least, if not 2 years and 11 months late.

So while earlier items which have been stricken by the points of order

dealt with highway administration programs and obviously will also apply to FTA, Federal Transit Administration programs, and have already stricken the two major safety programs that I mentioned earlier in my opening remarks which had been already cut by the Committee on Appropriations to only 75 percent, cut from the President's request, a dollar figure had been cut 25 percent or giving them only 75 percent of the President's request, those highway safety programs have already been stricken from this legislation. That is also carried with the general highway administration T&I authorization.

But here we are now in the Amtrak and highway administration bill. I just want to point out that this is an area where I intended to offer two different versions of an amendment to add funding.

The CHAIRMAN. The gentleman from Massachusetts (Mr. OLVER) will confine his remarks to the point of order. The gentleman may proceed on the point of order.

Mr. OLVER. Mr. Chairman, I will defer my comments to a striking of the last word immediately after the Chair sustains this point of order.

The CHAIRMAN. Are there further Members wishing to be heard on the point of order?

The gentleman from Oregon is recognized to speak on the point of order.

Mr. BLUMENAUER. Mr. Chairman, I must confess I share the frustration of the gentleman from Massachusetts. We produced out of the Committee on Transportation and Infrastructure a bipartisan bill a year ago that has never been brought to floor action.

The CHAIRMAN. I remind the gentleman from Oregon that we are on the point of order and debate on other issues may be taken up after the Chair disposes of the point of order.

Are there further Members wishing to be heard on the point of order?

If not, the Chair is prepared to rule on the point of order.

As previous stated by the Chair, the burden of demonstrating authorization has not been met.

The point of order is sustained. The paragraph is stricken from the bill.

Mr. OLVER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I am going to express some of my frustration, and maybe then the gentleman from Oregon (Mr. BLUMENAUER) will do the same.

We have now stricken what was already an appropriation of \$900 million which was the President's request, true, but which was already low by \$300 million, lower than what each of the last 2 years had appropriated after the final operation of the Committee on Appropriations and the conference committee reports for the operation of Amtrak.

It is silly to think they even could have operated within \$900 million in this year without ending up in a shut-down situation, or without leaving us

with an ever-worsening deferred maintenance problem.

I want to use this time to point out that Amtrak is a hybrid program. It runs on 600 miles of the Northeast Corridor roughly, which is owned by Amtrak and is the direct responsibility of that governmental agency. That 600 miles of trackage takes more than half of all of the passengers that are being dealt with by Amtrak.

Now that is the part that we have direct responsibility for. The rest of the Amtrak lines operate on some 20,000 other miles of trackage that is run by private freight carriers and Amtrak has contracts with them and has priority to use that trackage. But we do not have specific direct maintenance of those. We have the responsibility of making certain that on the 600 miles the use of that track and that commutation that is involved will be safe, and we have some responsibility to make certain that the maintenance of that trackage does provide safety for the people who are using it.

Now Congress has said several times by appropriating, has said, keep the national rail system open; and Congress has not suggested that any particular lines are supposed to be cut out even though they are not profitable or ever may be profitable. We are waiting for an authorization; there is no authorization. But the use of Amtrak remains, and it is an exceptionally important use which moves a very large number of people, 20 million people or thereabouts, on the northeast line itself.

Furthermore, we have now eliminated by points of order that one thing that many people think is a wonderful idea for the future, namely high-speed rail. High-speed rail was already reduced by two-thirds from last year's appropriation, more than two-thirds; but it also now has been stricken and is not authorized either.

So high-speed rail, which is a process used in various parts of the world, in Japan, Europe, running 120 to 150 miles an hour, where one moves large numbers of people for relatively short distances between large metropolitan areas, manages to move people that otherwise would have to be in the air, and it is done that way much more efficiently.

□ 1845

Now we take out that possibility as well in the motions that have occurred.

Mr. Chairman, the Congress has appropriated \$1.3 billion in the year 2003, \$1.2 billion in the year 2004, an average of \$1.1 billion over each of the last 5 years, some of which came under authorizations that were in effect, but the last two of which apparently occurred after there was no authorization, but we managed to get the job done; and the important thing is that we managed to get the job done. Even at the level of funding that Amtrak was appropriated for over the last couple of years, they cannot provide for the critical capital investments that

are particularly needed on the Northeast Corridor where we are directly responsible for the maintenance and for the safety of the people who are using that program.

Mr. Chairman, I think it is well understood at this point that we should be appropriating at least what has been out there for the last couple of years, or we are not doing the duty that we have to the passengers who are using that system at the present time.

Mr. BLUMENAUER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, there is an ongoing debate that I find somewhat ironic. There is, on behalf of some of my colleagues, an almost theological belief that the United States should be the only industrialized country in the world that does not have subsidized passenger rail service, that it is not an integral part of our transportation system. We have Amtrak today because the private sector that had rail passenger service from the 1830s until 1970 and was mammothly subsidized by the Federal Government to do so, reached the point where it was not particularly profitable for them to do it. Then the private rail roads with Congress and the Nixon administration, created Amtrak so that there would be a rail passenger alternative.

Some people now think that somehow the private sector is going to step in and run a national system so that we would not be actually the only country without passenger rail. Even most Third World countries have rail passenger service as well as all the developed countries that surpasses the United States. I find that somewhat ironic because this Congress year after year after year puts billions of dollars into the air passenger service which in its long illustrious history of being force fed by Federal subsidies, starting with airmail, dealing with air traffic control and the construction of airports, in its entire history has a net profit of zero. And we continue, appropriately, to put billions of dollars into it because it is an important part of the Federal transportation infrastructure.

Now there are those that want to pull the plug on Amtrak. We passed out of our Rail Subcommittee and then our Transportation and Infrastructure Committee a year ago with broad bipartisan support, there may have been one or two people who voted against it, in the largest committee in Congress, maybe one or two, but I cannot remember them, that bill has been languishing for 1 year because the Republican leadership cannot somehow bring it to the floor and allow the will of Congress to be worked.

So we have this travesty today where we have a program that is not authorized despite the fact that the authorizing committee did its work a year ago.

This embarrassing charade, and I am embarrassed for the majority party that we are going through this, is not

going to be sustained. As George Will pointed out in his column of June 2003 when we were going through the last shutdown charade, that support for Amtrak is strong enough among all regions, ages, education levels, and income groups. A CNN/Gallup/USA Today poll put it, at the height of last year's funding crisis, at 70 percent American public support. No indication of anything that that is not even stronger today.

So ultimately we will bump along, we will go through this, we will fund Amtrak. Unfortunately, the inability of this Congress to move forward to meet the other body in a responsible fashion and put a reasonable authorizing bill on the floor means Amtrak is going to continue to be hamstrung. You will not kill it because the public will not let you. When we will have a crisis like 9/11 where if we did not have our rail transportation system, the east coast would have been shut down in gridlock from Alexandria to New Haven. Ultimately, this bill will fail, but it continues to cut away at the ability of the new administration in Amtrak to move forward, to build on the strong ridership increase and to build the private and public partnerships with State and local government that will be necessary, ultimately, to have a successful program.

I as a Member of Congress am embarrassed that we are going through this again. As somebody who cares about a balanced transportation system, transit, air, road and rail, I am embarrassed because we need this as a critical component. We will get there, but today's failure makes it harder, more expensive, as Congress is increasingly marginalized.

Mr. ISTOOK. Mr. Chairman, I move to strike the last word.

Mr. Chairman, of course the effect of the point of order raised is to take the money that was in the bill, \$900 million, the amount requested by the administration for Amtrak, and to remove it. I regret that the people who are staunch proponents of Amtrak want to continue it the way that it is running now.

The administration opposes any more than \$900 million for Amtrak without reforming it. Amtrak has not been authorized since December of 2002 when the prior authorization bill expired. I think it is important that we recognize why it has not been reauthorized. Until a couple of years ago, Amtrak was still telling us, oh, they are about to start making a profit and not to need Federal subsidies anymore.

After operating for 30 years, Amtrak has received over \$40 billion in Federal subsidies. It still only provides one-half of 1 percent of all inner city transportation. Half of it is in the Northeast Corridor. In the last 5 years, the subsidies by taxpayers through the appropriations process have gone up 71 percent. In the same time, Amtrak's ridership is only up 11 percent. It is a huge gap.

It continues to operate with substantial losses. Why? Because we do not apply business principles. We do not apply proper principles to it. Amtrak is only, I think, about 5 percent of all the rail passenger service in the country. Most of the rail passenger service is commuter rail. Amtrak functions in many areas actually as commuter rail and the subsidies are astounding. If Amtrak is operating to provide commuter rail passenger service, why is all the subsidy dumped on the Federal taxpayer? Where are the States? Where are the cities? The administration wants to create partnerships with them to have participation of the people who benefit from Amtrak and who want a subsidized rail service which is limited to certain parts of the country. Those parts of the country need to be the ones that come to the table and say we want this and therefore we are willing to pay for part of it.

Amtrak passengers in some cases on some routes receive hundreds of dollars per passenger in taxpayer subsidies. There are plenty of examples where it is cheaper to hire a private limousine and driver to pick up somebody at their door in one city and transport them to another city to the door of their destination; it is cheaper to hire them a limo and a driver and give them personal service than to have them ride Amtrak in some situations.

We are not taking a realistic look at this. We should not be bemoaning the fact that Amtrak is not being given more taxpayers' money. If you want subsidized rail travel, you need to get your mayors, you need to get your Governors, you need to get your local communities and officials willing to pay for some of the costs of what operates for many of them as a commuter rail service.

If you take the train, as I have done, between Washington and New York City, so often you will find when it leaves Washington it does not have that many people on it. When it gets to Baltimore it still does not have that many people on it. Only when you get to the outskirts of New York City do you start picking up a lot of passengers because it is a commuter rail to them.

Why are we not talking to the communities about saying, you have a role in Amtrak if you want it. Do not tell us it is all a Federal responsibility. I know that the people feel passionately about it; but we have a failed approach to Amtrak, and it is time that we recognize it. If we want to do something about rail passenger service, we need a lot more realistic model than we have with Amtrak. I support the administration's proposal, which is to say we should not be increasing funding for Amtrak until such time as we have reform legislation that brings local and State people to the table and the private sector as partners in that.

Mr. OLVER. Mr. Chairman, I move to strike the last word.

The CHAIRMAN. Without objection, the gentleman from Massachusetts is recognized for 5 minutes.

There was no objection.

Mr. OLVER. Mr. Chairman, I would just like to point out to the chairman that in every place, in every metropolitan area, at least that I know of in this country, that has commuter rail, those commuter rail systems are subsidized. None of them operate on a profitable basis. So the real unreality here has been always the concept that Amtrak, that our passenger rail system could operate and would operate on a profitable basis. There has been no passenger rail system that has been run in any industrialized country anywhere in the world that has operated on a profitable basis.

The rest of the unreality here is that at the same time that we are saying they should do that while leaving Amtrak with the mandate of providing a national rail system with routes which have been designated and mandated by the Congress and then blaming them for not being able to do this in a profitable way, the ultimate unreality, it seems to me, is what we started in the direction of high speed rail where we have created 10 corridors, hopefully in the belief that there may be some way of providing high-speed rail, which is extremely costly in its infrastructure development in the first place, in its capital cost, that that can possibly be done; and I do not disagree with the chairman that there are things that probably ought to be done in dealing with a rail system and in trying to make them more efficient.

We are being totally unrealistic, but we still have a very large number of commuters who are using the system as we have it, and this Congress has not managed to pass an authorization suggesting how it is otherwise to be done. So we still have the problem; we still have people who are operating every day in an ever less safe manner because we are funding as low as we are and here we have stricken the money from the legislation. The unreality here is monumental.

Mr. BLUMENAUER. Mr. Chairman, will the gentleman yield?

Mr. OLVER. I yield to the gentleman from Oregon.

Mr. BLUMENAUER. Mr. Chairman, I had hoped to deal with just the notion that somehow Amtrak had promised that it was going to turn a profit. I sat in committees and watched people browbeat the previous administration; but what people made clear is that it was going to be necessary to fund the capital requirements of Amtrak.

□ 1900

There is a planned infrastructure improvement over 5 years, reconstructing interlockings; installation of almost a million concrete ties to improve efficiency; 423 miles of track undercutting; new rail, 352 miles; rebuilding of major bridges; cable signal replacement. These are things that will improve the efficiency of the operation.

Congress has never fully funded the capital requirements, making it inher-

ently inefficient and chipping away at it. The Amtrak administration has requested a reasonable capital budget to be able to move it forward to meet the mandate that Members of Congress had for more efficiency.

I would respectfully suggest when we look at the funding that we lavish on the capital for airlines, what we do for highways, only a portion of which comes from the user fee, only a portion of which comes from the user fee, that we are selling this important element short at a time when, if we would enhance it, it would actually reduce demand on the roads. We would also reduce demand in congested airports when now a third of our flights are 350 miles or less. We are not thinking this through in a proper fashion.

I appreciate the gentleman's yielding to me because I wanted to make that point about its capital investment, which is critical if it is ever going to operate the way my friend on the other side of the aisle knows I would like to see, but we cannot starve Amtrak first.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

GENERAL PROVISIONS—FEDERAL RAILROAD ADMINISTRATION

SEC. 161. For the purpose of assisting State-supported intercity rail service, in order to demonstrate whether competition will provide higher quality rail passenger service at reasonable prices, the Secretary of Transportation, working with affected States, shall continue to develop and implement a procedure for fair competitive bidding by Amtrak and non-Amtrak operators for State-supported routes: *Provided*, That in the event a State desires to select or selects a non-Amtrak operator for the route, the State may make an agreement with Amtrak to use facilities and equipment of, or have services provided by, Amtrak under terms agreed to by the State and Amtrak to enable the non-Amtrak operator to provide the State-supported service: *Provided further*, That if the parties cannot agree on terms, the Secretary shall, as a condition of receipt of Federal grant funds, order that the facilities and equipment be made available and the services be provided by Amtrak under reasonable terms and compensation: *Provided further*, That when prescribing reasonable compensation to Amtrak, the Secretary shall consider quality of service as a major factor when determining whether, and the extent to which, the amount of compensation shall be greater than the incremental costs of using the facilities and providing the services: *Provided further*, That the Secretary may reprogram up to \$2,500,000 from the Amtrak operating grant funds for costs associated with the implementation of the fair bid procedure and demonstration of competition under this section.

POINT OF ORDER

Mr. BLUMENAUER. Mr. Chairman, I make a point of order against section 161, which begins on page 37, line 23, and ends on page 38, line 25. Section 161 would require the Department of Transportation to develop and implement a procedure of competitive bidding for State-supported passenger rail routes, to require Amtrak to provide service in some routes and a compensation determined by the Secretary and to allow the Secretary to reprogram up

to \$2.5 million from Amtrak operating funds to support this effort. This is clearly legislative in nature and is in violation of clause 2 of rule XXI.

The CHAIRMAN. Are there further Members desiring to be heard on the point of order?

If not, the Chair is prepared to rule.

The Chair finds that this provision includes language imparting direction. The provision therefore constitutes legislation in violation of clause 2 of rule XXI.

The point of order is sustained. Section 161 is stricken from the bill.

The Clerk will read.

The Clerk read as follows:

SEC. 162. Section 24315(b) of title 49 U.S. Code, is amended to read as follows:

“(b) AMTRAK ANNUAL REPORT AND BUDGET REQUEST.—(1) Not later than February 15 of each year, Amtrak shall submit to the President and Congress a complete report of its operations, activities, and accomplishments, including a statement of revenues and expenditures for the prior fiscal year. The report—

“(A) shall include a discussion and accounting of Amtrak’s success in meeting the goal of section 24902(b) of this title; and

“(B) may include recommendations for other legislation.

“(2) Not later than May 1st of each year, Amtrak’s Board of Directors shall submit to the Secretary of Transportation Amtrak’s budget request for the fiscal year commencing 17 months later.

“(3) The Secretary shall annually submit to Congress an approved budget request for Amtrak as part of the President’s annual budget request to Congress.

“(4) Amtrak shall not submit any other requests for funding unless such requests have been approved by the Secretary of Transportation.”.

POINT OF ORDER

Mr. PETRI. Mr. Chairman, I make a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. PETRI. Mr. Chairman, I make a point of order against section 162 on page 39, line 1 through 23.

This provision violates clause 2 of rule XXI, changing existing law and therefore constitutes legislating on an appropriation bill in violation of House rules.

The CHAIRMAN. Are there further Members desiring to be heard on the point of order?

If not, the Chair is prepared to rule.

The Chair finds that this provision directly amends existing law. The provision therefore constitutes legislation in violation of clause 2 of rule XXI.

The point of order is sustained. Section 162 is stricken from the bill.

The Clerk will read.

The Clerk read as follows:

SEC. 163. Notwithstanding any provisions of this or any other Act, during the fiscal year ending September 30, 2005, and hereafter, the Federal Railroad Administration may use funds appropriated by this or any other Act to provide for the installation of a broadband high speed internet service connection, including necessary equipment, for Federal Railroad Administration employees, and to either pay directly recurring monthly charges or to reimburse a percentage of such monthly charges which are paid by such in-

spectors: *Provided*, That the Federal Railroad Administration certifies that adequate safeguards against private misuse exist, and that the service is necessary for direct support of the agency’s mission.

FEDERAL TRANSIT ADMINISTRATION ADMINISTRATIVE EXPENSES

For necessary administrative expenses of the Federal Transit Administration’s programs authorized by chapter 53 of title 49, United States Code, \$15,100,000: *Provided*, That no more than \$75,500,000 of budget authority shall be available for these purposes: *Provided further*, That of the funds available not to exceed \$424,565 shall be available for the Office of the Administrator; not to exceed \$6,715,000 shall be available for the Office of Administration; not to exceed \$4,061,000 shall be available for the Office of the Chief Counsel; not to exceed \$1,200,000 shall be available for the Office of Communication and Congressional Affairs; not to exceed \$7,600,000 shall be available for the Office of Program Management; not to exceed \$6,700,000 shall be available for the Office of Budget and Policy; not to exceed \$2,750,000 shall be available for the Office of Civil Rights; not to exceed \$4,000,000 shall be available for the Office of Planning; not to exceed \$19,982,000 shall be available for regional offices; and not to exceed \$19,557,000 shall be available for the central account: *Provided further*, That the Administrator is authorized to transfer funds appropriated for an office of the Federal Transit Administration: *Provided further*, That no appropriation for an office shall be increased or decreased by more than a total of 3 percent by all such transfers: *Provided further*, That any change in funding totaling an amount greater than 3 percent during the fiscal year shall be submitted for approval to the House and Senate Committees on Appropriations: *Provided further*, That any funding transferred from the central account shall be submitted for approval to the House and Senate Committees on Appropriations: *Provided further*, That none of the funds provided or limited in this or any other Act may be used to create a permanent office of transit security under this heading: *Provided further*, That of the funds in this Act available for the execution of contracts under section 5327(c) of title 49, United States Code, \$3,000,000 shall be reimbursed to the Department of Transportation’s Office of Inspector General for costs associated with audits and investigations of transit-related issues, including reviews of new fixed guideway systems: *Provided further*, That \$2,500,000 shall be for the National transit database to remain available until expended: *Provided further*, That upon submission to the Congress of the fiscal year 2006 President’s budget, the Secretary of Transportation shall transmit to Congress the annual report on new starts, proposed allocations of funds for fiscal year 2006: *Provided further*, That the amount herein appropriated shall be reduced by \$20,000 per day for each day after initial submission of the President’s budget that the report has not been submitted to the Congress.

POINT OF ORDER

Mr. HEFLEY. Mr. Chairman, I make a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. HEFLEY. Mr. Chairman, I make a point of order against page 40, line 13, to page 42, line 15 because it provides an appropriation for an unauthorized program and therefore violates section 2(a) of rule XXI.

The CHAIRMAN. Are there further Members desiring to be heard on the point of order?

If not, the Chair is prepared to rule.

As previously stated by the Chair, the burden of demonstrating authorization has not been met.

The point of order is sustained. The paragraph is stricken from the bill.

PARLIAMENTARY INQUIRY

Mr. PETRI. Mr. Chairman, was the previous point of order against the language of the entire paragraph?

The CHAIRMAN. The entire paragraph was stricken.

Mr. PETRI. Including all of page 41 and page 42 through line 16?

The CHAIRMAN. All of page 41, yes.

Mr. PETRI. And page 42 through line 16, Mr. Chairman?

The CHAIRMAN. Page 42 through line 15.

The Clerk will read.

The Clerk read as follows:

FORMULA GRANTS

For necessary expenses to carry out 49 U.S.C. 5307, 5308, 5310, 5311, 5327, and section 3038 of Public Law 105–178, \$767,800,000 to remain available until expended: *Provided*, That no more than \$4,039,000,000 of budget authority shall be available for these purposes.

POINT OF ORDER

Mr. HEFLEY. Mr. Chairman, I make a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. HEFLEY. Mr. Chairman, I make a point of order on page 42, line 16, to page 42, line 21 because it provides an appropriation for an unauthorized program and therefore violates section 2(a) of rule XXI.

The CHAIRMAN. Are there further Members desiring to be heard on the point of order?

If not, the Chair is prepared to rule.

As previously stated by the Chair, the burden of demonstrating authorization has not been met.

The point of order is sustained. The paragraph is stricken from the bill.

The Clerk will read.

The Clerk read as follows:

UNIVERSITY TRANSPORTATION RESEARCH

For necessary expenses to carry out 49 U.S.C. 5505, \$1,200,000, to remain available until expended: *Provided*, That no more than \$6,000,000 of budget authority shall be available for these purposes.

POINT OF ORDER

Mr. HEFLEY. Mr. Chairman, I make a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. HEFLEY. Mr. Chairman, I make a point of order against page 42, line 22, to page 42, line 26 because it provides an appropriation for an unauthorized program and therefore violates section 2(a) of rule XXI.

The CHAIRMAN. Are there further Members desiring to be heard on the point of order?

If not, the Chair is prepared to rule.

As previously stated by the Chair, the burden of demonstrating authorization has not been met.

The point order is sustained. The paragraph is stricken from the bill.

The Clerk will read.

The Clerk read as follows:

TRANSIT PLANNING AND RESEARCH

For necessary expenses to carry out 49 U.S.C. 5303, 5304, 5305, 5311(b)(2), 5312, 5313(a), 5314, 5315, and 5322, \$25,200,000, to remain available until expended: *Provided*, That no more than \$126,000,000 of budget authority shall be available for these purposes: *Provided further*, That \$5,250,000 is available to provide rural transportation assistance (49 U.S.C. 5311(b)(2)); \$4,000,000 is available to carry out programs under the National Transit Institute (49 U.S.C. 5315); \$8,250,000 is available to carry out transit cooperative research programs (49 U.S.C. 5313(a)); \$60,386,600 is available for metropolitan planning (49 U.S.C. 5303, 5304, and 5305); \$12,614,000 is available for State planning (49 U.S.C. 5313(b)); and \$35,500,000 is available for the national planning and research program (49 U.S.C. 5314).

POINT OF ORDER

Mr. HEFLEY. Mr. Chairman, I make a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. HEFLEY. I make a point on page 43, line 1, to page 43, line 16 because it provides an appropriation for an unauthorized program and therefore violates section 2(a) of rule XXI.

The CHAIRMAN. Are there further Members desiring to be heard on the point of order?

If not, the Chair is prepared to rule.

As previously stated by the Chair, the burden of demonstrating authorization has not been met.

The point of order is sustained. The paragraph is stricken from the bill.

The Clerk will read.

The Clerk read as follows:

TRUST FUND SHARE OF EXPENSES

(LIQUIDATION OF CONTRACT AUTHORIZATION) (HIGHWAY TRUST FUND)

Notwithstanding any other provision of law, for payment of obligations incurred in carrying out 49 U.S.C. 5303-5308, 5310-5315, 5317(b), 5322, 5327, 5334, 5505, and sections 3037 and 3038 of Public Law 105-178, \$6,047,200,000, to remain available until expended, and to be derived from the Mass Transit Account of the Highway Trust Fund: *Provided*, That \$3,271,200,000 shall be paid to the Federal Transit Administration's formula grants account: *Provided further*, That \$100,800,000 shall be paid to the Federal Transit Administration's transit planning and research account: *Provided further*, That \$60,400,000 shall be paid to the Federal Transit Administration's administrative expenses account: *Provided further*, That \$4,800,000 shall be paid to the Federal Transit Administration's university transportation research account: *Provided further*, That \$100,000,000 shall be paid to the Federal Transit Administration's job access and reverse commute grants program: *Provided further*, That \$2,510,000,000 shall be paid to the Federal Transit Administration's capital investment grants account.

POINT OF ORDER

Mr. PETRI. Mr. Chairman, I make a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. PETRI. Mr. Chairman, I make a point of order against the phrase "notwithstanding any other provision of law" on page 43, line 20.

This phrase violates clause 2 of rule XXI. It changes existing law and there-

fore constitutes legislating on an appropriation bill in violation of House rules.

Mr. ISTOOK. Mr. Chairman, I insist that the point of order must be expanded to lie against the entire paragraph and, as so expanded, concede the point of order.

The CHAIRMAN. The point of order is expanded. The point of order is conceded. The point of order is sustained. The paragraph is stricken from the bill.

The Clerk will read.

The Clerk read as follows:

CAPITAL INVESTMENT GRANTS (INCLUDING TRANSFER OF FUNDS)

For necessary expenses to carry out 49 U.S.C. 5308, 5309, 5318, and 5327, \$342,647,000, to remain available until expended: *Provided*, That no more than \$2,852,647,000 of budget authority shall be available for these purposes: *Provided further*, That there shall be available for fixed guideway modernization, \$1,214,400,000; there shall be available for the replacement, rehabilitation, and purchase of buses and related equipment and the construction of bus-related facilities, \$607,400,000, and there shall be available for new fixed guideway systems \$1,030,827,000, which shall include \$39,827,000 transferred from the "Federal Railroad Administration, Pennsylvania Station Redevelopment Corporation", together with \$4,307,395 in unobligated balances made available in Public Law 106-69, \$26,259,689 in unobligated balances made available in Public Law 106-346, and \$127,347,021 in unobligated balances made available in Public Law 107-87, to carry out section 3037 of Public Law 105-178, as amended, to be available as follows:

Atlanta, Georgia, North Springs Extension, \$260,000;

Baltimore, Maryland, Central Light Rail Double Track, \$29,010,000;

Chicago, Illinois, Douglas Branch Reconstruction, \$85,000,000;

Chicago, Illinois, Metra Commuter Rail Expansions and Extensions, \$52,000,000;

Chicago, Illinois, Ravenswood Line Extension, \$40,000,000;

Denver, Colorado, Southeast Corridor LRT, \$80,000,000;

Fort Lauderdale, Florida, South Florida Commuter Rail Upgrades, \$11,210,000;

Las Vegas, Nevada, Resort Corridor Fixed Guideway Project, \$36,800,000;

Los Angeles, California, Eastside Light Rail Transit Project, \$60,000,000;

Los Angeles, California, North Hollywood Extension, \$660,000;

Minneapolis, Minnesota, Hiawatha Light Rail Project, \$33,110,000;

New Orleans, Louisiana, Canal Street Corridor Project, \$16,460,000;

New York, New York Long Island Rail Road East Side Access, \$92,000,000;

Northern New Jersey Hudson-Bergen Light Rail MOS1, \$310,000;

Northern New Jersey Hudson-Bergen Light Rail MOS2, \$100,000,000;

Northern New Jersey Newark-Elizabeth Rail Line MOS1, \$1,340,000;

Phoenix, Arizona, Central Phoenix/East Valley Light Rail, \$69,000,000;

Pittsburgh, Pennsylvania, Stage II Light Rail, \$1,121,000;

Portland, Oregon, Interstate Max Light Rail Extension, \$23,480,000;

Salt Lake City, Utah, CBD to University LRT, \$1,130,000;

Salt Lake City, Utah, Medical Center Extension, \$8,680,000;

San Diego, California, Mission Valley East Light Rail Extension, \$81,640,000;

San Diego, California, Oceanside-Escondido Rail Corridor, \$55,000,000;

San Francisco, California, BART Extension to San Francisco International Airport, \$100,000,000;

San Juan, Puerto Rico, Tren Urbano Rapid Transit System, \$54,820,000;

Seattle, Washington, Central Link Initial Segment, \$80,000,000;

St. Louis, Missouri, Metrolink St. Clair Extension, \$60,000;

Washington, DC/MD, Largo Metrorail Extension, \$75,430,000; and

Hawaii and Alaska Ferry Boats, \$10,296,000.

POINT OF ORDER

Mr. HEFLEY. Mr. Chairman, I make a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. HEFLEY. Mr. Chairman, I make a point of order on page 44, line 15, to page 47, line 19 because it provides an appropriation for an unauthorized program and therefore violates section 2(a) of rule XXI.

The CHAIRMAN. Are there further Members desiring to be heard on the point of order?

If not, the Chair is prepared to rule.

As previously stated by the Chair, the burden of demonstrating authorization has not been met.

The point of order is sustained. The paragraph is stricken from the bill.

The Clerk will read.

The Clerk read as follows:

JOB ACCESS AND REVERSE COMMUTE GRANTS

For necessary expenses to carry out section 3037 of the Federal Transit Act of 1998, \$50,000,000, to remain available until expended: *Provided*, That no more than \$150,000,000 of budget authority shall be available for these purposes: *Provided further*, That up to \$300,000 of the funds provided under this heading may be used by the Federal Transit Administration for technical assistance and support and performance reviews of the Job Access and Reverse Commute Grants program.

POINT OF ORDER

Mr. HEFLEY. Mr. Chairman, I make a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. HEFLEY. Mr. Chairman, I make a point of order on page 47, line 20, to page 48, line 3 because it provides an appropriation for an unauthorized program and therefore violates section 2(a) of rule XXI.

The CHAIRMAN. Are there further Members desiring to be heard on the point of order?

If not, the Chair is prepared to rule.

As previously stated by the Chair, the burden of demonstrating authorization has not been met.

The point of order is sustained. The paragraph is stricken from the bill.

AMENDMENT OFFERED BY MR. ISTOOK

Mr. ISTOOK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ISTOOK:

On page 48 of the bill, line 4, insert the following:

"GENERAL SERVICES ADMINISTRATION REAL PROPERTY ACTIVITIES FEDERAL BUILDINGS FUND

For an additional amount to be deposited in, and to be used for the purposes of, the

Fund established pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 592), \$1,775,261,000."

Mr. PETRI. Mr. Chairman, I reserve a point of order.

The CHAIRMAN. The gentleman from Wisconsin (Mr. PETRI) reserves a point of order.

Mr. ISTOOK. Mr. Chairman, due to the points of order that have been raised, we have many amounts, of course, that have been stricken from the bill. Some of the amounts would have added money to the bill through the point of order strikings. Some would have subtracted money from the bill. The net of those is this \$1.7 billion figure. We need a place to put that. I know it might be nice to put it on the national debt or such, but that would still under parliamentary procedures allow people to offer an amendment to spend it someplace else.

We have in the General Services Administration the Federal Building Fund, an unmet backlog of I believe some \$7 billion in unmet Federal construction needs. Although it is not my intent to keep this money back when this bill goes to conference, it is my intent essentially to restore and to resolve the parliamentary problems and to restore it to the accounts of which it was taken.

Nevertheless, for the purpose of this bill today, I offer this amendment to take this money that has been stricken from the bill and put it in the Federal Building Fund.

The CHAIRMAN. Does the gentleman from Wisconsin (Mr. PETRI) insist on his point of order?

Mr. PETRI. Mr. Chairman, I do not.

The CHAIRMAN. The gentleman from Wisconsin (Mr. PETRI) withdraws his point of order.

The question is on the amendment offered by the gentleman from Oklahoma (Mr. ISTOOK).

The amendment was agreed to.

The CHAIRMAN. The Clerk will read. The Clerk read as follows:

GENERAL PROVISIONS—FEDERAL TRANSIT ADMINISTRATION

SEC. 171. The limitations on obligations for the programs of the Federal Transit Administration shall not apply to any authority under 49 U.S.C. 5338, previously made available for obligation, or to any other authority previously made available for obligation.

SEC. 172. Notwithstanding any other provision of law, and except for fixed guideway modernization projects, funds made available by this Act under "Federal Transit Administration, Capital investment grants" for projects specified in this Act or identified in reports accompanying this Act not obligated by September 30, 2007, and other recoveries, shall be made available for other projects under 49 U.S.C. 5309.

SEC. 173. Notwithstanding any other provision of law, any funds appropriated before October 1, 2004, under any section of chapter 53 of title 49, United States Code, that remain available for expenditure may be transferred to and administered under the most recent appropriation heading for any such section.

SEC. 174. Notwithstanding any other provision of law, for the purpose of calculating

the non-New Starts share of the total project cost of both phases of San Francisco Muni's Third Street Light Rail Transit project for fiscal year 2005, the Secretary of Transportation shall include all non-New Starts contributions made towards Phase 1 of the two-phase project for engineering, final design and construction, and also shall allow non-New Starts funds expended on one element or phase of the project to be used to meet the non-New Starts share requirement of any element or phase of the project: *Provided further*, That none of the funds provided in this Act for the San Francisco Muni Third Street Light Rail Transit Project shall be obligated if the Federal Transit Administration determines that the project is found to be "not recommended" after evaluation and computation of revised transportation system user benefit data.

POINT OF ORDER

Mr. PETRI. Mr. Chairman, I make a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. PETRI. Mr. Chairman, I make a point of order against section 174 on page 48, line 25, through page 49, line 15.

This provision violates clause 2 of rule XXI. It changes existing law and therefore constitutes legislating on an appropriation bill in violation of the rules of this House.

The CHAIRMAN. Are there further Members desiring to be heard on the point of order?

If not, the Chair is prepared to rule.

The Chair finds that this language explicitly supersedes existing law. The language therefore constitutes legislation in violation of clause 2 of rule XXI.

The point of order is sustained. Section 174 is stricken from the bill.

The Clerk will read.

The Clerk read as follows:

SEC. 175. None of the funds in this Act shall be available to any Federal transit grantee after February 1, 2004, involved directly or indirectly, in any activity that promotes the legalization or medical use of any substance listed in schedule I of section 202 of the Controlled Substances Act (21 U.S.C. 812 et seq.).

SEC. 176. From unobligated balances in the Federal Transit Administration's Discretionary Grants account, not to exceed \$72,792,311 shall be transferred as follows: to the Federal Transit Administration's Formula Grants account, not to exceed \$42,190,828; and to the Interstate Transfer Grants—Transit account, not to exceed \$30,601,483: *Provided*, That these unobligated balances are used, together with Formula Grant funds that are available for reappropriation in such account, to restore obligation authority reduced due to a prior deficiency.

SEC. 177. Notwithstanding any other provision of law, any unobligated funds designated to the Oklahoma Transit Association on pages 1305 through 1307 of the Joint Explanatory Statement of the Committee of Conference for Public Law 108-7 may be made available to the Metropolitan Tulsa Transit Authority and the Central Oklahoma Transportation and Parking Authority for any project or activity authorized under section 3037 of Public Law 105-178 upon receipt of an application.

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POINT OF ORDER

Mr. PETRI. Mr. Chairman, I raise a point of order against this section.

The CHAIRMAN. The gentleman will state it.

Mr. PETRI. Mr. Chairman, I raise a point of order against section 177 on page 50, line 7 through line 15.

This provision violates clause 2 of rule XXI. It changes existing law and, therefore, constitutes legislating on an appropriations bill in violation of the rules of this House.

The CHAIRMAN. Do any further Members desire to be heard on the point of order?

If not, the Chair finds that this language explicitly supersedes existing law. The language, therefore, constitutes legislation in violation of clause 2 of rule XXI.

The point of order is sustained. Section 177 is stricken from the bill.

The Clerk will read.

The Clerk read as follows:

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

The Saint Lawrence Seaway Development Corporation is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to the Corporation, and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the programs set forth in the Corporation's budget for the current fiscal year.

OPERATIONS AND MAINTENANCE

(HARBOR MAINTENANCE TRUST FUND)

For necessary expenses for operations and maintenance of those portions of the Saint Lawrence Seaway operated and maintained by the Saint Lawrence Seaway Development Corporation, \$15,900,000, to be derived from the Harbor Maintenance Trust Fund, pursuant to Public Law 99-662: *Provided*, That, of this amount, \$1,500,000 shall be for the concrete replacement project and related expenses at the Eisenhower and Snell Locks.

MARITIME ADMINISTRATION

MARITIME SECURITY PROGRAM

For necessary expenses to maintain and preserve a U.S.-flag merchant fleet to serve the national security needs of the United States, \$98,700,000, to remain available until expended.

OPERATIONS AND TRAINING

For necessary expenses of operations and training activities authorized by law, \$106,400,000, of which \$23,753,000 shall remain available until September 30, 2005, for salaries and benefits of employees of the United States Merchant Marine Academy; of which \$13,138,000 shall remain available until expended for capital improvements at the United States Merchant Marine Academy; and of which \$8,090,000 shall remain available until expended for the State Maritime Schools Schoolship Maintenance and Repair.

SHIP DISPOSAL

For necessary expenses related to the disposal of obsolete vessels in the National Defense Reserve Fleet of the Maritime Administration, \$19,116,000, to remain available until expended.

MARITIME GUARANTEED LOAN (TITLE XI) PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For administrative expenses to carry out the guaranteed loan program, not to exceed \$4,764,000, which shall be transferred to and merged with the appropriation for Operations and Training.

SHIP CONSTRUCTION
(RESCISSION)

Of the unobligated balances available under this heading, \$1,979,000 are rescinded.

GENERAL PROVISIONS—MARITIME
ADMINISTRATION

SEC. 185. Notwithstanding any other provision of this Act, the Maritime Administration is authorized to furnish utilities and services and make necessary repairs in connection with any lease, contract, or occupancy involving Government property under control of the Maritime Administration, and payments received therefore shall be credited to the appropriation charged with the cost thereof: *Provided*, That rental payments under any such lease, contract, or occupancy for items other than such utilities, services, or repairs shall be covered into the Treasury as miscellaneous receipts.

SEC. 186. No obligations shall be incurred during the current fiscal year from the construction fund established by the Merchant Marine Act, 1936, or otherwise, in excess of the appropriations and limitations contained in this Act or in any prior appropriations Act.

SEC. 187. None of the funds appropriated or otherwise made available by this Act may be used to implement or make an award pursuant to the National Defense Tank Vessel Construction Assistance Program Request for Proposals issued by the Maritime Administration on February 20, 2004.

RESEARCH AND SPECIAL PROGRAMS
ADMINISTRATION

RESEARCH AND SPECIAL PROGRAMS

For expenses necessary to discharge the functions of the Research and Special Programs Administration, \$46,790,000, of which \$645,000 shall be derived from the Pipeline Safety Fund, and of which \$3,025,000 shall remain available until September 30, 2007: *Provided*, That up to \$1,200,000 in fees collected under 49 U.S.C. 5108(g) shall be deposited in the general fund of the Treasury as offsetting receipts: *Provided further*, That there may be credited to this appropriation, to be available until expended, funds received from States, counties, municipalities, other public authorities, and private sources for expenses incurred for training, for reports publication and dissemination, and for travel expenses incurred in performance of hazardous materials exemptions and approvals functions.

PIPELINE SAFETY
(PIPELINE SAFETY FUND)

(OIL SPILL LIABILITY TRUST FUND)

For expenses necessary to conduct the functions of the pipeline safety program, for grants-in-aid to carry out a pipeline safety program, as authorized by 49 U.S.C. 60107, and to discharge the pipeline program responsibilities of the Oil Pollution Act of 1990, \$68,466,000, of which \$14,000,000 shall be derived from the Oil Spill Liability Trust Fund and shall remain available until September 30, 2007; of which \$54,466,000 shall be derived from the Pipeline Safety Fund, of which \$22,901,000 shall remain available until September 30, 2007: *Provided further*, That not less than \$1,000,000 of the funds provided under this heading shall be for the one-call state grant program.

EMERGENCY PREPAREDNESS GRANTS
(EMERGENCY PREPAREDNESS FUND)

For necessary expenses to carry out 49 U.S.C. 5127(c), \$200,000, to be derived from the Emergency Preparedness Fund, to remain available until September 30, 2006: *Provided*, That not more than \$14,300,000 shall be made available for obligation in fiscal year 2004 from amounts made available by 49 U.S.C. 5116(i) and 5127(d) 2007: *Provided further*, That

none of the funds made available by 49 U.S.C. 5116(i), 5127(c), and 5127(d) shall be made available for obligation by individuals other than the Secretary of Transportation, or his designee.

OFFICE OF INSPECTOR GENERAL
SALARIES AND EXPENSES

For necessary expenses of the Office of Inspector General to carry out the provisions of the Inspector General Act of 1978, as amended, \$58,000,000: *Provided*, That the Inspector General shall have all necessary authority, in carrying out the duties specified in the Inspector General Act, as amended (5 U.S.C. App. 3) to investigate allegations of fraud, including false statements to the government (18 U.S.C. 1001), by any person or entity that is subject to regulation by the Department: *Provided further*, That the funds made available under this heading shall be used to investigate, pursuant to section 41712 of title 49, United States Code: (1) unfair or deceptive practices and unfair methods of competition by domestic and foreign air carriers and ticket agents; and (2) the compliance of domestic and foreign air carriers with respect to item (1) of this proviso.

SURFACE TRANSPORTATION BOARD
SALARIES AND EXPENSES

For necessary expenses of the Surface Transportation Board, including services authorized by 5 U.S.C. 3109, \$20,771,000: *Provided*, That notwithstanding any other provision of law, not to exceed \$1,250,000 from fees established by the Chairman of the Surface Transportation Board shall be credited to this appropriation as offsetting collections and used for necessary and authorized expenses under this heading: *Provided further*, That the sum herein appropriated from the general fund shall be reduced on a dollar-for-dollar basis as such offsetting collections are received during fiscal year 2005, to result in a final appropriation from the general fund estimated at no more than \$19,721,000.

POINT OF ORDER

Mr. HEFLEY. Mr. Chairman, I make a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. HEFLEY. Mr. Chairman, I raise a point of order on page 56, line 6, to page 56, line 20, because it provides an appropriation for an unauthorized program and, therefore, violates section 2(a) of rule XXI.

The CHAIRMAN. Do further Members desire to be heard on the point of order?

If not, as previously stated by the Chair, the burden of demonstrating authorization has not been met.

The point of order is sustained. The paragraph is stricken from the bill.

The Clerk will read.

The Clerk read as follows:

GENERAL PROVISIONS—DEPARTMENT OF
TRANSPORTATION
(INCLUDING TRANSFERS OF FUNDS)

SEC. 188. During the current fiscal year applicable appropriations to the Department of Transportation shall be available for maintenance and operation of aircraft; hire of passenger motor vehicles and aircraft; purchase of liability insurance for motor vehicles operating in foreign countries on official department business; and uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901–5902).

SEC. 189. Appropriations contained in this Act for the Department of Transportation shall be available for services as authorized

by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for an Executive Level IV.

SEC. 190. None of the funds in this Act shall be available for salaries and expenses of more than 106 political and Presidential appointees in the Department of Transportation: *Provided*, That none of the personnel covered by this provision may be assigned on temporary detail outside the Department of Transportation.

SEC. 191. None of the funds in this Act shall be used to implement section 404 of title 23, United States Code.

SEC. 192. (a) No recipient of funds made available in this Act shall disseminate personal information (as defined in 18 U.S.C. 2725(3)) obtained by a State department of motor vehicles in connection with a motor vehicle record as defined in 18 U.S.C. 2725(1), except as provided in 18 U.S.C. 2721 for a use permitted under 18 U.S.C. 2721.

(b) Notwithstanding subsection (a), the Secretary shall not withhold funds provided in this Act for any grantee if a State is in noncompliance with this provision.

SEC. 193. Funds received by the Federal Highway Administration, Federal Transit Administration, and Federal Railroad Administration from States, counties, municipalities, other public authorities, and private sources for expenses incurred for training may be credited respectively to the Federal Highway Administration's "Federal-Aid Highways" account, the Federal Transit Administration's "Transit Planning and Research" account, and to the Federal Railroad Administration's "Safety and Operations" account, except for State rail safety inspectors participating in training pursuant to 49 U.S.C. 20105.

SEC. 194. Notwithstanding any other provisions of law, rule or regulation, the Secretary of Transportation is authorized to allow the issuer of any preferred stock heretofore sold to the Department to redeem or repurchase such stock upon the payment to the Department of an amount determined by the Secretary.

SEC. 195. None of the funds in title I of this Act may be used to make a grant unless the Secretary of Transportation notifies the House and Senate Committees on Appropriations not less than 3 full business days before any discretionary grant award, letter of intent, or full funding grant agreement totaling \$1,000,000 or more is announced by the department or its modal administrations from: (1) any discretionary grant program of the Federal Highway Administration other than the emergency relief program; (2) the airport improvement program of the Federal Aviation Administration; or (3) any program of the Federal Transit Administration other than the formula grants and fixed guideway modernization programs: *Provided*, That no notification shall involve funds that are not available for obligation.

SEC. 196. Rebates, refunds, incentive payments, minor fees and other funds received by the Department of Transportation from travel management centers, charge card programs, the subleasing of building space, and miscellaneous sources are to be credited to appropriations of the Department of Transportation and allocated to elements of the Department of Transportation using fair and equitable criteria and such funds shall be available until expended.

SEC. 197. Amounts made available in this or any other Act that the Secretary determines represent improper payments by the Department of Transportation to a third party contractor under a financial assistance award, which are recovered pursuant to law, shall be available—

(1) to reimburse the actual expenses incurred by the Department of Transportation in recovering improper payments; and

(2) to pay contractors for services provided in recovering improper payments: *Provided*, That amounts in excess of that required for paragraphs (1) and (2)—

(A) shall be credited to and merged with the appropriation from which the improper payments were made, and shall be available for the purposes and period for which such appropriations are available; or

(B) if no such appropriation remains available, shall be deposited in the Treasury as miscellaneous receipts: *Provided*, That prior to the transfer of any such recovery to an appropriations account, the Secretary shall notify the House and Senate Committees on Appropriations of the amount and reasons for such transfer: *Provided further*, That for purposes of this section, the term “improper payments”, has the same meaning as that provided in section 2(d)(2) of Public Law 107–300.

SEC. 198. The Secretary of Transportation is authorized to transfer the unexpended balances available for the bonding assistance program from “Office of the secretary, salaries and expenses” to “Minority business outreach”.

SEC. 199. None of the funds made available in this Act to the Department of Transportation may be obligated for the Office of the Secretary of Transportation to approve assessments or reimbursable agreements pertaining to funds appropriated to the modal administrations in this Act, except for activities underway on the date of enactment of this Act, unless such assessments or agreements have completed the normal reprogramming process for Congressional notification.

TITLE II—DEPARTMENT OF THE TREASURY

DEPARTMENTAL OFFICES SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the departmental offices including operation and maintenance of the Treasury Building and Annex; hire of passenger motor vehicles; maintenance, repairs, and improvements of, and purchase of commercial insurance policies for, real properties leased or owned overseas, when necessary for the performance of official business; not to exceed \$2,750,000 for official travel expenses; not to exceed \$3,000,000, to remain available until September 30, 2006 for information technology modernization requirements; not to exceed \$75,000 for official reception and representation expenses; not to exceed \$258,000 for unforeseen emergencies of a confidential nature, to be allocated and expended under the direction of the Secretary of the Treasury and to be accounted for solely on his certificate, \$177,000,000: *Provided*, That the Office of Foreign Assets Control shall be funded at no less than \$22,511,000 and 120 full-time equivalent positions: *Provided further*, That of these amounts, up to \$2,900,000 is for grants to State and local law enforcement groups to help fight money laundering; \$3,393,000, to remain available until September 30, 2006, shall be for the Treasury-wide financial statement audit program, of which such amounts as may be necessary may be transferred to accounts of the Department's offices and bureaus to conduct audits: *Provided further*, That this transfer authority shall be in addition to any other provided in this Act.

DEPARTMENT-WIDE SYSTEMS AND CAPITAL INVESTMENT'S PROGRAMS

(INCLUDING TRANSFER OF FUNDS)

For development and acquisition of automatic data processing equipment, software, and services for the Department of the Treasury, \$36,072,000, to remain available until September 30, 2007: *Provided*, That these

funds shall be transferred to accounts and in amounts as necessary to satisfy the requirements of the Department's offices, bureaus, and other organizations: *Provided further*, That this transfer authority shall be in addition to any other transfer authority provided in this Act: *Provided further*, That none of the funds appropriated shall be used to support or supplement “Internal revenue service, information systems” or “Internal revenue service, business systems modernization”.

OFFICE OF INSPECTOR GENERAL SALARIES AND EXPENSES

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, not to exceed \$2,000,000 for official travel expenses, including hire of passenger motor vehicles; and not to exceed \$100,000 for unforeseen emergencies of a confidential nature, to be allocated and expended under the direction of the Inspector General of the Treasury, \$16,500,000.

TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the Treasury Inspector General for Tax Administration in carrying out the Inspector General Act of 1978, as amended, including purchase (not to exceed 150 for replacement only for police-type use) and hire of passenger motor vehicles (31 U.S.C. 1343(b)); services authorized by 5 U.S.C. 3109, at such rates as may be determined by the Inspector General for Tax Administration; not to exceed \$6,000,000 for official travel expenses; and not to exceed \$500,000 for unforeseen emergencies of a confidential nature, to be allocated and expended under the direction of the Inspector General for Tax Administration, \$129,126,000.

AIR TRANSPORTATION STABILIZATION PROGRAM ACCOUNT

For necessary expenses to administer the Air Transportation Stabilization Board established by section 102 of the Air Transportation Safety and System Stabilization Act (Public Law 107–42), \$2,000,000 to remain available until expended.

TREASURY BUILDING AND ANNEX REPAIR AND RESTORATION

(INCLUDING TRANSFER OF FUNDS)

For the repair, alteration, and improvement of the Treasury Building and Annex, \$20,316,000, to remain available until September 30, 2007: *Provided*, That up to \$2,000,000 of the amount provided under this heading shall be transferred to and merged with “Office of Inspector General, salaries and expenses” for costs associated with the audit of this account.

EXPANDED ACCESS TO FINANCIAL SERVICES (RESCISSION)

Of the unobligated balances available under this heading, \$4,000,000 are rescinded.

VIOLENT CRIME REDUCTION PROGRAM (RESCISSION)

Of the unobligated balances available under this heading, \$1,000,000 are rescinded.

FINANCIAL CRIMES ENFORCEMENT NETWORK SALARIES AND EXPENSES

For necessary expenses of the financial crimes enforcement network, including hire of passenger motor vehicles; travel expenses of non-Federal law enforcement personnel to attend meetings concerned with financial intelligence activities, law enforcement, and financial regulation; and for assistance to Federal law enforcement agencies, with or without reimbursement, \$64,502,000, of which not to exceed \$7,000,000 shall remain available until September 30, 2007; and of which

\$8,354,000 shall remain available until September 30, 2006: *Provided*, That funds appropriated in this account may be used to procure personal services contracts.

FINANCIAL MANAGEMENT SERVICE

SALARIES AND EXPENSES

For necessary expenses of the financial management service, \$230,930,000, of which not to exceed \$9,220,000 shall remain available until September 30, 2007, for information systems modernization initiatives.

ALCOHOL AND TOBACCO TAX AND TRADE BUREAU

SALARIES AND EXPENSES

For necessary expenses of carrying out section 1111 of the Homeland Security Act of 2002, including hire of passenger motor vehicles, \$82,542,000; of which not to exceed \$50,000 for cooperative research and development programs for laboratory services; and provision of laboratory assistance to State and local agencies with or without reimbursement.

UNITED STATES MINT

UNITED STATES MINT PUBLIC ENTERPRISE FUND

Pursuant to section 5136 of title 31, United States Code, the United States Mint is provided funding through the United States Mint Public Enterprise Fund for costs associated with the production of circulating coins, numismatic coins, and protective services, including both operating expenses and capital investments. The aggregate amount of new liabilities and obligations incurred during fiscal year 2005 under such section 5136 for circulating coinage and protective service capital investments of the United States Mint shall not exceed \$41,100,000.

BUREAU OF THE PUBLIC DEBT

ADMINISTERING THE PUBLIC DEBT

For necessary expenses connected with any public-debt issues of the United States, \$179,566,000, of which not to exceed \$2,000,000 shall remain available until expended for systems modernization: *Provided*, That the sum appropriated herein from the general fund for fiscal year 2005 shall be reduced by not more than \$4,400,000 as definitive security issue fees and Treasury direct investor account maintenance fees are collected, so as to result in a final fiscal year 2005 appropriation from the general fund estimated at \$175,166,000. In addition, \$60,000 to be derived from the Oil Spill Liability Trust Fund to reimburse the Bureau for administrative and personnel expenses for financial management of the Fund, as authorized by section 1012 of Public Law 101–380.

INTERNAL REVENUE SERVICE

PROCESSING, ASSISTANCE, AND MANAGEMENT

For necessary expenses of the Internal Revenue Service for pre-filing taxpayer assistance and education, filing and account services, shared services support, general management and administration; and services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner, \$4,071,824,000, of which up to \$4,100,000 shall be for the Tax Counseling for the Elderly Program, and of which \$7,500,000 shall be available for low-income taxpayer clinic grants.

TAX LAW ENFORCEMENT

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Internal Revenue Service for determining and establishing tax liabilities; providing litigation support; conducting criminal investigation and enforcement activities; securing unfiled tax returns; collecting unpaid accounts; conducting a document matching program; resolving taxpayer problems through prompt

identification, referral and settlement; expanded customer service and public outreach programs, strengthened enforcement activities, and enhanced research efforts to reduce erroneous filings associated with the earned income tax credit; compiling statistics of income and conducting compliance research; purchase (for police-type use, not to exceed 850) and hire of passenger motor vehicles (31 U.S.C. 1343(b)); and services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner, \$4,278,107,000, of which not to exceed \$1,000,000 shall remain available until September 30, 2007, for research: *Provided*, That up to \$10,000,000 may be transferred as necessary from this account to the IRS Processing, Assistance, and Management appropriation or the IRS Information Systems appropriation solely for the purposes of management of the Earned Income Tax Credit compliance program and to reimburse the Social Security Administration for the cost of implementing section 1090 of the Taxpayer Relief Act of 1997 (Public Law 105-33): *Provided further*, That this transfer authority shall be in addition to any other transfer authority provided in this Act.

INFORMATION SYSTEMS

For necessary expenses of the Internal Revenue Service for information systems and telecommunications support, including developmental information systems and operational information systems; the hire of passenger motor vehicles (31 U.S.C. 1343(b)); and services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner, \$1,622,093,000, of which \$200,000,000 shall remain available until September 30, 2006.

Mr. OLVER (during the reading). Mr. Chairman, I am not sure where we have gotten here. I was standing and thought I had spoken when the tax law administration and tax law enforcement item came up. Where are we now?

The Clerk had called information systems, I think, or had moved to there and moved right on.

The CHAIRMAN. We have read through page 70, line 3, at this point.

Mr. OLVER. Page 70, line 3?

The CHAIRMAN. Page 70, line 3.

Mr. OLVER. Well, Mr. Chairman, I ask unanimous consent to return to page 68, line 16.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. OLVER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I want to point out, as I did in my earlier comments in the opening statement, that the IRS tax enforcement program has been underfunded by \$286 million compared with the President's recommendation.

Mr. Chairman, the tax law enforcement program is an exceedingly important program. The President has requested \$286 million more than the bill before us provides, and the Commissioner of the IRS has given us sworn testimony that the proper use of that money would afford us at least a 6-to-1 margin on revenue gained for the use of the \$286 million.

Now, in fact, in my discussion with the IRS Commissioner, he has made it clear to me that that is an average over all of the administrative uses of

the tax law enforcement program; and that, at least, if one were to use that in some areas of enforcement, that one might be able to get as much as a 15- or 20-to-1 return for the amount of money; but that in the process of trying to organize an orderly program for the enforcement, that you try to balance that program, as we have been talking about a balanced transportation program, and only enforce very hard in one area or another; but that it is possible in some areas to mix what would be enforcement gains of as much as 15- or 20-to-1 with other places, so that we really ought to put some effort into where the gain may be only 2- or 3- or 4-to-1 and end up with an average in the range of approximately 6-to-1.

Now, with that money, the revenue gained by the use of such enforcement monies, which the President requested, of just under \$300 million, then we have an opportunity to gain \$2 billion of revenue, which can be used in a variety of ways: to cut the debt; to take care of problems such as we have in this bill even before the charade of all of the points of order that have been added here or have been taken here; or for what I originally called the most serious problems of lack of funding for things like transit new-starts for Amtrak and other things in the Highway Safety Administration.

Besides that, one has to think of exactly where this money is coming from. The Commissioner of the IRS points out that there is at least \$300 billion every year of money which is owed under the law to the Government, which is not collected, which is evaded, in essence, evaded. And every time there is that kind of evasion, since that is roughly \$1 of \$6 or \$7 of tax revenue that the whole Government raises, that when that happens, that people, honest people who have paid their taxes, as they ought to, in what is basically a voluntary system that we have, when those people pay their taxes, then the six out of seven or so that do pay the taxes that are owed under the law end up subsidizing the one out of seven that is evading the taxes and not paying any.

So those people, that six out of seven, have to put in a sum of money which is 10 percent higher or 15 percent higher by the rate in order to make up for those who are not paying taxes at all.

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Mrs. KELLY. Mr. Chairman, I ask unanimous consent to return to page 66 of this bill.

The CHAIRMAN. Is there objection to the request of the gentlewoman from New York (Mrs. KELLY) to return to the last paragraph that begins on page 65?

Mr. ISTOOK. I reserve the right to object, Mr. Chairman.

The CHAIRMAN. The gentleman from Oklahoma (Mr. ISTOOK) reserves the right to object.

To what paragraph did the gentlewoman wish to return to on page 66?

Mrs. KELLY. Mr. Chairman, I have an amendment at the desk.

The CHAIRMAN. The gentleman has reserved the right to object to the unanimous consent request. Does the gentleman wish to exercise his right?

Mr. ISTOOK. I was trying to grant the gentlewoman the courtesy to state her intent, but I do intend to assert my objection.

The CHAIRMAN. Does the gentleman from Oklahoma (Mr. ISTOOK) object?

Mr. ISTOOK. Mr. Chairman, I object.

The CHAIRMAN. The unanimous consent request is not agreed to.

Mrs. KELLY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, my unanimous consent request has been turned down. However, that unanimous consent request was for an amendment to be considered as the Kelly - Oxley - Frank - Gutierrez - Royce - Maloney - Lowey amendment.

Today I have a solidly bipartisan amendment to offer to this bill on page 66 to increase funding for the Financial Crimes Enforcement Network within the Treasury Department also known as FinCEN. FinCEN is probably not one of the more well known agencies within our government, but it is an increasingly important one as we continue to sharpen our government's abilities to fight terror finance.

I want to thank the gentleman from Oklahoma (Mr. ISTOOK) because I know that he recognizes the important role of FinCEN which he did by meeting the level of the administration at the start of this year. I offer this amendment, however, because I believe that a relatively modest increase for FinCEN above the current House level would significantly improve our government's efforts to combat terrorist financing and other financial crimes.

Mr. Chairman, I have held 3 years of hearings on following terrorist crimes and terrorist financing. As many Members know, FinCEN is the Treasury bureau responsible for administering our anti-money laundering system. They are also the bureau responsible for collecting, analyzing and when necessary sharing information with law enforcement and intelligence agencies regarding illicit financial activity.

The importance of these responsibilities to our national security is very clear. As Secretary Snow pointed out earlier this year, our ability to combat terrorist financing is linked with our ability to combat money laundering. And as many of my fellow members of the Committee on Financial Services will remember, 9/11 Commissioner Vice Chairman Lee Hamilton recently testified before our committee about the critical importance of enforcing our anti-money laundering law. I am quoting his statement.

"Vigilance in this area assists in preventing notorious and open fund-raising. It forces terrorists and their sympathizers to raise and move money clandestinely, therefore raising the costs and risks involved."

Unfortunately, it has become clear that we are not doing as well in this fundamental aspect of our fight against terror finance. In spite of this important role in our fight against terrorism, FinCEN still lacks important resources it sorely needs to be an effective center point in combating terror financing and money laundering.

It must be understood by Members that FinCEN while responsible for our anti-money laundering law has few tools of its own. It is reliant on eight different regulatory bodies, most of which do not fall within the Treasury Department's jurisdiction, and as we have found through the Inspector General reports and highly publicized regulatory failures such as Riggs Bank, this fragmented system has had a serious interaction problem which has prevented the synchronized effective regime that circumstances clearly want.

This amendment would bring forth more effective and streamlined focus to our efforts to trace money laundering and combat terrorist financing. Progress can only be made through a strong, substantive commitment to equipping FinCEN with new assets, which is what this amendment would do.

I would like to point out that the President's request of FinCEN was made prior to several high profile regulatory failures. This legislation before us was considered in committee prior to the 9/11 Commission's report and the Commission's subsequent testimony to the Committee on Financial Services on terrorist financing. Since then, there has been significant evidence that our government has made many improvements to combat money laundering. However, we must enhance the tools that we have to combat terrorist financing and FinCEN is one of those.

The authorities have all indicated it requires new and different tools. That is why there is such strong bipartisan support for my amendment. Increasing funding for FinCEN by a small amount will have a significant impact on our government's ability to fight the war against terrorism in a more negative way than it would if my amendment were accepted. In fact, it is estimated that the agency needs \$25.5 million to expand and improve its capabilities. This additional funding will help FinCEN secure the appropriate application of state of the art technology that would dramatically improve its ability to track terrorist financing. It will also enable the agency to hire much needed full-time employees to support more effective and extensive examination.

That being said, having heard my plea, I would again ask unanimous consent to return to page 66.

Mr. ISTOOK. Mr. Chairman, I object to the unanimous consent request.

The CHAIRMAN. Objection is heard.

Mr. FRANK of Massachusetts. Mr. Chairman, I would ask unanimous consent that the gentlewoman from New York and others be allowed to submit statements on this subject of this amendment that has been objected to.

The CHAIRMAN. That request would have to be made in the full House.

Mr. ISTOOK. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I very much appreciate the presentation by the gentlewoman from New York (Mrs. KELLY).

FinCEN financing in this measure is already increased by 12.7 percent over the last fiscal year. We have added significant dollars in the full committee to the FinCEN appropriations, and the FinCEN appropriations is at the level that was requested by the administration. However, for the gentlewoman from New York and other Members who are concerned, we will continue to work with them on this issue to make sure that we do not disagree, have a disagreement with the administration, and might perhaps be persuaded that there might be some different number that should be in the final vote of conference.

However, Mr. Chairman, I do not want to be constantly in this process with a long night ahead of us going back and reopening different parts of the bill that have been closed. We all know it is a slow moving process as it is. And if we start accepting every unanimous consent, we would not be completed.

PARLIAMENTARY INQUIRY

Mr. FRANK of Massachusetts. Mr. Chairman, parliamentary inquiry. Are we at the point of the bill dealing with section 216?

The CHAIRMAN. The reading has not progressed to that section.

The Clerk will read.

The Clerk read as follows:

BUSINESS SYSTEMS MODERNIZATION

For necessary expenses of the Internal Revenue Service, \$285,000,000, to remain available until September 30, 2007, for the capital asset acquisition of information technology systems, including management and related contractual costs of said acquisitions, including contractual costs associated with operations authorized by 5 U.S.C. 3109: *Provided*, That none of these funds may be obligated until the Internal Revenue Service submits to the Committees on Appropriations, and such Committees approve, a plan for expenditure that: (1) meets the capital planning and investment control review requirements established by the Office of Management and Budget, including Circular A-11 part 3; (2) complies with the Internal Revenue Service's enterprise architecture, including the modernization blueprint; (3) conforms with the Internal Revenue Service's enterprise life cycle methodology; (4) is approved by the Internal Revenue Service, the Department of the Treasury, and the Office of Management and Budget; (5) has been reviewed by the General Accounting Office; and (6) complies with the acquisition rules, requirements, guidelines, and systems acquisition management practices of the Federal Government.

HEALTH INSURANCE TAX CREDIT ADMINISTRATION

For expenses necessary to implement the health insurance tax credit included in the Trade Act of 2002 (Public Law 107-210), \$34,841,000.

ADMINISTRATIVE PROVISIONS—DEPARTMENT OF THE TREASURY

SEC. 201. Not to exceed 5 percent of any appropriation made available in this Act to the

Internal Revenue Service may be transferred to any other Internal Revenue Service appropriation upon the advance approval of the Committees on Appropriations.

SEC. 202. The Internal Revenue Service shall maintain a training program to ensure that Internal Revenue Service employees are trained in taxpayers' rights, in dealing courteously with the taxpayers, and in cross-cultural relations.

SEC. 203. The Internal Revenue Service shall institute and enforce policies and procedures that will safeguard the confidentiality of taxpayer information.

SEC. 204. Funds made available by this or any other Act to the Internal Revenue Service shall be available for improved facilities and manpower to provide sufficient and effective 1-800 help line service for taxpayers. The Commissioner shall continue to make the improvement of the Internal Revenue Service 1-800 help line service a priority and allocate resources necessary to increase phone lines and staff to improve the Internal Revenue Service 1-800 help line service.

SEC. 205. Appropriations to the Department of the Treasury in this Act shall be available for uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901), including maintenance, repairs, and cleaning; purchase of insurance for official motor vehicles operated in foreign countries; purchase of motor vehicles without regard to the general purchase price limitations for vehicles purchased and used overseas for the current fiscal year; entering into contracts with the Department of State for the furnishing of health and medical services to employees and their dependents serving in foreign countries; and services authorized by 5 U.S.C. 3109.

SEC. 206. Not to exceed 2 percent of any appropriations in this Act made available to the Departmental Offices—Salaries and Expenses, Office of Inspector General, Financial Management Service, Alcohol and Tobacco Tax and Trade Bureau, Financial Crimes Enforcement Network, and Bureau of the Public Debt, may be transferred between such appropriations upon the advance approval of the Committees on Appropriations: *Provided*, That no transfer may increase or decrease any such appropriation by more than 2 percent.

SEC. 207. Not to exceed 2 percent of any appropriation made available in this Act to the Internal Revenue Service may be transferred to the Treasury Inspector General for Tax Administration's appropriation upon the advance approval of the Committees on Appropriations: *Provided*, That no transfer may increase or decrease any such appropriation by more than 2 percent.

SEC. 208. Of the funds available for the purchase of law enforcement vehicles, no funds may be obligated until the Secretary of the Treasury certifies that the purchase by the respective Treasury bureau is consistent with Departmental vehicle management principles: *Provided*, That the Secretary may delegate this authority to the Assistant Secretary for Management.

SEC. 209. None of the funds appropriated in this Act or otherwise available to the Department of the Treasury or the Bureau of Engraving and Printing may be used to redesign the \$1 Federal Reserve note.

SEC. 210. The Secretary of the Treasury may transfer funds from "Financial management service, salaries and expenses" to "Debt services" as necessary to cover the costs of debt collection: *Provided*, That such amounts shall be reimbursed to such salaries and expenses account from debt collections received in the Debt Services Account.

SEC. 211. Section 122(g)(1) of Public Law 105-119 (5 U.S.C. 3104 note), is further amended by striking "6 years" and inserting "7 years".

SEC. 212. The Treasury Department Appropriations Act, 1997 under the heading "Treasury Franchise Fund", as amended, is further amended by striking "October 1, 2004" and inserting "October 1, 2005".

SEC. 213. (a) Section 3333 of title 31, United States Code, is amended as follows:

(1) By amending subsection (a)(1) to read as follows:

"(a)(1) The Secretary of the Treasury is not liable for a payment made by the Secretary or depository in due course and without negligence, of—

(A) a check, draft, or warrant drawn on the Treasury or the depository;

(B) an electronic payment issued by the Treasury or the depository; and

(C) a debt obligation guaranteed or assumed by the United States Government.";

(2) By inserting after paragraph (2) of subsection (a) the following new paragraph:

"(3) The amount of the relief shall be charged to the Check Forgery Insurance Fund (31 U.S.C. 3343). A recovery or repayment of a loss for which replacement is made out of the fund shall be credited to the fund and is available for the purposes for which the fund was established."

(b) The Check Forgery Insurance Fund (31 U.S.C. 3343) shall be available to fund amounts relating to the payment of items listed in 31 U.S.C. 3333(a)(1), as amended above, prior to the enactment of this Act.

SEC. 214. None of the funds appropriated or otherwise made available by this or any other Act may be used by the United States Mint to construct or operate any museum without the explicit approval of the House Committee on Financial Services and the Senate Committee on Banking, Housing, and Urban Affairs.

SEC. 215. None of the funds appropriated or otherwise made available by this or any other Act or source to the Department of the Treasury, the Bureau of Engraving and Printing, and the United States Mint, individually or collectively, may be used to consolidate any or all functions of the Bureau of Engraving and Printing and the United States Mint without the explicit approval of the House Committee on Financial Services; the Senate Committee on Banking, Housing, and Urban Affairs; the House Committee on Appropriations; and the Senate Committee on Appropriations.

Mr. ISTOOK (during the reading). Mr. Chairman, I ask unanimous consent that the text of the bill through page 76, line 2 be considered as read, printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

The CHAIRMAN. Are there any points of order to that portion of the bill?

Are there any amendments to that portion of the bill?

The Clerk will read.

The Clerk read as follows:

SEC. 216. None of the funds made available in this Act to the Secretary of the Treasury may be used to publish, implement, administer, or enforce regulations that permit financial institutions to accept the matricula consular identification card as a form of identification.

AMENDMENT NO. 3 OFFERED BY MR. OXLEY

Mr. OXLEY. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 3 offered by Mr. OXLEY: Strike section 216 (relating to identification accepted by financial institutions).

Mr. ISTOOK. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto close in 1 hour and that the time be equally divided.

Mr. FRANK of Massachusetts. Mr. Chairman, reserving the right to object, I just want to point out there is a difference between ending in 1 hour and 1 hour of debate; namely, whether or not the clock stops.

I would agree if we are talking about 1 full hour of debate, but if we are talking about 1 hour on the clock I would object.

Mr. ISTOOK. Mr. Chairman, that is satisfactory.

The CHAIRMAN. The unanimous consent request is that all debate cease after 1 hour of debate.

Mr. FRANK of Massachusetts. Mr. Chairman, equally divided, I assume?

The CHAIRMAN. It will be divided and controlled equally between the gentleman from Ohio (Mr. OXLEY).

Mr. ISTOOK. Mr. Chairman, I yield the time in opposition to the gentleman from Ohio's (Mr. OXLEY) amendment to the gentleman from Texas (Mr. CULBERSON), a member of the subcommittee to let him control that debate.

The CHAIRMAN. Is there objection to the request of the gentleman from Oklahoma (Mr. ISTOOK)?

Mr. OXLEY. Mr. Chairman, I would ask that half of my time be allocated to the gentleman from Massachusetts (Mr. FRANK), the ranking member of the Committee on Financial Services.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio (Mr. OXLEY)?

There was no objection.

The CHAIRMAN. The time is divided, one-fourth to the gentleman from Ohio (Mr. OXLEY), one-fourth to the gentleman from Massachusetts (Mr. FRANK) and one-half to the gentleman from Texas (Mr. CULBERSON).

The gentleman from Ohio (Mr. OXLEY) is recognized.

Mr. OXLEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I offer this amendment on behalf of myself and the ranking member of the Committee on Financial Services, as well as a respected member of the Committee on Appropriations, the gentleman from Arizona (Mr. KOLBE).

□ 1945

Our amendment will strike ill advised language adopted in the Committee on Appropriations that, if allowed to remain in the bill, would prevent the Treasury Department from enforcing regulations implementing customer identification provisions in the USA PATRIOT Act that are critically important to combating money laundering and disrupting the financing of terrorism.

I note at the outset that the Bush administration has issued a strongly worded statement of administration position opposing the language that the Oxley-Frank-Kolbe amendment would strike from this legislation.

My colleagues are going to hear a lot in today's debate about what whether one form of ID is better than another; but as the author of the USA PATRIOT Act's anti-terrorist financing provisions and as a former FBI, agent, let me set the record straight. Today's debate is not about good or bad ID. It is about whether we are going to ask financial services customers for any ID at all. My amendment says yes; and the bill, as currently constructed, says no.

By way of background, the regulations that the bill seeks to block were issued by the Treasury Department last year under section 326 of the USA PATRIOT Act, which I authored. That provision was intended to enhance the ability of financial institutions to detect and prevent money laundering and the financing of terrorism by requiring those institutions to develop comprehensive procedures for verifying customer identity at the time of account opening. Among other things, the provision requires financial institutions to consult lists of known or suspected terrorists or terrorist organizations when opening accounts for new customers.

In implementing section 326, the administration ultimately decided to give institutions the flexibility to tailor their customer identification programs to the risks of money laundering or terrorist financing posed by their products, services, and customer base. Consistent with this risk-based approach, the final regulations give financial institutions the discretion to determine which forms of identification issued by foreign governments they will accept and under what circumstances.

Make no mistake, the regulations do not mandate or require the acceptance of the matricula consular card. If financial institutions are concerned about their validity, they are free to reject the use of those cards as identification.

These regulations were finalized only after two lengthy public comment periods, which included extensive input from the financial services industry, law enforcement agencies, and a host of other interested parties, and after careful analysis and study by the Treasury Department and other financial regulators. The regulations, effective last year, are currently being enforced by Treasury and the Federal financial regulators and implemented by financial institutions across the country.

The so-called Culberson amendment throws into question the obligation of financial institutions to verify the identities of their customers and ties Treasury's hands in enforcing one of the centerpieces of the post-September

11 congressional response to the terrorist financing threat.

Indeed, when he appeared before our committee last month, 9/11 Commission Vice Chairman Lee Hamilton, a former distinguished colleague of ours, singled out section 326 for particular praise, calling it a "significant tool to assist fast-moving terrorism investigations."

Failure to adopt this amendment will result in this critical tool being taken from the Government's hands. I would suggest to my colleagues that now is not the time to be unilaterally disarming in the financial war against terrorists.

The Bush administration and the Treasury Department have registered their strong support for this amendment, arguing that denying access to the mainstream financial system serves only to drive consumers into the underground financial economy, making it virtually impossible to track their financial activity and frustrating the Government's efforts to enforce antimoney laundering and antiterrorist financing laws. In the words of Secretary Snow, if the section my amendment seeks to strike becomes law, "it will be a step backwards in the financial war on terror."

Let us be very serious and understand that that is what the PATRIOT Act is all about. This is an effort to repeal part of the PATRIOT Act that has worked so successfully in protecting American citizens.

Finally, let me express my frustration with this kind of back-door legislating in appropriations bills. This is simply not the way we should be operating in this House.

My colleagues have a simple choice before them: vote for our amendment and give our financial regulators the ability to track, seize, and freeze terrorist funds or vote against us and drive terrorist money laundering even further underground. The choice is clear.

Support our fight against the funding of terror. Support the Oxley-Frank-Kolbe amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. CULBERSON. Mr. Chairman, I yield myself such time as I may consume.

With immense respect to my good friend, the Chairman of the Committee on Financial Services, the Congress has already passed the PATRIOT Act. The Secretary of the Treasury was required under the PATRIOT Act to prescribe regulations that set forth minimum standards for financial institutions to open a bank account. The authorizers have already spoken on this, and the law requires the minimum requirements for banks to verify the identity of a person opening the account, to maintain records of that person's identity, and consult lists of known or suspected terrorists.

I would not have offered this amendment in subcommittee and full com-

mittee, and the Committee on Appropriations would not have felt it necessary to put this in the bill, had the Treasury Department honored the PATRIOT Act. In the opinion of the Committee on Appropriations, in the opinion of the Chairman of the Committee on the Judiciary, the gentleman from Wisconsin (Chairman SENSENBRENNER) has objected to the Treasury Department's rule.

The gentleman from Wisconsin (Chairman SENSENBRENNER) stated that he believes the reference to regulations adopted by Treasury are insufficient to address the intention of the PATRIOT Act to accurately identify and track individuals opening bank accounts. The law could not be any clearer. Yet the Treasury Department yielded to pressure from the banks, although the banks were required to verify identity, keep documents of records used to open the account. The Treasury adopted a rule which specifically allows the banks to shred photocopies of the person's identifying documents. So there is no record being kept.

I am quoting directly from the rule, in violation of the PATRIOT Act, the Treasury rule says that any foreign government-issued document that evidences nationality, as long as it bears a photograph, is valid to open a bank account. That is in complete violation of the PATRIOT Act. So the regulation the Treasury Department adopted does not even meet the express letter of the law in the PATRIOT Act. So we had no other choice but to cut off the funding to this regulation.

The parents of the families of the victims of September 11 have written a letter in opposition to this amendment because the parents, and I am quoting from the 9/11 Families For a Secure America, all of our members are aware of the fact that the 9/11 murderers relied upon government-issued identification to open bank accounts and charge accounts, rent cars and apartments and maintain an aura of legitimacy during the months that they planned, rehearsed, financed and carried out their conspiracy. Finally, on the morning of 9/11, government-issued IDs permitted them to board the planes they used to murder our loved ones.

For that reason, the parents of the families of 9/11 are scoring this vote. The parents of 9/11 are asking that Members vote against the Oxley-Frank amendment.

This is a straight-up national security vote because the FBI has testified, the Department of Justice also has objected strongly to this Treasury Department regulation. The Department of Homeland Security, all Federal law enforcement, uniformly objected to this Treasury Department regulation because, number one, these consular ID cards that foreign nationals would use to open bank accounts are widely known to be easily forged.

The FBI and the Department of Justice have concluded that the matricula consular is not reliable. It is not a reli-

able form of identification due to the nonexistence of any means of verifying the true identity of the cardholder.

So we have a situation today, Mr. Chairman, where we know the terrorists are coming back to hit us again between now and the election. The FBI agent in charge of the southern border in Texas has seen a large number of countries with al Qaeda connections that are exploiting the southern border, utilizing long-established and well-disciplined alien smuggling organizations in Mexico to transit individuals, foreign nationals through Mexico, into the United States. It was brought to my attention by Federal law enforcement authorities in Texas that they have now identified a number of individuals from Islamic countries changing their Islamic surnames to Hispanic surnames, coming across the border with all the illegals crossing the border.

So we have a situation where we are about to be hit. We have individuals using false identities, and we have a rule adopted by Treasury that essentially, according to the Committee on the Judiciary chairman and the FBI, is making it easier for individuals to create false identities and open bank accounts.

The Treasury regulation is so wide open that an Iraqi listed on the 50 Most Wanted List but who is not yet apprehended could open a bank account using an ID card printed in Arabic, issued in 2001, and the bank would still be in compliance. So the Treasury Department's already had their chance to comply with existing law, and they did not. So the appropriators had no choice.

If I could, if my subcommittee chairman, the gentleman from Oklahoma (Mr. ISTOOK), is available, I will be sure to yield to him.

Mr. Chairman, I yield 2 minutes to the distinguished gentleman from California (Mr. ROHRABACHER).

Mr. ROHRABACHER. Mr. Chairman, I thank the gentleman very much for the time, and I rise in strong opposition to the Oxley-Frank amendment.

This is the quintessential example of an interest group, namely, this time, financial interest groups, the banks, et cetera, putting themselves over the well-being of our country. In this case, we are talking about an interest group putting its self-interests, its profits above the safety of our country. Yes, it would make it easier for these banks to do business with illegal immigrants, and they would make a profit from it; but our country would be far less safe, and our children will be less safe if we do this.

Let us note that the matricula consular cards have no other purpose than providing identification for illegal immigrants. Anyone in the country lawfully can present a visa, a passport, or other government-issued identification to do financial transactions. What we have got here is an effort to make it easier for illegal immigrants to stay in

this country and to be in this country at the expense of the safety of our very people. During a time when there are terrorist acts being threatened in our country and throughout the world, this is an insane proposition.

Hundreds and hundreds of soldiers have sacrificed their lives to win the war against terror. It is not too much to ask our banks to sacrifice a little bit of profit to make sure that our country is safe. This is a disgrace. These financial institutions are putting themselves above the well-being and safety of the United States of America, and that is what this amendment is all about.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield myself 30 seconds to point out that the last I looked, no bank was sitting in the White House. We are talking about a policy issued under the authority of the President of the United States and supported by the Justice Department. So this very transitory populism on the part of some of my Republican colleagues, denouncing the bank, may sound right; but this is not any bank's policy we are talking about.

These are regulations issued by George Bush's Department of Treasury, supported by George Bush; and the George Bush administration supports this particular amendment.

Mr. Chairman, I yield 3 minutes to the gentleman from Arizona (Mr. PASTOR).

(Mr. PASTOR asked and was given permission to revise and extend his remarks.)

Mr. PASTOR. Mr. Chairman, first of all, the language of the bill only deals with one identification card. It is the matricula consular. So it is specific to a card that is issued by the Mexican consulate, and the Mexican consulate has been issuing this card since 1871.

A Mexican resident has to go to the consulate, show proof of citizenship, Mexican citizenship, a photo ID to show that that is the person, and thirdly, proof of the residence that they are having in this country. That is the requirement.

Since 9/11, the Mexican Government has made this card harder to get and also more authentic in terms of a fraud-free card to the best of their ability.

□ 2000

Since 9/11, because of the U.S. PATRIOT Act, according to section 219, the Treasury, in cooperation and consultation with the various departments, Department of Justice, FBI, et cetera, accepted a regulation that allows this card to be used as primary identification for a bank or financial institution.

Now, we have heard a number of allegations. All throughout this debate, at the subcommittee and the full Committee of Appropriations, the only letter that has come to the Committee on Appropriations has been the letter signed by the Secretary of the Treas-

ury. The FBI has not sent a letter. Today, we have a letter before us that is signed by the Deputy Attorney General from the U.S. Department of Justice saying that they agree with the regulation of the Treasury and would like to continue the use of its card.

I have to tell my colleagues that when we talk about terrorist acts, and I also am concerned about them. But I must say that there are a number of cities and towns in this country who have accepted this consular card as a form of I.D., because it allows an entity, city, county or State, to know the residence of a person who is here undocumented. If that person did not identify themselves through this card, we would never know where they live. So sheriffs, police departments, city governments, county governments, because of the fear of terrorism, accept this card because they now know where an undocumented person resides in this country. So it is not only the financial I.D. aspect of this card but it is also the security provided by this card that we must vote for the amendment.

The allegations that have been made that the FBI did not support this card and Homeland Security did not support this card, was done months ago, and the only notification that we have from this administration is the Treasury saying they want to keep the regulation and now from the Department of Justice saying they support the regulation.

Mr. CULBERSON. Mr. Chairman, I yield myself such time as I may consume to briefly say that the Department of Justice is on record in opposition to these regulations before they were issued, and then when they were issued the Department of Justice issued strong objections.

Mr. Chairman, I yield 4 minutes to the gentleman from California (Mr. ROYCE).

Mr. ROYCE. Mr. Chairman, I do rise in opposition, and I thought what I might do is simply quote some of the testimony before this Congress, starting with Steve McCraw of the Federal Bureau of Investigation, the Office of Intelligence, and he says of these cards: "It is the terrorist threat presented by matricula consular that is most worrisome. The ability of foreign nationals to use the matricula consular to create a well-documented but fictitious identity in the United States provides an opportunity for terrorists to move freely within the United States without triggering name-based watch lists that are disseminated to local police officers." Now, that is problem number one.

Problem two, as the FBI says, "It also allows them to board planes without revealing their true identity." Mr. McCraw goes on to say that "Federal officials have discovered individuals from many different countries in possession of matricula consular cards, and that is because the documents are easy to forge." He testified that "An individual of Middle Eastern descent

has also been arrested and was in possession of a matricula consular card."

What we are doing here, if we pass this amendment, is legalizing a method that would make it easy for terrorists to gain access to our financial system, thereby enabling the next group of terrorists to freely move money around the United States and finance their operations. This flies in the face of the 9/11 Commission's recommendations to strengthen I.D.'s.

I do not know how many of my colleagues sat through the hearings and heard the chairman and cochairman say that instead of permitting the use of new forms of I.D.'s from other countries that are not secure and not verifiable, we should be strengthening our own I.D. and visa systems. We heard the testimony like that from Lee Hamilton, former chairman of our Committee on International Relations, that we should adopt biometric identification systems for everyone who comes into the country. And, frankly, this flies in exactly the opposite direction.

I strongly urge my colleagues to oppose this amendment, and I would just like to further quote from the FBI document. "A September 2002 bust of a document production operation in Washington State illustrated the size of this trade. A huge cache of fake Mexican birth certificates was discovered. It is our belief that the primary reason a market for these birth certificates exists is the demand for fraudulently obtained matricula consular cards. In some locations, when an individual seeking a card is unable to produce any document whatsoever, he will still be issued a card by the Mexican Consular official if the official feels that he filled out the questionnaire and satisfies the official that he is who he purports to be."

That is another problem. In addition to being vulnerable to fraud, the matricula consular is also vulnerable to forgery. As this FBI agent says, "There have been several generations of the card and even the newest version can be easily replicated despite its security features. It is our estimate that more than 90 percent of these cards now in circulation are the earlier versions of the cards, which are little more than simple laminated cards without any security features."

As a result of these problems, as the FBI says, "There are two major criminal threats posed by the cards and one potential terrorist threat. The first criminal threat stems from the fact that the cards can be a perfect breeder document for establishing a false identity. Such false identities are particularly useful to facilitate the crime of money laundering, as the criminal is able to establish one or more bank accounts under completely fictitious names. Accounts based upon such fraudulent premises greatly hamper money laundering investigations once the criminal activity is discovered."

Mr. FRANK of Massachusetts. Mr. Chairman, I yield myself 45 seconds to

say that I agree we have a forgery problem, but it is greater than Members may think. It is not of the matricula consular. Apparently someone has forged a letter from the United States Department of Justice. Because I have a letter today, I know my chairman has it, signed by a man who purports to be James B. Comey, the Deputy Attorney General, and it is on the letterhead of the U.S. Department of Justice and it supports this amendment. And it says, "The Department of Justice fully supports the administration's current policy under the USA PATRIOT Act that requires banks and financial institutions to establish reasonable procedures. Therefore, the Department supports the Oxley-Frank-Kolbe amendment that preserves these regulations."

So it is not just the matricula consular that is being forged. Apparently there is somebody forging letters from the Department of Justice. So maybe we should suspend the proceedings and send out the Sergeant of Arms. Contempt of Congress.

Now, I think, frankly, that forgery has been somewhat exaggerated in this debate, but the biggest exaggeration is this: So, yes, a couple of years ago people said various things, but there has been an evolution and we now have the policy of President Bush, supported by the Department of Justice and the Department of Treasury, and that is what is being assailed here today.

Mr. Chairman, I yield 3 minutes to the gentleman from Texas (Mr. HINOJOSA).

(Mr. HINOJOSA asked and was given permission to revise and extend his remarks.)

Mr. HINOJOSA. Mr. Chairman, I rise today in strong support of and as a proud cosponsor of this amendment. I want to thank my colleagues for all their support, especially the chairman, the gentleman from Ohio (Mr. OXLEY) for offering this amendment.

Mr. Chairman, I have been working on the matricula consular I.D. card issue for quite some time with a number of different groups and individuals. I want to express my particular appreciation for all the assistance that the Democratic leader, the gentlewoman from California (Ms. PELOSI), the gentleman from Massachusetts (Mr. FRANK), and their staff have provided during that time.

On February 13, 2003, I introduced H.R. 773, entitled the 21st Century Access to Banking Act. My legislation would authorize U.S. financial institutions to accept the matricula consular I.D. card as valid forms of identification for the purpose of opening an account, thus bringing unbanked individuals into the U.S. banking system and resulting in a more efficient regulation of currency in the United States.

My legislation would result in an increased infusing of cash into our banks, credit unions, and other financial institutions and, ultimately, our economy on the whole.

This legislation would allow hardworking families to enter the mainstream U.S. financial system. It would enable them to open checking and savings accounts, establish a credit history and possibly even eventually purchase a car or home. It would help improve our sagging economy by enabling these struggling families to avoid being preyed upon by sometimes unscrupulous check cashers and payday lenders.

The chairman of the Subcommittee on Financial Institutions and Consumer Credit, the gentleman from Alabama (Mr. BACHUS), was kind enough to hold this first hearing on the importance of the matricula consular card to the U.S. economy and to the economies of our trading partners. And I want to take this opportunity to thank Chairman BACHUS for holding this hearing at my request and for supporting the card.

I was also pleased when Treasury promulgated its rule on section 326 of the USA PATRIOT Act, allowing financial institutions to accept the matricula card as a form of identification. However, I was deeply disappointed when the House Committee on Appropriations adopted an amendment to this legislation that would ban certain Hispanics from using their matricula consular I.D. card to open an account at a financial institution in the United States.

When it is adopted, this amendment we offer today will right that wrong. Because the United States is a party to the Vienna Convention on Consular Relations, we do not have the authority to prevent Mexican consulates from issuing the matricula consular I.D. card to Mexican nationals residing in this country. Similarly, foreign countries do not have the right to prevent United States consulates from issuing similar cards to its citizens overseas.

I want to stress this latter point. Our United States does issue cards similar to the matricula card to its own citizens in foreign countries. It seems to me that the question then becomes whether or not we should allow financial institutions in the United States to accept the card as a valid form of I.D. to open an account. The answer to that question is a very simple yes.

Should my colleagues vote to overturn the misguided anti-matricula card language currently in this bill? The answer is yes. The card is a safe, reliable form of identification. The card has over a dozen security features, including a hologram and infrared band. As the Washington Times reported in 2002, the matricula card is "A high-tech I.D. that is more fraud proof than many State driver's licenses."

Approximately 163 counties, 1,180 police departments, 377 cities, 33 States and 178 financial institutions accept the matricula card as a valid form of identification.

The police departments support the use of the card because it helps undermine the market for illegal identification and fraudulent documents. It helps them to quickly identify witnesses, victims, and suspects.

Immigrants with consular identification are more likely to report crimes and cooperate in

police investigations. These police departments do not believe that the acceptance of the card by financial institutions will increase immigration.

Despite what its detractors and opponents might claim, the card does not legalize the status of any immigrant.

It cannot be used to obtain any immigration or citizenship benefits such as work authorization or to obtain public benefits. It cannot be used to cross the U.S./Mexico border, and it is only available to foreign nationals already in the United States. Moreover, Mexican consulates clearly explain the nature of the document to assure their Nationals know that the card does not regularize their immigration status.

If we allow financial institutions to continue to use the card, with consultations between the U.S. and Mexican governments, the result will not only be an improvement in the U.S. economy. It will also lead to increased transparency and strength in our line of defense against terrorists gaining access to our financial institutions.

For these reasons and more, I strongly encourage my colleagues to support and vote "yes" on the Oxley-Frank-Kolbe-Pastor-Hinojosa amendment.

Mr. OXLEY. Mr. Chairman, I yield 3 minutes to the gentleman from Arizona (Mr. KOLBE).

Mr. KOLBE. Mr. Chairman, I thank the gentleman for yielding me this time, and I rise in strong support of the Oxley-Frank-Kolbe amendment. This language that is included in the Transportation-Treasury bill regarding the matricula consular card is a classic case of confusion about an issue.

Let me take my time for a moment here to tell my colleagues what this is not about. This is not about giving driver's licenses to illegal aliens. This is not about giving social services to any illegal aliens. This is not about allowing any other illegal aliens to enter this country. It is not about an I.D. card that may be used to obtain any government service. In fact, what the language does, in effect, is limit the ability of the Federal Government, the language that is in the bill now, that was adopted in committee, limits the ability of the Federal Government to track the money of people who are in this country. We do not even know who they are. At least we ought to know something about where their money is going.

Now, if this legislation were adopted with this language in it, the Treasury Department would be prohibited from issuing any regulations about identification to the banks, because the language specifically does not speak about any particular document and, therefore, the matricula consular card could be included in it and, therefore, they could not issue any kind of documentation about it.

The administration is not confused about this. There has been a lot of talk today about this. I have been hearing this going around here, that, oh, really and truly the FBI and the Justice Department supports this. Well, they do not support this. They have sent a letter which makes it very clear that the

Justice Department does not support the language that is in the bill. They support the Oxley-Frank-Kolbe amendment.

Secretary Snow made that very clear when we debated this in the Committee on Appropriations. They do not support adding such language that prohibits the use of the matricula consular card, because it is one form of identification that we do not have.

This is not a Department of Homeland Security issue. This is a Department of Treasury issue that has to do with private banks identifying people so that they can open bank accounts. And DHS, Department of Homeland Security, has not said anything about whether these cards should be used for banking purposes or not.

Treasury does not use a list of particular documents. They set the standard for what the verification ought to be. The standard accommodates local conditions as well as innovations of verification techniques. And the government ought not to be in the business of saying yes to this document, no to that document, because any document can be forged or counterfeited. What we need to do is set standards for verification of those documents, and banks need to have some kind of standard for that.

□ 2015

They look to this as one more piece of documentation they can use. Police departments like it very much because it is one more piece of documentation they can use when they pick up somebody and the person does not have a driver's license, for example. It is an added piece of identification that can help to identify an individual.

This decision ought to be left to the Committee on Financial Services, if we are going to get into the business at all of trying to micromanage the regulation being written by the Treasury Department.

The real argument is over whether we are going to have a secure form of ID. Should we be in the position of saying no to private institutions? If banks are to be secure, I urge us to vote in favor of the Oxley-Frank amendment.

Mr. CULBERSON. Mr. Chairman, I yield 4 minutes to the gentleman from California (Mr. GARY G. MILLER).

(Mr. GARY G. MILLER of California asked and was given permission to revise and extend his remarks.)

Mr. GARY G. MILLER of California. Mr. Speaker, I rise today in opposition to the amendment offered by the gentleman from Ohio (Chairman OXLEY) and the gentleman from Massachusetts (Mr. FRANK), the ranking member.

No matter how we spin it, the fact of the matter is this amendment is not about banking, it is about making it easier for illegal immigrants to remain in the United States.

U.S. immigration authorities have said the matricula consular is virtually worthless as an identity document. In fact, if Members do not believe them,

all one has to do is look at the reputation of these cards in Mexico. Mexican banks themselves do not recognize the matricula consular card as a valid identity document. In fact, no bank in Mexico accepts this card to open a bank account.

Despite the fact that its own banks do not accept this card, for 3 years, the Mexican government has aggressively lobbied U.S. banks to accept the document. Mexico's actions to advance acceptance by U.S. banks is a blatant attempt to make illegal immigrants in Mexico as inconspicuous as possible, while facilitating uninterrupted transmission remittances back to Mexico.

According to the FBI, matricula consular cards are almost exclusively used by illegal immigrants. Anyone here legally has valid identity documents they can present to open a bank account, such as a driver's license, Social Security number or passport.

As a representative from part of the country that bears much of the burden of illegal immigration, it is \$5 billion a year in California, I feel compelled to tell Members who do not represent areas impacted by illegal immigration about the impact this amendment will have on those who are forced to live with the problem on a daily basis.

Illegal immigration places a strain on our society, and I want every Member in this body to understand, California bears the brunt of the burden of the failed immigration policies of the Federal Government. California has the highest number of illegal immigrants residing within its borders. The estimated number of illegal residents in California is 2.2 million people, or 32 percent of the total number of illegal immigrants in the United States.

The cost of illegal immigration in terms of governmental expenditures for education, criminal justice and emergency medical care are significant. For emergency health care, California spends the most of any State treating illegal immigrants in our hospitals. The cost of health care costs for illegal immigrants for California are nearly \$650 million per year. For education in California, \$2.2 billion each year is spent on educating the children of illegal immigrants.

While incarceration of illegal immigrants while securing our Nation's borders falls under the exclusive jurisdiction of the Federal Government, it is State and local government who must bear the cost when illegal immigrants are incarcerated, and California incurs greater cost than any other State. In fact, 15 percent of California's inmates are illegal immigrants, costing the State over \$500 million a year.

It is always easy to come to Washington and speak about compassion for those less fortunate, but when it comes to illegal immigration, the price California pays for Congress's so-called compassion is steep, and it is unacceptable. The fact that States must bear the cost of the government's failed immigration policies make illegal immigration an unfunded mandate.

If Congress wants to continue to pass policies to encourage illegal immigration, then we must be willing to reimburse the States for the high costs they incur as they are forced to live with the impact of Congress's unfunded mandate. This amendment should be accompanied by a \$5 billion check each year to California for problems of illegal immigration. I oppose this amendment.

Mr. CULBERSON. Mr. Chairman, I yield 30 seconds to the gentleman from Illinois (Mr. HYDE).

Mr. HYDE. Mr. Chairman, I simply want to record my support for the position of the gentleman from Texas (Mr. CULBERSON). I think the use of these cards is very misleading. It facilitates money laundering, and it is completely out of the spirit of the PATRIOT Act.

Therefore, with extreme regret because I do not think I have ever disagreed with the gentleman from Ohio (Mr. OXLEY) and only two or three times have I disagreed with the gentleman from Massachusetts (Mr. FRANK), but I think this matter should stay in the bill and should not be taken out because it is so important that we close down their financial money laundering.

I am pleased to support the gentleman from Texas (Mr. CULBERSON).

Mr. FRANK of Massachusetts. Mr. Chairman, I yield myself 15 seconds to make one point.

The notion that people will stop coming here illegally if they do not have a matricula consular is totally at variance with logic and experience. People who want to stop illegal immigration have a very good point, but the notion that people will come to the border and say, Oh, my God, I forgot my matricula consular, I am staying home, has no basis in reality.

Mr. Chairman, I yield 2 minutes to the gentleman from Illinois (Mr. GUTIERREZ).

Mr. GUTIERREZ. Mr. Chairman, I rise in support of this amendment to strike the Culberson provision. It says something that this amendment is supported by such a diverse coalition, the Bush administration, the banking industry, immigration groups, Members from both sides of the aisle joining together to remove language that is at its heart designed to keep immigrants out of the regulated banking system.

This issue is one that I have worked on since I was elected 12 years ago to the Congress of the United States, and that is, how do you transfer money back to loved ones that really need it?

If we want to have a debate on immigration, let us have a debate on immigration. I think that is a substantive debate we should have. As a matter of fact, it was the President of the United States who, on January 7, said we should take people who live in obscurity and are exploited; the leader of the Republican Party, as I saw him at the convention in New York, in command of the Republican Party and your candidate for President, who said we

should deal with this immigration issue.

As a matter of fact, it is President Bush who Members are attacking here tonight who are saying is making our system unfair because it is President Bush and his administration that supports this amendment. Let us make that absolutely clear and have no quibbles about whose policy this is. This is the Bush administration's. Since the PATRIOT Act, we dealt with the regulation and the Treasury Department for more than a year before these provisions were enacted.

Mr. Chairman, I do not know how Members of the President's party can say the banking industry is trying to sugarcoat this.

Members know what they get with the matricula consular. Ten million people live in the United States who are probably undocumented. We should know something about them. Where is the political will in this country and the requisite resources to deport those 10 million people? This Congress has never had a serious debate about deporting and putting the resources towards 10 million people. We never will.

Some Members walk up here and say there are 2 million undocumented Mexicans in California as if they are just there. Do Members know what they are doing? They are cleaning bathrooms. They are picking the grapes. They are doing the arduous work that many of us born in this country will not do. Let us face up to it, they are working, and they are contributing to our economy. They are not just here stagnant.

Let us have a real debate, but the matricula consular is not the place to have debate on immigration policy. They are going to continue to come. They came before the matricula consular; they will come after the matricula consular. Let us give an identification that local economies and local administrations want. That is the matricula consular.

Mr. OXLEY. Mr. Chairman, I yield 3½ minutes to the gentleman from Alabama (Mr. BACHUS), a subcommittee chairman of the Committee on Financial Services.

(Mr. BACHUS asked and was given permission to revise and extend his remarks.)

Mr. BACHUS. Mr. Chairman, I think if the Members back in their offices were listening to this debate, they would be sufficiently confused. I think the reason they would be confused is because something said by both the opponents and the proponents of this amendment is true. I think there is a great deal of frustration over the use of these cards, and I think that is the reason that the gentleman from Texas and others are supporting this amendment. Unfortunately, the amendment does not accomplish what they want to accomplish, and that is to make our Nation more secure. I do not question the sincerity of the gentleman and the frustration of he and the supporters of

this amendment, but I simply ask us all to take a deep breath and to actually look at what this amendment does.

Now, the underlying section is section 326, and it has been called the cornerstone of our money laundering efforts. We have letters from the Department of Justice and from the Treasury Department saying it is absolutely essential for an effective anti-money laundering program. Section 326, it is there.

Now, because of frustration with these cards, the gentleman from Texas has offered an amendment which stops the Treasury Department and FinCEN from issuing regulations or carrying out regulations or enforcing the provisions of 326.

Now, just 2 weeks ago, the vice chair of the 9/11 Commission came to this Congress and testified before our committee and commended our committee for the passage of 326. Unfortunately, what we are all caught in here tonight is that section 326 is not self-executing. It requires regulations to be issued.

So the gentleman from Texas has offered, and successfully in the subcommittee, an amendment which really prevents Treasury from administering or enforcing regulations pursuant to section 326. Now that is what the gentleman's amendment does. I hope we can all agree to that. It basically shuts down 326. For that reason, I have to oppose it.

Several of the things the gentleman said tonight, I think, are true. I think there are problems with this card. I think some of the things that the proponents have said are also true about the policy of excluding a certain nationality. That is also very troublesome.

In conclusion, I cite a letter from the Department of Justice which also says, "including the FBI"; this letter is signed by the deputy attorney general. And I know the gentleman from Texas (Mr. CULBERSON) was probably caught off guard because when he first rose in this body, he said Treasury was on one side, and law enforcement and Justice was on the other side. That is really not true.

I think, had the gentleman gotten an effective remedy, that is true, but the Department of Justice, including the FBI, asked that we defeat this and says, if we do not, there will be many dangers associated.

Mr. FRANK of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. OXLEY. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Mr. Chairman, the FBI and Justice want us to pass this amendment.

Mr. BACHUS. If the gentleman from Ohio will continue to yield, that is right, they are in favor of the Oxley-Frank-Kolbe amendment, and I include for the RECORD this letter to that effect.

DEPARTMENT OF JUSTICE, OFFICE OF
THE DEPUTY ATTORNEY GENERAL,
Washington, DC, September 14, 2004.

Hon. J. DENNIS HASTERT,
Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: The Department of Justice fully supports the Administration's current policy under the USA PATRIOT Act that requires banks and other financial institutions to establish reasonable procedures for the identification and verification of new account holders, which is set forth in regulations of the Department of the Treasury. Therefore the Department supports the Oxley-Frank-Kolbe amendment to H.R. 5025 that preserves these regulations.

One concern addressed by the regulations is the danger associated with driving sectors of the population into unregulated, underground financial service providers, such as unregulated hawalas, where persons may be more exposed to elements involved in money laundering and terrorist financing. In order to counter this concern, the Justice Department supports the Administration's determination to permit—but not encourage—the acceptance of Matricula Consular cards by financial institutions, under circumstances where financial institutions reasonably believe they can properly identify the new customer. Of course, the Administration will continue to evaluate the security and reliability of identification documents, including Matricula Consular cards, that potentially are subject to misuse.

The Department of Justice, including the FBI, continue to work closely with the Treasury Department on this and other issues related to halting all financing of terrorists. If we can be of further assistance regarding this or any other matter, please do not hesitate to contact this office.

Sincerely,

JAMES B. COMEY,
Deputy Attorney General.

Mr. CULBERSON. Mr. Chairman, I yield myself such time as I may consume.

Had the Department of Treasury actually implemented the PATRIOT Act, the Committee on Appropriations would not have shut off funding to this regulation.

The Treasury-Transportation bill, and this is within our jurisdiction and the full Committee on Appropriations, cut off funding to implement or enforce the Treasury regulation which is on the books, and let me quote from it again, "The Treasury regulation authorizes banks to open a bank account for any non-U.S. citizen who can produce any foreign government issued document with a photograph."

Now that rule that Treasury adopted is in complete violation of the PATRIOT Act. That is the opinion of the gentleman from Wisconsin (Mr. SENBRENNER), the chairman of the Committee on the Judiciary. Statute 326 has not been complied with by the Treasury Department. It requires Treasury to adopt a rule that requires banks to verify identity, maintain records of the person's identity and consult lists of known terrorists.

□ 2030

This rule is so bad and so broad, the banks can shred photocopies of the person's identifying documents as soon as you make the deposit. So the Appropriations Committee had no choice but

to shut off funding to this regulation. And before the regulation was adopted, the Justice Department and the FBI and Homeland Security were all opposed to it. The Department of Justice was on record.

Mr. OXLEY. Mr. Chairman, will the gentleman yield?

Mr. CULBERSON. I yield to the gentleman from Ohio.

Mr. OXLEY. I thank the gentleman for yielding. I think there has been a very broad misunderstanding about the destruction of those photographs and/or records. The law clearly requires that the financial institutions keep those documents for 5 years. That is not a change in policy. Treasury has recognized that for a number of years. The law has recognized that for a number of years. Financial institutions have recognized that for a number of years. It is simply not accurate to say that those records are destroyed immediately by the banks. They are required by law to keep those records for 5 years.

Mr. CULBERSON. I certainly agree under current law, but the rule adopted by Treasury, and again I am quoting from the Department of Justice, the Department of Justice objected very strongly to these last-minute changes in the Treasury rule because Treasury did change the rule at the last minute to allow these records to be destroyed and that is in the rule which is why we cut off the funding. This is the only way that we could stop the implementation of this rule which violates the spirit of the PATRIOT Act by cutting off the funding, because the Treasury ignored the PATRIOT Act's very clear requirements.

Mr. OXLEY. If the gentleman will continue to yield, let me just quote from the letter from the Department of Justice: "The Justice Department supports the administration's determination to permit the acceptance of matricula consular cards by financial institutions under circumstances where financial institutions reasonably believe they can properly identify the new customer."

That is from the letter of the Justice Department.

Mr. CULBERSON. From the Justice Department today. Yes, the Justice Department is being a good team player. The Justice Department testified formally in objection to this rule July 31 when it was adopted. Quoting from the Justice Department:

"The Department of Justice believes that consular identification cards issued by foreign governments should not be among the documents that could be accepted by financial institutions."

Once the Department of Justice made that argument, they lost that argument. Treasury adopted this very broad rule that allows anybody from a foreign country to walk in the door with any kind of photo ID and open a bank account. The Justice Department lost that argument, and obviously they have gotten on board.

Mr. OXLEY. That letter was dated today. The Justice Department clearly supports the Oxley amendment.

Mr. CULBERSON. Mr. Chairman, I yield 4 minutes to the gentleman from California (Mr. CUNNINGHAM).

Mr. CUNNINGHAM. Mr. Chairman, the gentleman from Ohio knows good and well, so does my counterpart on the Democrat side, we have testimony before the committee from the Justice Department, from the FBI, from law enforcement that this is not a good idea. And you know under President Clinton or President Bush, if they say this is what we want out of the White House, those Secretaries and those Department heads are going to say, Aye-aye, three bags full. That is what they have done in your letter today.

You are putting this country at risk today. FBI has testified that these matricula cards, some individuals have up to 30 of these things. You say Mexico requires a birth certificate. Have you ever tried to get something in Mexico? I have been down there a lot, and a few dollars will get you anything. There is no database.

You want to work on a bipartisan bill? You want to work something bipartisan? Let us have our U.S. Government with a database issue a card, I will support it, that is controlled by our homeland security, our FBI; but to take a Costco card out of Mexico and risk our national security, I am disappointed in this White House, I am disappointed in my own party, and I am disappointed in those on the other side that support this amendment.

The gentleman from Ohio is my friend, but he is wrong on this. I have been here 14 years and nothing has ever bothered me as much from my own party to put us at risk. These cards are fake. Every single day they use these cards illegally. It is not about financial services. The FBI testified, they use these cards to gain driver's licenses. And guess what? They can get on an airplane, and they can blow it up. FBI has testified to this. Justice Department. I do not care what letter you got out of the White House or these guys that are going to say, okay, Mr. President, we'll give you a letter to support your position. It means nothing. You look at today's situation, with these folks coming over that are illegal, with these cards, using them every day, and that is wrong. I am so disappointed in my own party, I cannot believe it.

Mr. OXLEY. Mr. Chairman, will the gentleman yield?

Mr. CUNNINGHAM. I yield to the gentleman from Ohio.

Mr. OXLEY. I thank my good friend from California for yielding.

Mr. Chairman, let me say, this bill was drafted in our committee. I was the lead sponsor of the legislation. We have fully determined the efficacy of using these matricula consular cards. By the way, it is not the only form of identification. As a matter of fact, matricula consular is not even mentioned in the statute, nor is it men-

tioned in the rules and regulations from Treasury Department.

Mr. CUNNINGHAM. Taking my time back, why do we not do a U.S.-side card that has a database? Mexico has no database whatsoever. You can go from area to area and get a different matricula card like this. Why do we not work this out to where a U.S.-side matricula card that has a database that can actually control the services and not allow additional IDs to be formed so that these guys can drive airplanes and bomb this country? Why do we not do that?

Mr. OXLEY. I would invite the gentleman and the gentleman from Texas to introduce a bill and to have it referred to the appropriate committee, the Committee on Financial Services.

Mr. CUNNINGHAM. I will be happy to. In the meantime, I do not want to support your amendment which in my opinion is a disaster to national security in this country. Special interests in banking, a caucus over on this side and people that want to support this, I disagree 100 percent. If you say I am fighting the White House, you are absolutely 100 percent right.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield myself 15 seconds to make what I think is a central point. Whether or not the card exists, whether or not it is honored by banks will have zero effect on immigration. No one gets to the border deciding to come here without legal authorization and says, Whoops, I can't cross that river without my matricula consular.

Illegal immigration is a problem, but it is a wholly irrelevant one to this.

Mr. Chairman, I yield 1 minute to the gentlewoman from Texas (Ms. JACKSON-LEE).

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Chairman, as the ranking member on the immigration committee in Judiciary, we have been asking this Republican Congress to give us comprehensive reform on immigration. To the 9/11 families, let me tell you that this is post-9/11. We understand the concern, and we have changed things in America. My understanding is there was no person of Mexican descent on the 9/11 planes. And so this issue of juxtaposing terrorism and threatening on this very point is really misusing this debate.

First of all, I am confident that the matricula card is a secure form of identification. You do not get the card in Mexico. You get it in the United States. The consular office of Mexico is in my congressional district. I know their intensity and their sincerity in making this card secure. The person requesting a card must produce an original birth certificate and an official Mexican identification card, such as a passport or a Federal electoral card. There is a computer system to this that requires a fluorescent light that reveals the letters "SRE" across the front of the card. An infrared band appears on the upper back of the card.

Mr. Chairman, these are wrong arguments. This is wrong and misdirected. This card is for people in the United States, it is issued right here in the United States, and we should support the Oxley amendment and dismiss this irrelevant debate.

I rise in support of this amendment, which would strike Sec. 216 of the Transportation, Treasury Appropriations bill, H.R. 5025. That section prohibits the Department of Treasury from implementing regulations which provide for Mexico's matricula consular card to be used as a form of identification when opening a bank account or renting a safe deposit box.

Opponents of the Matricula will argue that the documents is not secure. I disagree. I am confident that the Matricula is a secure form of identification. The person requesting a Matricula must produce an original birth certificate and an official Mexican identification card such as a passport or a federal electoral card, and his photograph will be taken by the consulate office, on the consulate premises.

In addition, the Matricula has been modernized with the use of new technologies to improve its security features. The Mexican government uses security standards in making the Matricula that are similar to the ones by the United States Government in its own official documents.

It has visible security features such as green security paper with the official Mexican seal printed in a special security pattern, and a colored hologram with a seal that appears over the holder's photograph and changes color from green to brown.

It also has security features that are visible only under fluorescent light. The fluorescent light reveals the letters "SRE" across the front of the card. An infra red band appears on the upper back of the card.

In case this is not enough, there are security marks visible only with the use of a special decoder. The decoder reveals the word "Mexico" printed on the left side of the card, next to the holder's photograph. "Matricular Consular ID Card" is printed at the bottom. And, "SRE" is printed three times on the right side.

Consequently, I see no reason why matricula consular cards should be prohibited from use as a form of identification when opening a bank account or renting a safe deposit box. I urge you therefore to vote for this amendment to strike Sec. 216 of the Transportation, Treasury Appropriations bill, H.R. 5025.

Mr. CULBERSON. Mr. Chairman, I yield 2 minutes to the gentleman from Florida (Mr. WELDON).

Mr. WELDON of Florida. Mr. Chairman, I thank the gentleman for yielding time, and I rise in opposition to the Oxley-Frank amendment. By accepting these cards as legitimate forms of identification, banks, State, and local governments are undermining the intent of the USA PATRIOT Act and our national security. The Mexican consulate is issuing matricula consular by aggressively marketing these documents, often to individuals living in the United States illegally.

According to the October 21, 2002, report to Congress, in accordance with section 326(b) of the USA PATRIOT Act, serious weaknesses exist in the acceptance of foreign documents to

verify identity. The Treasury report identified several problems related to foreign documents, including forgery, lack of uniformity, recognition, reliability, and legitimacy issues.

Accepting matricula will provide safe harbor for foreign nationals residing in the United States illegally. The rule makes no distinction between non-U.S. persons who are here legally and those who are here illegally. Furthermore, it allows documents issued by any government, including a foreign government, to be utilized to verify identification. The rule would allow noncitizens who are in the U.S. illegally to utilize documents issued by a foreign government with the intended purpose of bypassing U.S. security laws. We should not allow this.

Through the acceptance of matricula consular, significant immigration and national security policy would be undermined. It weakens the very mechanisms that Members of Congress put in place to prevent identity theft, fraud, and money laundering. Therefore, I rise in opposition to this amendment. I support the underlying bill with the original Culberson language.

Mr. CULBERSON. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. SMITH).

Mr. SMITH of Texas. Mr. Chairman, I thank my colleague from Texas for yielding me this time.

Mr. Chairman, I frankly cannot think of another time when I have disagreed with my friend from Ohio (Mr. OXLEY), but I do oppose this amendment. We simply should not put the private interests of a few financial institutions ahead of the public good and the security of the American people.

This amendment would allow matricula cards, which are primarily used by illegal immigrants, to be accepted in the United States. Giving illegal immigrants an identification card encourages them to come to the United States and, of course, makes it easier for them to stay. That is why the FBI has testified against the use of these matricula cards and why they pose a grave threat to the security of the United States.

How regrettable that at the very time when we should discourage illegal immigration and deter those who would enter our country to do us harm, we would consider an amendment to undermine the PATRIOT Act and give terrorists and others the opportunity to exploit our laws for their own evil purposes.

As a former chairman of the Subcommittee on Immigration, I recommend that my colleagues oppose this amendment and put the interests of Americans first.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield 1 minute to the gentleman from Texas (Mr. GREEN).

(Mr. GREEN of Texas asked and was given permission to revise and extend his remarks.)

Mr. GREEN of Texas. Mr. Chairman, I rise in support of this bipartisan

amendment and thank my colleagues for bringing it up.

When we passed the PATRIOT Act in 2001, we asked the Department of the Treasury to develop customer identification programs subject to evaluation. This was done to tighten security to our banking systems and to improve our ability to monitor.

Since these rules were established, matricula consular ID cards have widely been accepted as a legitimate form of identification at a bank. Similar cards are issued by our consulates for our citizens who live in other nations. These cards do not confer citizenship. They do not confer the right to a driver's license. All they do is say that Gene Green lives at a certain address, whether it be in Guadalajara, Mexico, or Frankfurt, Germany.

My concern about this, without adopting this amendment, we are going to limit our own consular office's ability to do this for our citizens. I would expect retaliation from countries who we are doing this to their consulates to do the same thing to us. I have some concern about it because we have thousands of our residents who retire to Mexico, retire to lots of places who may need this assistance from our own consulates. But in all honesty, we do need to have some type of identification for our local law enforcement to be able to deal with people that they can show.

Mr. Chairman and fellow Members, I rise today to support this amendment and I thank my colleagues for bringing it to this floor with bipartisan support.

When we passed the PATRIOT Act in 2001, we asked the U.S. Department of the Treasury to develop customer identification programs subject to evaluation. This was done to tighten security to our banking systems and to improve our ability to monitor financial transactions.

Since these rules were established, Matricula Consular I.D. cards have been widely accepted as a legitimate form of identification to open a bank account. Similar cards are issued by our consulates for our citizens who live in other nations.

If we do not amend this bill to keep the Matricula Consular identification card as a legal form of identification, it will be the only identification document explicitly banned as proof of identity in opening a bank account.

What bothers me most about the provision that we are trying to amend is it specifically targets a form of I.D. issued by the Mexican government. We could see retaliation against cards issued by our government.

Businesses in my home state of Texas conduct billions of dollars of business with Mexican companies. The need for Mexican nationals to come to the United States and establish legitimate bank accounts is imperative to the success of our state's economy.

The Department of the Treasury has examined this issue thoroughly and decided that a flexible standard which accommodates local conditions is the best and most secure for our nation.

Matricula Consular I.D. cards allow authorities to pursue those who are breaking our banking laws and then prosecute them diligently.

Without these I.D. cards, it will be more difficult for Treasury. I urge my colleagues to vote in favor of this amendment.

Mr. OXLEY. Mr. Chairman, I yield 1 minute to the gentleman from Arizona (Mr. FLAKE).

Mr. FLAKE. I thank the gentleman for yielding time.

Mr. Chairman, I rise in support of this amendment. I have argued very vocally that the Federal Government should not accept matricula consular. That is a different issue altogether. But should we be telling banks what they can and cannot accept? It is their own risk. They ought to be able to accept this, and we ought to be able to track and have a better idea where the money is and where it is going. If this language stays in without the amendment, I fear that it will impact on that.

I come from Arizona where we face the impact of illegal immigration very strongly. We bear the brunt of the Federal Government's failure to enforce and to secure the border. But this does not fix the situation at all. It may seem something like a fix, but it is not. I commend those who have brought this amendment forward, and I urge its passage.

Mr. CULBERSON. Mr. Chairman, I yield 1½ minutes to the gentleman from Oklahoma (Mr. ISTOOK), the distinguished subcommittee chairman.

□ 2045

Mr. ISTOOK. Mr. Chairman, I rise in opposition to this amendment and in support of the language that is in this bill which was adopted in the Committee on Appropriations.

Certainly the arguments that are being heard today played out in the committee, and we decided that this was indeed an issue that relates to financial institutions, sure, but it relates to homeland security as well. The gentleman from Arizona that spoke before me, talking about the problems with porous borders, look at the latest issue of Time Magazine if they want to look at challenges of it and remember that we have adopted a great amount of legislation telling financial institutions they need to know their customer. We are talking about the financial center that is in the Treasury Department to track terrorism money. And if we do not have valid identification for the people when we are trying to track foreign assets in the United States and spot those that are using phony IDs to cover up terrorism, then why are we spending all the tens of millions and hundreds of millions and billions of dollars on homeland security if we say, oh, this is just a matter for the federally chartered, federally regulated financial institutions? We are going to put a loophole in the Federal law and all of our efforts to track foreign and potentially terrorism money are going to be undone because we can use unreliable identification. In the name of political correctness, we are going to accept the matricula consular? I think not.

I oppose this amendment. I ask that the Members reject the amendment and keep in the language that is put in this bill by the committee.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield 1 minute to the gentleman from California (Mr. FARR).

(Mr. FARR asked and was given permission to revise and extend his remarks.)

Mr. FARR. Mr. Chairman, I cannot believe the number of misstatements I have heard tonight. I think this is an argument between dumb and dumber. This is a debate about ID.

Let us look at the facts. Mexico has a national statistics ID program. The United States does not. Mexico uses the exact same ID protections in their ID form that the FBI uses for their badges. We do not have that for American civilians at all. Mexico has a database on life, death, divorce. It has a base that they can rely upon. We do not.

So what happens in retaliation? What happens the next time you want to go to a foreign country, you want to rent a car, you want to cash a check? Where is your national ID? Are you going to pull out your voter card? That is not recognized as an international ID. It is probably the only thing we have closest to it. It would not even be recognized at an airport. You pull out your California driver's license? That is not a national ID. What are you going to show as your national ID? A Social Security card? It does not even exist.

Allow a program that has assurances for protection, moderate protection. The propriety of this protection in this card is owned by a United States company. It is the same propriety that is used in our top security cards. That is what they want to use, and all this is, is an ID card. All this is, is an ID card. Let this amendment pass.

Mr. CULBERSON. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. GALLEGLY), the chairman of the Subcommittee on International Terrorism, Nonproliferation and Human Rights.

(Mr. GALLEGLY asked and was given permission to revise and extend his remarks.)

Mr. GALLEGLY. Mr. Chairman, I rise in strong opposition to this amendment.

The amendment guts the section of the PATRIOT Act that Congress enacted to restrict terrorists' ability to open bank accounts, transfer funds, and otherwise use the banking system to further terrorist acts. This amendment would uphold ill-advised Treasury regulations that permit banks to accept nonsecure identification, including the matricula consular, to meet the requirements of the PATRIOT Act. Unfortunately, nonsecure IDs do not establish identity, at all, rendering identification requirements to the PATRIOT Act useless.

The FBI and Department of Justice have concluded that matricula consular is not a reliable form of identi-

fication. Forgeries are rampant. An Iranian national trying to cross a U.S.-Mexican border was caught with one. Smugglers have been caught carrying several matriculas, each with the same photo with different names.

Because matricula consulars are not reliable identification, a terrorist can use them to assume an alias, or several. He can use the banking system to further terrorist plans. PATRIOT Act requirements that banks check customer names against terrorist lists become useless.

Money is key in carrying out the acts of terrorism. The 9/11 terrorists had to pay tuition. They had to rent apartments. They had to rent cars and eventually had to buy plane tickets.

It is absurd for Congress to pass laws that attempt to cut off the funding of terrorist groups, as we did in the PATRIOT Act, and then allow regulations to create an end run around the law through tax identity requirements.

Mr. Chairman, in my 18 years in this body, I have seen no piece of legislation that presents a greater threat to national security than this amendment, and I urge the defeat of this amendment.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield the balance of my time to the gentleman from New Jersey (Mr. MENENDEZ).

Mr. MENENDEZ. Mr. Chairman, I thank the gentleman for yielding me this time, and I want to thank him and the gentleman from Ohio (Mr. OXLEY) for offering the amendment.

Let me very briefly say this is not about terrorism and homeland security. This is about immigration. That is the bottom line, because I saw the Republican Convention, as I think many others did, and I heard the number one fighter against terrorism was George W. Bush. If that is true, then the statement of administration policy that all of us have says under the heading of matricula consular card, the administration objects to the provision that would prevent the Treasury Department from spending any funds to issue or enforce regulations that do not preclude acceptance by financial institutions of the matricula consular card as a form of identification. It goes on to say the administration, including the Department of Justice and the FBI, believe that it is appropriate that these regulations provide a flexible standard that accommodates local conditions as well as innovation and verification techniques, not a list of documents or methods that must or must not be used. The administration strongly opposes this provision and supports efforts to remove it from the bill during floor consideration. Hence the administration supports the Oxley-Frank amendment and understands this is not about terrorism. This is ultimately about immigration.

We have seen this siege time and time again, and what it is about really is not only about immigration. It is about targeting Mexican nationals.

And why do I say that? Because only the matricula consular out of all of the identity documents in the United States would be explicitly banned by this section of the bill. And yet those of us who want to fight terrorism understand that it is in the ultimate interest to have an identification of who is here and it is the ultimate interest to make sure that we cannot use the banking services unless we have information on who is using it.

Support the Oxley-Frank amendment. Understand that the administration supports it and support our fight against terrorism.

Mr. CULBERSON. Mr. Chairman, I yield 30 seconds to the gentleman from Iowa (Mr. KING).

(Mr. KING of Iowa asked and was given permission to revise and extend his remarks.)

Mr. KING of Iowa. Mr. Chairman, I thank the gentleman for yielding me this time.

I thank the gentleman from New Jersey for his comments because he is absolutely correct. This is about immigration. It is about immigration. I know it is because I see the apologists for illegal immigrants come to the floor and give speech after speech after speech. And the people over on this side of the aisle want to open the borders and allow as many illegals in because they think they can get them to vote for their guy. And the people over on this side making the argument are multinational corporation apologists who want to get as many people in because it is cheap labor. That is the equation.

In the middle are the patriotic Americans who believe that we have to have cultural continuity in this country and the rule of law.

That is the core of this argument and this debate. I thank the gentleman for bringing his opposition to the Oxley amendment.

Mr. OXLEY. Mr. Chairman, I yield 1 minute to the gentleman from Alabama (Mr. BACHUS).

Mr. BACHUS. Mr. Chairman, I thank the gentleman from Iowa and the gentleman from New Jersey, who certainly disagree, but they both have one thing in common: They are both wrong.

This is about 326, which is a terrorist financing bill. That is what it is about. And to try to unscramble this egg, I do not think I have ever seen this body so confused, but let us say we took the gentleman's amendment off and we took 326 off because that is what will happen either way tonight, and then what we will have is we will go back to the present system where 350 banks today are accepting these cards. So if the gentleman's amendment passes, we will have no regulations, no monitoring, and they will continue to accept the cards. If the gentleman from Ohio's (Mr. OXLEY) amendment passes, then the banks can accept the cards. The 350 will probably go ahead and accept them. The others will not, and as the gentleman from Arizona (Mr.

FLAKE) said, nothing in the regulations say that a bank has to accept these cards. Some of them are doing it now, and they can continue to do it. And the Members need to know that. They are accepting them today, and these regulations are not in force.

Mr. OXLEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, for my part in closing, I first want to say it has been a pleasure to work with the gentleman from Massachusetts (Mr. FRANK), my ranking member.

I do not think any of us take a back seat. I know I do not, in fighting terrorism. And our committee was in the thick of passing the PATRIOT Act, and one of the proudest moments I have had as chairman was the section 326 and what we did in the Act, and to see the President sign that was indeed a real honor.

This provision that we had is important in the fight on terrorism. And I regret some of the arguments that indicate otherwise because our committee had it right the first time, and what I regret, frankly, is the Committee on Appropriations stepping into an area that the authorizing committee has the knowledge and the expertise in.

Mr. FRANK of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. OXLEY. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Mr. Chairman, I thank the chairman for yielding to me.

I would just stress no one who understands what drives immigration, legal or illegal, thinks that illegal immigration will decrease by one person if they do not have the matricula consular. I have never heard anyone argue that it is the ability to have the matricula consular that brings people here illegally. So the question is, as the chairman has phrased it, whatever we can do or not do to stop illegal immigration, this has nothing to do with it. There will be people here. This is part of an effort to try to identify some of the people who are here. It is a separate question. And, again, I would ask does anyone really think that if we get rid of the matricula consular that this would decrease illegal immigration by as much as one person? I see no argument for that. And then once we accept that fact, the chairman's argument is correct, that it is a way of dealing with facts that are here, while we try to diminish them to other means, that do have the support of law enforcement because better information is helpful.

Mr. CULBERSON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this is a national security issue. The Congress has already spoken through the PATRIOT Act. Section 326 requires the Treasury Department to adopt rules requiring banks to verify the identity of persons opening an account, to keep records of that person's identity, and to consult lists of known terrorists.

The Treasury Department did not do that. The rule adopted by Treasury, against the advice of the FBI, against the advice of the Department of Justice, the rule that the Committee on Appropriations has cut off funding for, the rule the Treasury Department adopted, says that a bank can open an account of a non-U.S. citizen as long as that person shows any government-issued document with a photograph.

This is why the families of 9/11 have come out strongly in opposition to the gentleman from Ohio's (Mr. OXLEY) amendment. This is why the Committee on Appropriations voted to cut off funding for this rule. To quote the families of 9/11, I think they say it so well: All the Members are aware that the 9/11 murderers relied upon government-issued IDs." The Committee on Appropriations cut off funding to this rule because the rule does not require banks to keep records. The rule does not allow banks to accept any kind of foreign government-issued identification. So it is important that Members understand that they need to vote "no" against this amendment in the interest of national security to ensure that Congress' intent in the PATRIOT Act is enforced. It is the only way to stop this Treasury rule from being implemented.

Mr. DREIER. Mr. Chairman, as we all learned just over three years ago, on September 11, 2001, protecting the American people from terrorist attack has become the highest priority of all of us here in the House of Representatives. Shortly after that terrible day, this body came together and passed the USA Patriot Act to enable our law enforcement agencies to more effectively investigate and apprehend foreign terrorists on U.S. soil.

One of our goals when crafting the Patriot Act was to strengthen the ability of our government to track and eliminate funding sources and illicit bank accounts which we know terrorists have used to carry out their deadly attacks. To that end, section 326 of the Patriot Act requires financial institutions to establish "reasonable procedures" to verify the identity of customers seeking to open a new account.

This particular provision of the Patriot Act was written to improve the ability of financial institutions to detect and prevent money laundering and terrorist financing. If we were to block funding for this provision, as the underlying legislation seeks to do, we would be prohibiting the Treasury Department from telling financial institutions that they must verify the identity of the customers. We would also be pushing people toward an underground economy, where tracking terrorist financing becomes even more difficult. And we would be reversing a key anti-money-laundering provision of the Patriot Act, which was specifically singled out by the 9/11 Commission as an important defense against terrorism.

I am, however, very sensitive to concerns regarding the reliability of the Matricula Consular card, in particular, as a valid form of identification. And I recognize that both the Department of Justice and the Federal Bureau of Investigation have stated concerns regarding possible fraudulent use of the Matricula Consular ID.

Because of these concerns, I want to say that I plan to work with my good friend from Texas, Mr. CULBERSON, to address this very important issue. At the end of the day, I am hopeful that we will be able to implement a system that both allows us to root out terrorist financing and give us confidence in the validity of identification documents used at financial institutions. In the meantime, I think it would be wholly short-sighted to cripple our ability to track terrorist financing by supporting the existing language in the bill.

Mr. STEARNS. Mr. Chairman, I rise today in opposition to this amendment. This amendment would strip language in the bill that represents a small but absolutely necessary step toward restoring some sense of sanity to our national immigration policy.

Ever since September 11, we have endured proposals to reward those who come here illegally, while efforts to enact responsible immigration reform have been defeated.

It just doesn't make sense. It seems that we have made no progress whatsoever in controlling illegal immigration.

Time Magazine has just reported that 3 million illegals will enter our country this year, adding to the 10 million who are already here.

This is the largest number since 2001, the year we were attacked. Is this progress?

Instead of cracking down on illegal immigrants and enforcing law and order, our borders are more porous and chaotic than ever.

Not only does this huge amount of illegal immigrants endanger our national security, but our crime rates and taxes are also adversely affected.

I say enough is enough. No more enticing or rewarding illegal immigrants with promises of amnesty or benefits. No more putting our national security at risk.

This means ending the acceptance of Matricula Consular cards, which are issued as a form of identification in Mexico.

Unfortunately, these cards can be easily forged or counterfeited, and they often are.

The FBI reports that there is no centralized database for issuing these cards, there are no uniform standards for its issuance, and in some cases all an applicant has to do to receive a card is say that he is who he purports to be.

The FBI determined that these are not adequate standards, that they are fraught with fraud, and I wholeheartedly agree.

This means that those with criminal backgrounds can easily assume false identities, come here, and break our laws.

This means that even those who are not Mexican can abuse the process and obtain one of these cards.

And don't think that people from Middle Eastern countries aren't trying to enter America over the Mexican border, because they are.

The FBI has noted that an Iranian national was recently found in possession of one of these cards.

And just a few weeks ago, the Associated Press reported that suspected al Qaeda member Adnan El Shurkriyah might try to cross into Arizona or Texas.

This suspected terrorist has been identified by the FBI as the apparent mastermind of an al Qaeda plot to "launch a mass-casualty attack in the United States."

Mr. Chairman, none of us want illegal aliens using these cards to cross our border or to escape detection once they get here.

None of us want illegal aliens using these cards as a way to obtain driver's licenses or other forms of state-issued ID. Thirteen states, by the way, allow these cards to be used as ID for obtaining a driver's license.

And nobody wants these cards to be used to threaten our national security.

If people are here legally, God bless them, they should be eager to get a state-issued ID, because it's a benefit of citizenship.

And as was mentioned earlier in this debate by opponents of this amendment, there are sufficient measures in place to fight terrorist financing.

Mr. Chairman, I ask my colleagues to support the Department of Homeland Security, to secure our banking system, and to oppose this amendment.

□ 2100

The CHAIRMAN pro tempore (Mr. HASTINGS of Washington). All time for debate has expired.

The question is on the amendment offered by the gentleman from Ohio (Mr. OXLEY).

The question was taken; and the Chairman pro tempore announced that the yeas appeared to have it.

Mr. OXLEY. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Ohio (Mr. OXLEY) will be postponed.

Mr. ISTOOK. Mr. Chairman, I ask unanimous consent that the remainder of the bill through page 166, line 3 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Oklahoma?

Mr. PETRI. Mr. Chairman, I reserve the right to object.

Mr. Chairman, under the unanimous consent request, at what point in the subsequent proceedings would it be in order to raise points of order? Could they be done at any time, or is there any particular time that they would have to be raised?

The CHAIRMAN pro tempore. If the unanimous consent request is agreed to, then any portion within that point of the bill would be open for points of order.

Mr. PETRI. And they should be made forthwith?

The CHAIRMAN pro tempore. That is correct.

Mr. PETRI. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

The text of the bill from page 76, line 8 through page 166, line 3 is as follows:

TITLE III—EXECUTIVE OFFICE OF THE PRESIDENT AND FUNDS APPROPRIATED TO THE PRESIDENT

COMPENSATION OF THE PRESIDENT

For compensation of the President, including an expense allowance at the rate of \$50,000 per annum as authorized by 3 U.S.C.

102, \$450,000: *Provided*, That none of the funds made available for official expenses shall be expended for any other purpose and any unused amount shall revert to the Treasury pursuant to section 1552 of title 31, United States Code.

WHITE HOUSE OFFICE SALARIES AND EXPENSES

For necessary expenses for the White House as authorized by law, including not to exceed \$3,850,000 for services as authorized by 5 U.S.C. 3109 and 3 U.S.C. 105; subsistence expenses as authorized by 3 U.S.C. 105, which shall be expended and accounted for as provided in that section; hire of passenger motor vehicles, newspapers, periodicals, teletype news service, and travel (not to exceed \$100,000 to be expended and accounted for as provided by 3 U.S.C. 103); and not to exceed \$19,000 for official entertainment expenses, to be available for allocation within the Executive Office of the President, \$59,525,000: *Provided*, That \$8,345,395 of the funds appropriated shall be available for reimbursements to the White House Communications Agency.

EXECUTIVE RESIDENCE AT THE WHITE HOUSE OPERATING EXPENSES

For the care, maintenance, repair and alteration, refurnishing, improvement, heating, and lighting, including electric power and fixtures, of the Executive Residence at the White House and official entertainment expenses of the President, \$12,760,000, to be expended and accounted for as provided by 3 U.S.C. 105, 109, 110, and 112-114.

REIMBURSABLE EXPENSES

For the reimbursable expenses of the Executive Residence at the White House, such sums as may be necessary: *Provided*, That all reimbursable operating expenses of the Executive Residence shall be made in accordance with the provisions of this paragraph: *Provided further*, That, notwithstanding any other provision of law, such amount for reimbursable operating expenses shall be the exclusive authority of the Executive Residence to incur obligations and to receive offsetting collections, for such expenses: *Provided further*, That the Executive Residence shall require each person sponsoring a reimbursable political event to pay in advance an amount equal to the estimated cost of the event, and all such advance payments shall be credited to this account and remain available until expended: *Provided further*, That the Executive Residence shall require the national committee of the political party of the President to maintain on deposit \$25,000, to be separately accounted for and available for expenses relating to reimbursable political events sponsored by such committee during such fiscal year: *Provided further*, That the Executive Residence shall ensure that a written notice of any amount owed for a reimbursable operating expense under this paragraph is submitted to the person owing such amount within 60 days after such expense is incurred, and that such amount is collected within 30 days after the submission of such notice: *Provided further*, That the Executive Residence shall charge interest and assess penalties and other charges on any such amount that is not reimbursed within such 30 days, in accordance with the interest and penalty provisions applicable to an outstanding debt on a United States Government claim under section 3717 of title 31, United States Code: *Provided further*, That each such amount that is reimbursed, and any accompanying interest and charges, shall be deposited in the Treasury as miscellaneous receipts: *Provided further*, That the Executive Residence shall prepare and submit to the Committees on Appropriations, by not later than 90 days after the end

of the fiscal year covered by this Act, a report setting forth the reimbursable operating expenses of the Executive Residence during the preceding fiscal year, including the total amount of such expenses, the amount of such total that consists of reimbursable official and ceremonial events, the amount of such total that consists of reimbursable political events, and the portion of each such amount that has been reimbursed as of the date of the report: *Provided further*, That the Executive Residence shall maintain a system for the tracking of expenses related to reimbursable events within the Executive Residence that includes a standard for the classification of any such expense as political or nonpolitical: *Provided further*, That no provision of this paragraph may be construed to exempt the Executive Residence from any other applicable requirement of subchapter I or II of chapter 37 of title 31, United States Code.

WHITE HOUSE REPAIR AND RESTORATION

For the repair, alteration, and improvement of the Executive Residence at the White House, \$1,900,000, to remain available until expended, for required maintenance, safety and health issues, and continued preventative maintenance.

COUNCIL OF ECONOMIC ADVISERS

SALARIES AND EXPENSES

For necessary expenses of the Council of Economic Advisers in carrying out its functions under the Employment Act of 1946 (15 U.S.C. 1021), \$4,040,000.

OFFICE OF POLICY DEVELOPMENT

SALARIES AND EXPENSES

For necessary expenses of the Office of Policy Development, including services as authorized by 5 U.S.C. 3109 and 3 U.S.C. 107, \$2,267,000.

NATIONAL SECURITY COUNCIL

SALARIES AND EXPENSES

For necessary expenses of the National Security Council, including services as authorized by 5 U.S.C. 3109, \$8,932,000.

HOMELAND SECURITY COUNCIL

SALARIES AND EXPENSES

For necessary expenses of the Homeland Security Council, including services as authorized by 5 U.S.C. 3109, \$2,475,000.

OFFICE OF ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the Office of Administration, including services as authorized by 5 U.S.C. 3109 and 3 U.S.C. 107, and hire of passenger motor vehicles, \$92,696,000, of which \$12,075,000 shall remain available until expended for the Capital Investment Plan for continued modernization of the information technology infrastructure within the Executive Office of the President: *Provided*, That \$4,000,000 of Capital Investment Plan funds may not be obligated until the Executive Office of the President has submitted a report to the Committees on Appropriations that includes an Enterprise Architecture, as defined in OMB Circular A-130 and the Federal Chief Information Officers Council guidance, that is reviewed and approved by the Office of Management and Budget, reviewed by the U.S. General Accountability Office, and approved by the Committees on Appropriations.

OFFICE OF MANAGEMENT AND BUDGET

SALARIES AND EXPENSES

For necessary expenses of the Office of Management and Budget, including hire of passenger motor vehicles and services as authorized by 5 U.S.C. 3109 and to carry out the provisions of chapter 35 of title 44, United States Code, \$67,759,000, of which not to exceed \$1,500 shall be available for official rep-

resentation expenses: *Provided*, That, as provided in 31 U.S.C. 1301(a), appropriations shall be applied only to the objects for which appropriations were made except as otherwise provided by law: *Provided further*, That none of the funds appropriated in this Act for the Office of Management and Budget may be used for the purpose of reviewing any agricultural marketing orders or any activities or regulations under the provisions of the Agricultural Marketing Agreement Act of 1937 (7 U.S.C. 601 et seq.): *Provided further*, That none of the funds made available for the Office of Management and Budget by this Act may be expended for the altering of the transcript of actual testimony of witnesses, except for testimony of officials of the Office of Management and Budget, before the Committees on Appropriations or their subcommittees: *Provided further*, That the preceding shall not apply to printed hearings released by the Committees on Appropriations: *Provided further*, That none of the funds appropriated in this Act may be available to pay the salary or expenses of any employee of the Office of Management and Budget who calculates, prepares, or approves any tabular or other material that proposes the sub-allocation of budget authority or outlays by the Committees on Appropriations among their subcommittees.

OFFICE OF NATIONAL DRUG CONTROL POLICY

SALARIES AND EXPENSES

For necessary expenses of the Office of National Drug Control Policy; for research activities pursuant to the Office of National Drug Control Policy Reauthorization Act of 1998 (21 U.S.C. 1701 et seq.); not to exceed \$10,000 for official reception and representation expenses; and for participation in joint projects or in the provision of services on matters of mutual interest with nonprofit, research, or public organizations or agencies, with or without reimbursement, \$28,109,000; of which \$1,350,000 shall remain available until expended for policy research and evaluation: *Provided*, That the Office is authorized to accept, hold, administer, and utilize gifts, both real and personal, public and private, without fiscal year limitation, for the purpose of aiding or facilitating the work of the Office.

COUNTERDRUG TECHNOLOGY ASSESSMENT CENTER

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses for the Counterdrug Technology Assessment Center for research activities pursuant to the Office of National Drug Control Policy Reauthorization Act of 1998 (21 U.S.C. 1701 et seq.), \$30,000,000, which shall remain available until expended, consisting of \$10,000,000 for counternarcotics research and development projects, and \$20,000,000 for the continued operation of the technology transfer program: *Provided*, That the \$10,000,000 for counternarcotics research and development projects shall be available for transfer to other Federal departments or agencies.

FEDERAL DRUG CONTROL PROGRAMS

HIGH INTENSITY DRUG TRAFFICKING AREAS PROGRAM

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Office of National Drug Control Policy's High Intensity Drug Trafficking Areas Program, \$215,350,000, for drug control activities consistent with the approved strategy for each of the designated High Intensity Drug Trafficking Areas, of which not less than \$208,000,000 shall be provided as base funding to High Intensity Drug Trafficking Areas: *Provided*, That no less than 51 percent shall be transferred to State and local entities for drug control activities, which shall be obligated

within 120 days of the date of the enactment of this Act: *Provided further*, That up to 49 percent, to remain available until September 30, 2006, may be transferred to Federal agencies and departments at a rate to be determined by the Director: *Provided further*, That \$2,000,000 shall be used for auditing services and associated activities, and at least \$500,000 of the \$2,000,000 shall be used to develop and implement a data collection system to measure the performance of the High Intensity Drug Trafficking Areas Program: *Provided further*, That High Intensity Drug Trafficking Areas Programs designated as of September 30, 2004, shall be funded at no less than the fiscal year 2004 initial allocation levels unless the Director submits to the House and Senate Committees on Appropriations, and the Committees approve, justification for changes in those levels based on clearly articulated priorities for the High Intensity Drug Trafficking Areas Programs, as well as published Office of National Drug Control Policy performance measures of effectiveness: *Provided further*, That a request shall be submitted to the House and Senate Committees on Appropriations for approval prior to the obligation of funds of an amount in excess of the fiscal year 2005 budget request: *Provided further*, That such request shall be made in compliance with the reprogramming guidelines.

OTHER FEDERAL DRUG CONTROL PROGRAMS

(INCLUDING TRANSFER OF FUNDS)

For activities to support a national anti-drug campaign for youth, and for other purposes, authorized by the Office of National Drug Control Policy Reauthorization Act of 1998 (21 U.S.C. 1701 et seq.), \$195,000,000 to remain available until expended, of which the following amounts are available as follows: \$120,000,000 to support a national media campaign, as authorized by the Drug-Free Media Campaign Act of 1998; \$70,000,000 to continue a program of matching grants to drug-free communities, of which \$1,000,000 shall be a directed grant to the Community Anti-Drug Coalitions of America for the National Community Anti-Drug Coalition Institute, as authorized in chapter 2 of the National Narcotics Leadership Act of 1988, as amended; \$1,000,000 for the Counterdrug Intelligence Executive Secretariat; \$500,000 for the National Alliance for Model State Drug Laws; \$1,000,000 for evaluations and research related to National Drug Control Program performance measures; \$500,000 for the National Drug Court Institute; \$1,500,000 for the United States Anti-Doping Agency for anti-doping activities; and \$500,000 for the United States membership dues to the World Anti-Doping Agency: *Provided*, That such funds may be transferred to other Federal departments and agencies to carry out such activities: *Provided further*, That of the amounts appropriated for a national media campaign, no less than 78 percent shall be used for the purchase of advertising time and space for the national media campaign.

UNANTICIPATED NEEDS

For expenses necessary to enable the President to meet unanticipated needs, in furtherance of the national interest, security, or defense which may arise at home or abroad during the current fiscal year, as authorized by 3 U.S.C. 108, \$1,000,000.

SPECIAL ASSISTANCE TO THE PRESIDENT AND THE OFFICIAL RESIDENCE OF THE VICE PRESIDENT

SALARIES AND EXPENSES

For necessary expenses to enable the Vice President to provide assistance to the President in connection with specially assigned functions; services as authorized by 5 U.S.C. 3109 and 3 U.S.C. 106, including subsistence expenses as authorized by 3 U.S.C. 106, which

shall be expended and accounted for as provided in that section; and hire of passenger motor vehicles, \$4,571,000.

OPERATING EXPENSES
(INCLUDING TRANSFER OF FUNDS)

For the care, operation, refurbishing, improvement, and to the extent not otherwise provided for, heating and lighting, including electric power and fixtures, of the official residence of the Vice President; the hire of passenger motor vehicles; and not to exceed \$90,000 for official entertainment expenses of the Vice President, to be accounted for solely on his certificate, \$333,000: *Provided*, That advances or repayments or transfers from this appropriation may be made to any department or agency for expenses of carrying out such activities.

TITLE IV—INDEPENDENT AGENCIES

ARCHITECTURAL AND TRANSPORTATION
BARRIERS COMPLIANCE BOARD

SALARIES AND EXPENSES

For expenses necessary for the Architectural and Transportation Barriers Compliance Board, as authorized by section 502 of the Rehabilitation Act of 1973, as amended \$5,686,000: *Provided*, That, notwithstanding any other provision of law, there may be credited to this appropriation funds received for publications and training expenses.

NATIONAL TRANSPORTATION SAFETY BOARD

SALARIES AND EXPENSES

(INCLUDING RESCISSION OF FUNDS)

For necessary expenses of the National Transportation Safety Board, including hire of passenger motor vehicles and aircraft; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for a GS-15; uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901-5902) \$76,925,000, of which not to exceed \$2,000 may be used for official reception and representation expenses. Of the available unobligated balances made available under Public Law 106-246, \$8,000,000 are hereby cancelled.

FEDERAL ELECTION COMMISSION

SALARIES AND EXPENSES

For necessary expenses to carry out the provisions of the Federal Election Campaign Act of 1971, as amended, \$52,159,000, of which not less than \$4,700,000 shall be available for internal automated data processing systems, and of which not to exceed \$5,000 shall be available for reception and representation expenses: *Provided*, That none of the funds provided in this Act or from any other source may be used to allow any candidate for or member of the House of Representatives or United States Senate to file information and reports required by the Commission in any form other than electronically.

ELECTION ASSISTANCE COMMISSION

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to carry out the Help America Vote Act of 2002 (HAVA), \$15,000,000, of which not less than \$2,500,000 shall be transferred to the National Institutes of Standards and Technology for election reform activities as authorized by HAVA: *Provided*, That none of the funds under this heading may be used for any member or employee of the Election Assistance Commission for lobbying activities, if the lobbying relates to the advocacy of a change in the date provided under Federal law for general elections for Federal office.

FEDERAL LABOR RELATIONS AUTHORITY

SALARIES AND EXPENSES

For necessary expenses to carry out functions of the Federal Labor Relations Author-

ity, pursuant to Reorganization Plan Numbered 2 of 1978, and the Civil Service Reform Act of 1978, including services authorized by 5 U.S.C. 3109, and including hire of experts and consultants, hire of passenger motor vehicles, and rental of conference rooms in the District of Columbia and elsewhere, \$29,673,000: *Provided*, That public members of the Federal Service Impasses Panel may be paid travel expenses and per diem in lieu of subsistence as authorized by law (5 U.S.C. 5703) for persons employed intermittently in the Government service, and compensation as authorized by 5 U.S.C. 3109: *Provided further*, That notwithstanding 31 U.S.C. 3302, funds received from fees charged to non-Federal participants at labor-management relations conferences shall be credited to and merged with this account, to be available without further appropriation for the costs of carrying out these conferences.

FEDERAL MARITIME COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Maritime Commission as authorized by section 201(d) of the Merchant Marine Act, 1936, as amended (46 U.S.C. App. 1111), including services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles as authorized by 31 U.S.C. 1343(b); and uniforms or allowances therefor, as authorized by 5 U.S.C. 5901-5902, \$19,362,000: *Provided*, That not to exceed \$2,000 shall be available for official reception and representation expenses.

GENERAL SERVICES ADMINISTRATION

REAL PROPERTY ACTIVITIES

FEDERAL BUILDINGS FUND

LIMITATIONS ON AVAILABILITY OF REVENUE

(INCLUDING TRANSFER OF FUNDS)

To carry out the purposes of the Fund established pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 592), the revenues and collections deposited into the Fund shall be available for necessary expenses of real property management and related activities not otherwise provided for, including operation, maintenance, and protection of federally owned and leased buildings; rental of buildings in the District of Columbia; restoration of leased premises; moving governmental agencies (including space adjustments and telecommunications relocation expenses) in connection with the assignment, allocation and transfer of space; contractual services incident to cleaning or servicing buildings, and moving; repair and alteration of federally owned buildings including grounds, approaches and appurtenances; care and safeguarding of sites; maintenance, preservation, demolition, and equipment; acquisition of buildings and sites by purchase, condemnation, or as otherwise authorized by law; acquisition of options to purchase buildings and sites; conversion and extension of federally owned buildings; preliminary planning and design of projects by contract or otherwise; construction of new buildings (including equipment for such buildings); and payment of principal, interest, and any other obligations for public buildings acquired by installment purchase and purchase contract; in the aggregate amount of \$6,996,741,000, of which: (1) \$522,251,000 shall remain available until expended for construction (including funds for sites and expenses and associated design and construction services) of additional projects at the following locations:

New Construction:
California:
Los Angeles, United States Courthouse, \$314,385,000
San Diego, United States Courthouse, \$3,068,000

District of Columbia:
Southeast Federal Center Site Remediation, \$2,650,000

Maine:
Calais, Border Station, \$3,269,000
Madawaska, Border Station, \$1,760,000
Maryland:
Montgomery County, Food and Drug Administration Consolidation, \$88,710,000
Minnesota:
Warroad, Border Station, \$1,837,000
New York:
Alexandria Bay, Border Station, \$8,884,000
Massena, Border Station, \$15,000,000
North Dakota:
Dunseith, Border Station, \$2,301,000
Portal, Border Station, \$22,351,000
Texas:
El Paso, Paso Del Norte Border Station, \$26,191,000
El Paso, United States Courthouse, \$2,714,000
El Paso, Ysleta Border Station, \$2,491,000
Vermont:
Derby Line, Border Station, \$3,348,000
Norton, Border Station, \$1,747,000
Richford, Border Station, \$1,545,000
Nonprospectus Construction, \$10,000,000
Judgment Fund repayment, \$10,000,000:

Provided, That each of the foregoing limits of costs on new construction projects may be exceeded to the extent that savings are effected in other such projects, but not to exceed 10 percent of the amounts included in an approved prospectus, if required, unless advance approval is obtained from the Committees on Appropriations of a greater amount: *Provided further*, That all funds for direct construction projects shall expire on September 30, 2006, and remain in the Federal Buildings Fund except for funds for projects as to which funds for design or other funds have been obligated in whole or in part prior to such date; (2) \$931,211,000 shall remain available until expended for repairs and alterations, which includes associated design and construction services: *Provided further*, That the Administrator shall fund the following projects from repair and alterations as the limitation will allow:

Repairs and Alterations:
District of Columbia:
Eisenhower Executive Office Building, \$5,000,000
Federal Office Building 6, \$8,267,000
Hoover FBI Building, \$10,242,000
Mary E. Switzer Building, \$80,335,000
New Executive Office Building, \$6,262,000
Steam Distribution System, \$2,000,000
Theodore Roosevelt Building, \$9,730,000
Georgia:
Atlanta, Martin Luther King, Jr. Federal Building, \$14,800,000
Atlanta, United States Court of Appeals, \$32,004,000
Hawaii:
Hilo, Federal Building, \$5,133,000
Louisiana:
New Orleans, Boggs Federal Building, \$22,581,000
New Orleans, Wisdom Courthouse of Appeals, \$8,005,000
Maryland:
Baltimore, George H. Fallon Federal Building, \$46,163,000
Suitland, National Record Center, \$7,989,000
Woodlawn, Social Security Administration Altmeyer Building, \$6,300,000
Minnesota:
St. Paul, Warren E. Burger Federal Building—Courthouse, \$36,644,000
Missouri:
Kansas City, Richard Bolling Federal Building, \$40,048,000
New York:
New York, Foley Square Courthouse, \$2,505,000

Queens, Joseph P. Addabbo Federal Building, \$5,455,000

Ohio:

Cincinnati, Potter Stewart Courthouse, \$37,975,000

Cleveland, Celebreeze Federal Building, \$37,375,000

Washington:

Seattle, William Nakamura Courthouse, \$50,210,000

Special Emphasis Programs:

Chlorofluorocarbons Program, \$13,000,000

Energy Program, \$30,000,000

Glass Fragment Retention, \$20,000,000

Design Program, \$49,699,000

Basic Repairs and Alterations, \$394,500,000:

Provided further, That funds made available in this or any previous Act in the Federal Buildings Fund for repairs and alterations shall, for prospectus projects, be limited to the amount identified for each project, except each project in this or any previous Act may be increased by an amount not to exceed 10 percent unless advance approval is obtained from the Committees on Appropriations of a greater amount: *Provided further*, That additional projects for which prospectuses have been fully approved may be funded under this category only if advance approval is obtained from the Committees on Appropriations: *Provided further*, That the amounts provided in this or any prior Act for repairs and alterations may be used to fund costs associated with implementing security improvements to buildings necessary to meet the minimum standards for security in accordance with current law and in compliance with the reprogramming guidelines of the appropriate Committees of the House and Senate: *Provided further*, That the difference between the funds appropriated and expended on any projects in this or any prior Act, under the heading repairs and alterations, may be transferred to basic repairs and alterations or used to fund authorized increases in prospectus projects: *Provided further*, That all funds for repairs and alterations prospectus projects shall expire on September 30, 2006 and remain in the Federal Buildings Fund except funds for projects as to which funds for design or other funds have been obligated in whole or in part prior to such date: *Provided further*, That the amount provided in this or any prior Act for basic repairs and alterations may be used to pay claims against the Government arising from any projects under the heading repairs and alterations or used to fund authorized increases in prospectus projects; (3) \$161,442,000 for installment acquisition payments including payments on purchase contracts which shall remain available until expended; (4) \$3,672,315,000 for rental of space which shall remain available until expended; and (5) \$1,709,522,000 for building operations which shall remain available until expended: *Provided further*, That funds available to the General Services Administration shall not be available for expenses of any construction, repair, alteration and acquisition project for which a prospectus, if required by the Public Buildings Act of 1959, as amended, has not been approved, except that necessary funds may be expended for each project for required expenses for the development of a proposed prospectus: *Provided further*, That funds available in the Federal Buildings Fund may be expended for emergency repairs when advance approval is obtained from the Committees on Appropriations: *Provided further*, That amounts necessary to provide reimbursable special services to other agencies under section 210(f)(6) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 592(b)(2)) and amounts to provide such reimbursable fencing, lighting, guard booths, and other facilities on private or other property not in Government

ownership or control as may be appropriate to enable the United States Secret Service to perform its protective functions pursuant to 18 U.S.C. 3056, shall be available from such revenues and collections: *Provided further*, That revenues and collections and any other sums accruing to this Fund during fiscal year 2005, excluding reimbursements under section 210(f)(6) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 592(b)(2)) in excess of the aggregate new obligatory authority authorized for Real Property Activities of the Federal Buildings Fund in this Act shall remain in the Fund and shall not be available for expenditure except as authorized in appropriations Acts.

GENERAL ACTIVITIES

GOVERNMENT-WIDE POLICY

For expenses authorized by law, not otherwise provided for, for Government-wide policy and evaluation activities associated with the management of real and personal property assets and certain administrative services; Government-wide policy support responsibilities relating to acquisition, telecommunications, information technology management, and related technology activities; and services as authorized by 5 U.S.C. 3109, \$62,100,000.

OPERATING EXPENSES

For expenses authorized by law, not otherwise provided for, for Government-wide activities associated with utilization and donation of surplus personal property; disposal of real property; telecommunications, information technology management, and related technology activities; providing Internet access to Federal information and services; agency-wide policy direction and management, and Board of Contract Appeals; accounting, records management, and other support services incident to adjudication of Indian Tribal Claims by the United States Court of Federal Claims; services as authorized by 5 U.S.C. 3109; and not to exceed \$7,500 for official reception and representation expenses, \$82,175,000.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General and services authorized by 5 U.S.C. 3109, \$42,351,000: *Provided*, That not to exceed \$15,000 shall be available for payment for information and detection of fraud against the Government, including payment for recovery of stolen Government property: *Provided further*, That not to exceed \$2,500 shall be available for awards to employees of other Federal agencies and private citizens in recognition of efforts and initiatives resulting in enhanced Office of Inspector General effectiveness.

ELECTRONIC GOVERNMENT (E-GOV) FUND

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses in support of inter-agency projects that enable the Federal Government to expand its ability to conduct activities electronically, through the development and implementation of innovative uses of the Internet and other electronic methods, \$5,000,000, to remain available until expended: *Provided*, That these funds may be transferred to Federal agencies to carry out the purposes of the Fund: *Provided further*, That this transfer authority shall be in addition to any other transfer authority provided in this Act: *Provided further*, That such transfers may not be made until 10 days after a proposed spending plan and justification for each project to be undertaken has been submitted to the Committees on Appropriations.

ALLOWANCES AND OFFICE STAFF FOR FORMER PRESIDENTS

(INCLUDING TRANSFER OF FUNDS)

For carrying out the provisions of the Act of August 25, 1958, as amended (3 U.S.C. 102

note), and Public Law 95-138, \$3,449,000: *Provided*, That the Administrator of General Services shall transfer to the Secretary of the Treasury such sums as may be necessary to carry out the provisions of such Acts.

EXPENSES, PRESIDENTIAL TRANSITION

For expenses necessary to carry out the Presidential Transition Act of 1963, as amended, \$7,700,000, of which not to exceed \$1,000,000 is for activities authorized by sections 3(a) (8) and (9) of the Presidential Transition Act of 2000, and may be used notwithstanding section 3(f) of such Act (3 U.S.C. 102, note).

GENERAL PROVISIONS—GENERAL SERVICES

ADMINISTRATION

SEC. 401. The appropriate appropriation or fund available to the General Services Administration shall be credited with the cost of operation, protection, maintenance, upkeep, repair, and improvement, included as part of rentals received from Government corporations pursuant to law (40 U.S.C. 129).

SEC. 402. Funds available to the General Services Administration shall be available for the hire of passenger motor vehicles.

SEC. 403. Funds in the Federal Buildings Fund made available in fiscal year 2005 for Federal Buildings Fund activities may be transferred between such activities only to the extent necessary to meet program requirements: *Provided*, That any proposed transfers shall be approved in advance by the Committees on Appropriations.

SEC. 404. No funds made available by this Act shall be used to transmit a fiscal year 2006 request for United States Courthouse construction that: (1) does not meet the design guide standards for construction as established and approved by the General Services Administration, the Judicial Conference of the United States, and the Office of Management and Budget; and (2) does not reflect the priorities of the Judicial Conference of the United States as set out in its approved 5-year construction plan: *Provided*, That the fiscal year 2006 request must be accompanied by a standardized courtroom utilization study of each facility to be constructed, replaced, or expanded.

SEC. 405. None of the funds provided in this Act may be used to increase the amount of occupiable square feet, provide cleaning services, security enhancements, or any other service usually provided through the Federal Buildings Fund, to any agency that does not pay the rate per square foot assessment for space and services as determined by the General Services Administration in compliance with the Public Buildings Amendments Act of 1972 (Public Law 92-313).

SEC. 406. From funds made available under the heading "Federal buildings fund, limitations on availability of revenue", claims against the Government of less than \$250,000 arising from direct construction projects and acquisition of buildings may be liquidated from savings effected in other construction projects with prior notification to the Committees on Appropriations.

SEC. 407. Notwithstanding 40 U.S.C. 524, 571, and 572, the Administrator of General Services may sell the Middle River Depot at Middle River, Maryland, and credit the proceeds of such sale as offsetting collections to the Federal Buildings Fund, to be available, in addition to amounts otherwise appropriated for such Fund, for such capital activities of the Fund as the Administrator may deem appropriate.

SEC. 408. Section 572(a)(2)(A)(ii) of title 40, United States Code, is amended by inserting the following before the period: "highest and best use of property studies, utilization of property studies, deed compliance inspection, and the expenses incurred in a relocation".

SEC. 409. Notwithstanding any other provision of law, the Administrator of General Services may convey, by sale, lease, exchange or otherwise, including through leaseback arrangements, real and related personal property, or interests therein, and retain the net proceeds of such dispositions in an account within the Federal Buildings Fund to be used for the General Services Administration's real property capital needs: *Provided*, That all net proceeds realized under this section shall only be expended as authorized in annual appropriations acts: *Provided further*, That for the purposes of this section, the term "net proceeds" means the rental and other sums received less the costs of the disposition, and the term "real property capital needs" means any expenses necessary and incident to the agency's real property capital acquisitions, improvements, and dispositions.

SEC. 410. LAND CONVEYANCE, NAHANT, MASSACHUSETTS.—(a) CONVEYANCE AUTHORIZED.—Notwithstanding any other provision of law, the Administrator of the General Services Administration may sell all right, title, and interest of the United States in and to a parcel of real property, including improvements thereon, that is located at Castle Road, Gardner Road and Goddard Drive in Nahant, Massachusetts to the Town of Nahant. In the event a binding sales contract is not executed within 30 days of enactment the Administrator shall commence with a public, competitive sale of the property.

(b) CONSIDERATION.—As consideration for conveyance under subsection (a), the Town of Nahant shall pay, in a single lump sum payment, \$2 million.

(c) DEPOSIT OF FUNDS.—Notwithstanding any other provision of law, the Administrator may deposit the net proceeds in the Real Property Relocation account of the General Services Administration. In the event proceeds exceed \$2 million, the net amount in excess of \$2 million shall be deposited in the United States Coast Guard Housing Fund established under 14 U.S.C. Sec. 687.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Administrator. The cost of the survey shall be borne by the purchaser.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Administrator may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Administrator considers appropriate to protect the interests of the United States.

MERIT SYSTEMS PROTECTION BOARD SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to carry out functions of the Merit Systems Protection Board pursuant to Reorganization Plan Numbered 2 of 1978 and the Civil Service Reform Act of 1978, including services as authorized by 5 U.S.C. 3109, rental of conference rooms in the District of Columbia and elsewhere, hire of passenger motor vehicles, and direct procurement of survey printing, \$34,683,000 together with not to exceed \$2,620,000 for administrative expenses to adjudicate retirement appeals to be transferred from the Civil Service Retirement and Disability Fund in amounts determined by the Merit Systems Protection Board.

MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY FOUNDATION

MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY TRUST FUND

For payment to the Morris K. Udall Scholarship and Excellence in National Environ-

mental Policy Trust Fund, pursuant to the Morris K. Udall Scholarship and Excellence in National Environmental and Native American Public Policy Act of 1992 (20 U.S.C. 5601 et seq.), \$1,984,000, to remain available until expended, of which up to \$50,000 shall be used to conduct financial audits pursuant to the Accountability of Tax Dollars Act of 2002 (Public Law 107-289), notwithstanding sections 8 and 9 of Public Law 102-259: *Provided*, That up to 60 percent of such funds may be transferred by the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation for the necessary expenses of the Native Nations Institute.

ENVIRONMENTAL DISPUTE RESOLUTION FUND

For payment to the Environmental Dispute Resolution Fund to carry out activities authorized in the Environmental Policy and Conflict Resolution Act of 1998, \$1,301,000, to remain available until expended.

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION OPERATING EXPENSES

For necessary expenses in connection with the administration of the National Archives and Records Administration (including the Information Security Oversight Office) and archived Federal records and related activities, as provided by law, and for expenses necessary for the review and declassification of documents, and for the hire of passenger motor vehicles, \$264,185,000: *Provided*, That the Archivist of the United States is authorized to use any excess funds available from the amount borrowed for construction of the National Archives facility, for expenses necessary to provide adequate storage for holdings.

ELECTRONIC RECORDS ARCHIVES

For necessary expenses in connection with the development of the electronic records archives, to include all direct project costs associated with research, analysis, design, development, and program management, \$35,914,000.

REPAIRS AND RESTORATION

For the repair, alteration, and improvement of archives facilities, and to provide adequate storage for holdings, \$7,182,000, to remain available until expended.

NATIONAL HISTORICAL PUBLICATIONS AND RECORDS COMMISSION GRANTS PROGRAM

For necessary expenses for allocations and grants for historical publications and records as authorized by 44 U.S.C. 2504, as amended, \$3,000,000, to remain available until expended.

OFFICE OF GOVERNMENT ETHICS SALARIES AND EXPENSES

For necessary expenses to carry out functions of the Office of Government Ethics pursuant to the Ethics in Government Act of 1978, as amended, and the Ethics Reform Act of 1989, including services as authorized by 5 U.S.C. 3109, rental of conference rooms in the District of Columbia and elsewhere, hire of passenger motor vehicles, and not to exceed \$1,500 for official reception and representation expenses, \$11,238,000.

OFFICE OF PERSONNEL MANAGEMENT SALARIES AND EXPENSES (INCLUDING TRANSFER OF TRUST FUNDS)

For necessary expenses to carry out functions of the Office of Personnel Management pursuant to Reorganization Plan Numbered 2 of 1978 and the Civil Service Reform Act of 1978, including services as authorized by 5 U.S.C. 3109; medical examinations performed for veterans by private physicians on a fee basis; rental of conference rooms in the Dis-

trict of Columbia and elsewhere; hire of passenger motor vehicles; not to exceed \$2,500 for official reception and representation expenses; advances for reimbursements to applicable funds of the Office of Personnel Management and the Federal Bureau of Investigation for expenses incurred under Executive Order No. 10422 of January 9, 1953, as amended; and payment of per diem and/or subsistence allowances to employees where Voting Rights Act activities require an employee to remain overnight at his or her post of duty, \$120,444,000, of which \$2,000,000 shall remain available until expended for the cost of the enterprise human resources integration project, \$6,615,000 shall remain available until expended for the cost of leading the government-wide initiative to modernize the Federal payroll systems and service delivery; \$800,000 shall remain available until expended for the cost of the e-human resources information system project; \$2,000,000 shall remain available until expended for the cost of the e-clearance project; and \$3,300,000 shall remain available until expended for the recruitment one stop project; and in addition \$128,462,000 for administrative expenses, to be transferred from the appropriate trust funds of the Office of Personnel Management without regard to other statutes, including direct procurement of printed materials, for the retirement and insurance programs, of which \$27,640,000 shall remain available until expended for the cost of automating the retirement recordkeeping systems: *Provided*, That the provisions of this appropriation shall not affect the authority to use applicable trust funds as provided by sections 8348(a)(1)(B), and 9004(f)(1)(A) and (2)(A) of title 5, United States Code: *Provided further*, That no part of this appropriation shall be available for salaries and expenses of the Legal Examining Unit of the Office of Personnel Management established pursuant to Executive Order No. 9358 of July 1, 1943, or any successor unit of like purpose: *Provided further*, That the President's Commission on White House Fellows, established by Executive Order No. 11183 of October 3, 1964, may, during fiscal year 2005, accept donations of money, property, and personal services: *Provided further*, That such donations, including those from prior years, may be used for the development of publicity materials to provide information about the White House Fellows, except that no such donations shall be accepted for travel or reimbursement of travel expenses, or for the salaries of employees of such Commission.

OFFICE OF INSPECTOR GENERAL SALARIES AND EXPENSES

(INCLUDING TRANSFER OF TRUST FUNDS)

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act, as amended, including services as authorized by 5 U.S.C. 3109, hire of passenger motor vehicles, \$1,627,000, and in addition, not to exceed \$16,461,000 for administrative expenses to audit, investigate, and provide other oversight of the Office of Personnel Management's retirement and insurance programs, to be transferred from the appropriate trust funds of the Office of Personnel Management, as determined by the Inspector General: *Provided*, That the Inspector General is authorized to rent conference rooms in the District of Columbia and elsewhere.

GOVERNMENT PAYMENT FOR ANNUITANTS, EMPLOYEES HEALTH BENEFITS

For payment of Government contributions with respect to retired employees, as authorized by chapter 89 of title 5, United States Code, and the Retired Federal Employees Health Benefits Act (74 Stat. 849), as amended, such sums as may be necessary.

GOVERNMENT PAYMENT FOR ANNUITANTS,
EMPLOYEE LIFE INSURANCE

For payment of Government contributions with respect to employees retiring after December 31, 1989, as required by chapter 87 of title 5, United States Code, such sums as may be necessary.

PAYMENT TO CIVIL SERVICE RETIREMENT AND
DISABILITY FUND

For financing the unfunded liability of new and increased annuity benefits becoming effective on or after October 20, 1969, as authorized by 5 U.S.C. 8348, and annuities under special Acts to be credited to the Civil Service Retirement and Disability Fund, such sums as may be necessary: *Provided*, That annuities authorized by the Act of May 29, 1944, as amended, and the Act of August 19, 1950, as amended (33 U.S.C. 771-775), may hereafter be paid out of the Civil Service Retirement and Disability Fund.

HUMAN CAPITAL PERFORMANCE FUND
(INCLUDING TRANSFER OF FUNDS)

For a human capital performance fund, as authorized by 5 U.S.C. 5408, \$12,514,000: *Provided*, That such amounts as determined by the Director of the Office of Personnel Management may be transferred to Federal agencies to carry out the purposes of this fund as authorized by 5 U.S.C. 5403: *Provided further*, That no funds shall be available for obligation or transfer to any Federal agency until the Director has notified the relevant subcommittees of jurisdiction of the Committees on Appropriations of the approval of a performance pay plan for that agency, and the prior approval of such subcommittees has been attained.

OFFICE OF SPECIAL COUNSEL
SALARIES AND EXPENSES

For necessary expenses to carry out functions of the Office of Special Counsel pursuant to Reorganization Plan Numbered 2 of 1978, the Civil Service Reform Act of 1978 (Public Law 95-454), as amended, the Whistleblower Protection Act of 1989 (Public Law 101-12), as amended, Public Law 103-424, and the Uniformed Services Employment and Reemployment Act of 1994 (Public Law 103-353), including services as authorized by 5 U.S.C. 3109, payment of fees and expenses for witnesses, rental of conference rooms in the District of Columbia and elsewhere, and hire of passenger motor vehicles; \$15,449,000.

UNITED STATES POSTAL SERVICE
PAYMENT TO THE POSTAL SERVICE FUND

For payment to the Postal Service Fund for revenue forgone on free and reduced rate mail, pursuant to subsections (c) and (d) of section 2401 of title 39, United States Code, \$61,709,000, which shall not be available for obligation until October 1, 2005: *Provided*, That mail for overseas voting and mail for the blind shall continue to be free: *Provided further*, That 6-day delivery and rural delivery of mail shall continue at not less than the 1983 level: *Provided further*, That none of the funds made available to the Postal Service by this Act shall be used to implement any rule, regulation, or policy of charging any officer or employee of any State or local child support enforcement agency, or any individual participating in a State or local program of child support enforcement, a fee for information requested or provided concerning an address of a postal customer: *Provided further*, That none of the funds provided in this Act shall be used to consolidate or close small rural and other small post offices in fiscal year 2005.

UNITED STATES TAX COURT
SALARIES AND EXPENSES

For necessary expenses, including contract reporting and other services as authorized by

5 U.S.C. 3109, \$41,180,000: *Provided*, That travel expenses of the judges shall be paid upon the written certificate of the judge.

TITLE V—GENERAL PROVISIONS
THIS ACT
(INCLUDING TRANSFERS OF FUNDS)

SEC. 501. Such sums as may be necessary for fiscal year 2004 pay raises for programs funded in this Act shall be absorbed within the levels appropriated in this Act or previous appropriations Acts.

SEC. 502. None of the funds in this Act shall be used for the planning or execution of any program to pay the expenses of, or otherwise compensate, non-Federal parties intervening in regulatory or adjudicatory proceedings funded in this Act.

SEC. 503. None of the funds appropriated in this Act shall remain available for obligation beyond the current fiscal year, nor may any be transferred to other appropriations, unless expressly so provided herein.

SEC. 504. The expenditure of any appropriation under this Act for any consulting service through procurement contract pursuant to section 3109 of title 5, United States Code, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive Order issued pursuant to existing law.

SEC. 505. For the purpose of any applicable law, for fiscal years 2004 and 2005, the city of Norman, Oklahoma, shall be considered to be part of the Oklahoma City urbanized area.

SEC. 506. None of the funds made available in this Act may be transferred to any department, agency, or instrumentality of the United States Government, except pursuant to a transfer made by, or transfer authority provided in, this Act or any other appropriations Act.

SEC. 507. None of the funds made available by this Act shall be available for any activity or for paying the salary of any Government employee where funding an activity or paying a salary to a Government employee would result in a decision, determination, rule, regulation, or policy that would prohibit the enforcement of section 307 of the Tariff Act of 1930.

SEC. 508. No part of any appropriation contained in this Act shall be available to pay the salary for any person filling a position, other than a temporary position, formerly held by an employee who has left to enter the Armed Forces of the United States and has satisfactorily completed his period of active military or naval service, and has within 90 days after his release from such service or from hospitalization continuing after discharge for a period of not more than 1 year, made application for restoration to his former position and has been certified by the Office of Personnel Management as still qualified to perform the duties of his former position and has not been restored thereto.

SEC. 509. No funds appropriated pursuant to this Act may be expended by an entity unless the entity agrees that in expending the assistance the entity will comply with sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a-10c, popularly known as the "Buy America Act").

SEC. 510. (a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—Hereafter, in the case of any equipment or products that may be authorized to be purchased with financial assistance provided under this Act, it is the sense of the Congress that entities receiving such assistance should, in expending the assistance, purchase only American-made equipment and products.

(b) NOTICE TO RECIPIENTS OF ASSISTANCE.—In providing financial assistance under this Act, the Secretary of the Treasury shall pro-

vide to each recipient of the assistance a notice describing the statement made in subsection (a) by the Congress.

SEC. 511. Hereafter, if it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a "Made in America" inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, such person shall be ineligible to receive any contract or subcontract made with funds provided pursuant to this Act, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

SEC. 512. Except as otherwise specifically provided by law, not to exceed 50 percent of unobligated balances remaining available at the end of fiscal year 2005 from appropriations made available for salaries and expenses for fiscal year 2005 in this Act, shall remain available through September 30, 2006, for each such account for the purposes authorized: *Provided*, That a request shall be submitted to the Committees on Appropriations for approval prior to the expenditure of such funds: *Provided further*, That these requests shall be made in compliance with reprogramming guidelines.

SEC. 513. None of the funds made available in this Act may be used by the Executive Office of the President to request from the Federal Bureau of Investigation any official background investigation report on any individual, except when—

(1) such individual has given his or her express written consent for such request not more than 6 months prior to the date of such request and during the same presidential administration; or

(2) such request is required due to extraordinary circumstances involving national security.

SEC. 514. The cost accounting standards promulgated under section 26 of the Office of Federal Procurement Policy Act (Public Law 93-400; 41 U.S.C. 422) shall not apply with respect to a contract under the Federal Employees Health Benefits Program established under chapter 89 of title 5, United States Code.

SEC. 515. For the purpose of resolving litigation and implementing any settlement agreements regarding the nonforeign area cost-of-living allowance program, the Office of Personnel Management may accept and utilize (without regard to any restriction on unanticipated travel expenses imposed in an appropriations Act) funds made available to the Office pursuant to court approval.

SEC. 516. No funds appropriated or otherwise made available under this Act shall be made available to any person or entity that has been convicted of violating the Buy American Act (41 U.S.C. 10a-10c).

SEC. 517. No funds appropriated by this Act shall be available to pay for an abortion, or the administrative expenses in connection with any health plan under the Federal employees health benefits program which provides any benefits or coverage for abortions.

SEC. 518. The provision of section 517 shall not apply where the life of the mother would be endangered if the fetus were carried to term, or the pregnancy is the result of an act of rape or incest.

SEC. 519. None of the funds provided in this Act, provided by previous appropriations Acts to the agencies or entities funded in this Act that remain available for obligation or expenditure in fiscal year 2005, or provided from any accounts in the Treasury derived by the collection of fees and available to the agencies funded by this Act, shall be available for obligation or expenditure through a reprogramming of funds that—

- (1) creates a new program;
- (2) eliminates a program, project, or activity;
- (3) increases funds for any program, project, or activity for which funds have been denied or restricted by the Congress;
- (4) proposes to use funds directed for a specific activity by either the House or Senate Committees on Appropriations for a different purpose;
- (5) augments existing programs, projects, or activities in excess of \$5,000,000 or 10 percent, whichever is greater;
- (6) reduces existing programs, projects, or activities by \$5,000,000 or 10 percent, whichever is greater; or
- (7) creates or reorganizes a branch, division, office, bureau, board, commission, agency administration, or department different from the budget justifications submitted to the Committees on Appropriations;

unless prior approval is received from the House and Senate Committees on Appropriations.

SEC. 520. EXEMPTION FROM LIMITATIONS ON PROCUREMENT OF FOREIGN INFORMATION TECHNOLOGY THAT IS A COMMERCIAL ITEM.—In order to promote Government access to commercial information technology, the restriction on purchasing nondomestic articles, materials, and supplies set forth in the Buy American Act (41 U.S.C. 10a et seq.), shall not apply to the acquisition by the Federal Government of information technology (as defined in section 11101 of title 40, United States Code, that is a commercial item (as defined in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)).

SEC. 521. It is the sense of the House of Representatives that empowerment zones within cities should have the necessary flexibility to expand to include relevant communities so that empowerment zone benefits are equitably distributed.

SEC. 522. It is the sense of the House of Representatives that all census tracts contained in an empowerment zone, either fully or partially, should be equitably accorded the same benefits.

SEC. 523. None of the funds made available in this Act may be used to finalize, implement, administer, or enforce—

- (1) the proposed rule relating to the determination that real estate brokerage is an activity that is financial in nature or incidental to a financial activity published in the Federal Register on January 3, 2001 (66 Fed. Reg. 307 et seq.); or
- (2) the revision proposed in such rule to section 1501.2 of title 12 of the Code of Federal Regulations.

SEC. 524. It is the sense of Congress that, after proper documentation, justification, and review, the Department of Transportation should consider programs to reimburse general aviation ground support services at Ronald Reagan Washington National Airport, and airports located within fifteen miles of Ronald Reagan Washington National Airport, for their financial losses due to Government actions after the terrorist attacks of September 11, 2001.

SEC. 525. None of the funds made available under 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.

TITLE VI—GENERAL PROVISIONS

DEPARTMENTS, AGENCIES, AND CORPORATIONS

SEC. 601. Funds appropriated in this or any other Act may be used to pay travel to the

United States for the immediate family of employees serving abroad in cases of death or life threatening illness of said employee.

SEC. 602. No department, agency, or instrumentality of the United States receiving appropriated funds under this or any other Act for fiscal year 2005 shall obligate or expend any such funds, unless such department, agency, or instrumentality has in place, and will continue to administer in good faith, a written policy designed to ensure that all of its workplaces are free from the illegal use, possession, or distribution of controlled substances (as defined in the Controlled Substances Act) by the officers and employees of such department, agency, or instrumentality.

SEC. 603. Unless otherwise specifically provided, the maximum amount allowable during the current fiscal year in accordance with section 16 of the Act of August 2, 1946 (60 Stat. 810), for the purchase of any passenger motor vehicle (exclusive of buses, ambulances, law enforcement, and undercover surveillance vehicles), is hereby fixed at \$8,100 except station wagons for which the maximum shall be \$9,100: *Provided*, That these limits may be exceeded by not to exceed \$3,700 for police-type vehicles, and by not to exceed \$4,000 for special heavy-duty vehicles: *Provided further*, That the limits set forth in this section may not be exceeded by more than 5 percent for electric or hybrid vehicles purchased for demonstration under the provisions of the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976: *Provided further*, That the limits set forth in this section may be exceeded by the incremental cost of clean alternative fuels vehicles acquired pursuant to Public Law 101-549 over the cost of comparable conventionally fueled vehicles.

SEC. 604. Appropriations of the executive departments and independent establishments for the current fiscal year available for expenses of travel, or for the expenses of the activity concerned, are hereby made available for quarters allowances and cost-of-living allowances, in accordance with 5 U.S.C. 5922-5924.

SEC. 605. Unless otherwise specified during the current fiscal year, no part of any appropriation contained in this or any other Act shall be used to pay the compensation of any officer or employee of the Government of the United States (including any agency the majority of the stock of which is owned by the Government of the United States) whose post of duty is in the continental United States unless such person: (1) is a citizen of the United States; (2) is a person in the service of the United States on the date of the enactment of this Act who, being eligible for citizenship, has filed a declaration of intention to become a citizen of the United States prior to such date and is actually residing in the United States; (3) is a person who owes allegiance to the United States; (4) is an alien from Cuba, Poland, South Vietnam, the countries of the former Soviet Union, or the Baltic countries lawfully admitted to the United States for permanent residence; (5) is a South Vietnamese, Cambodian, or Laotian refugee paroled in the United States after January 1, 1975; or (6) is a national of the People's Republic of China who qualifies for adjustment of status pursuant to the Chinese Student Protection Act of 1992: *Provided*, That for the purpose of this section, an affidavit signed by any such person shall be considered prima facie evidence that the requirements of this section with respect to his or her status have been complied with: *Provided further*, That any person making a false affidavit shall be guilty of a felony, and, upon conviction, shall be fined no more than \$4,000 or imprisoned for not more than 1 year, or both: *Provided further*, That the

above penal clause shall be in addition to, and not in substitution for, any other provisions of existing law: *Provided further*, That any payment made to any officer or employee contrary to the provisions of this section shall be recoverable in action by the Federal Government. This section shall not apply to citizens of Ireland, Israel, or the Republic of the Philippines, or to nationals of those countries allied with the United States in a current defense effort, or to international broadcasters employed by the United States Information Agency, or to temporary employment of translators, or to temporary employment in the field service (not to exceed 60 days) as a result of emergencies.

SEC. 606. Appropriations available to any department or agency during the current fiscal year for necessary expenses, including maintenance or operating expenses, shall also be available for payment to the General Services Administration for charges for space and services and those expenses of renovation and alteration of buildings and facilities which constitute public improvements performed in accordance with the Public Buildings Act of 1959 (73 Stat. 749), the Public Buildings Amendments of 1972 (87 Stat. 216), or other applicable law.

SEC. 607. In addition to funds provided in this or any other Act, all Federal agencies are authorized to receive and use funds resulting from the sale of materials, including Federal records disposed of pursuant to a records schedule recovered through recycling or waste prevention programs. Such funds shall be available until expended for the following purposes:

- (1) Acquisition, waste reduction and prevention, and recycling programs as described in Executive Order No. 13101 (September 14, 1998), including any such programs adopted prior to the effective date of the Executive order.
- (2) Other Federal agency environmental management programs, including, but not limited to, the development and implementation of hazardous waste management and pollution prevention programs.
- (3) Other employee programs as authorized by law or as deemed appropriate by the head of the Federal agency.

SEC. 608. Funds made available by this or any other Act for administrative expenses in the current fiscal year of the corporations and agencies subject to chapter 91 of title 31, United States Code, shall be available, in addition to objects for which such funds are otherwise available, for rent in the District of Columbia; services in accordance with 5 U.S.C. 3109; and the objects specified under this head, all the provisions of which shall be applicable to the expenditure of such funds unless otherwise specified in the Act by which they are made available: *Provided*, That in the event any functions budgeted as administrative expenses are subsequently transferred to or paid from other funds, the limitations on administrative expenses shall be correspondingly reduced.

SEC. 609. No part of any appropriation for the current fiscal year contained in this or any other Act shall be paid to any person for the filling of any position for which he or she has been nominated after the Senate has voted not to approve the nomination of said person.

SEC. 610. No part of any appropriation contained in this or any other Act shall be available for interagency financing of boards (except Federal Executive Boards), commissions, councils, committees, or similar groups (whether or not they are interagency entities) which do not have a prior and specific statutory approval to receive financial support from more than one agency or instrumentality.

SEC. 611. Funds made available by this or any other Act to the Postal Service Fund (39 U.S.C. 2003) shall be available for employment of guards for all buildings and areas owned or occupied by the Postal Service and under the charge and control of the Postal Service, and such guards shall have, with respect to such property, the powers of special policemen provided by the first section of the Act of June 1, 1948, as amended (62 Stat. 281; 40 U.S.C. 318), and, as to property owned or occupied by the Postal Service, the Postmaster General may take the same actions as the Administrator of General Services may take under the provisions of sections 2 and 3 of the Act of June 1, 1948, as amended (62 Stat. 281; 40 U.S.C. 318a and 318b), attaching thereto penal consequences under the authority and within the limits provided in section 4 of the Act of June 1, 1948, as amended (62 Stat. 281; 40 U.S.C. 318c).

SEC. 612. None of the funds made available pursuant to the provisions of this Act shall be used to implement, administer, or enforce any regulation which has been disapproved pursuant to a resolution of disapproval duly adopted in accordance with the applicable law of the United States.

SEC. 613. (a) Notwithstanding any other provision of law, and except as otherwise provided in this section, no part of any of the funds appropriated for fiscal year 2005, by this or any other Act, may be used to pay any prevailing rate employee described in section 5342(a)(2)(A) of title 5, United States Code—

(1) during the period from the date of expiration of the limitation imposed by the comparable section for previous fiscal years until the normal effective date of the applicable wage survey adjustment that is to take effect in fiscal year 2005, in an amount that exceeds the rate payable for the applicable grade and step of the applicable wage schedule in accordance with such section; and

(2) during the period consisting of the remainder of fiscal year 2005, in an amount that exceeds, as a result of a wage survey adjustment, the rate payable under paragraph (1) by more than the sum of—

(A) the percentage adjustment taking effect in fiscal year 2005 under section 5303 of title 5, United States Code, in the rates of pay under the General Schedule; and

(B) the difference between the overall average percentage of the locality-based comparability payments taking effect in fiscal year 2005 under section 5304 of such title (whether by adjustment or otherwise), and the overall average percentage of such payments which was effective in the previous fiscal year under such section.

(b) Notwithstanding any other provision of law, no prevailing rate employee described in subparagraph (B) or (C) of section 5342(a)(2) of title 5, United States Code, and no employee covered by section 5348 of such title, may be paid during the periods for which subsection (a) is in effect at a rate that exceeds the rates that would be payable under subsection (a) were subsection (a) applicable to such employee.

(c) For the purposes of this section, the rates payable to an employee who is covered by this section and who is paid from a schedule not in existence on September 30, 2004, shall be determined under regulations prescribed by the Office of Personnel Management.

(d) Notwithstanding any other provision of law, rates of premium pay for employees subject to this section may not be changed from the rates in effect on September 30, 2004, except to the extent determined by the Office of Personnel Management to be consistent with the purpose of this section.

(e) This section shall apply with respect to pay for service performed after September 30, 2004.

(f) For the purpose of administering any provision of law (including any rule or regulation that provides premium pay, retirement, life insurance, or any other employee benefit) that requires any deduction or contribution, or that imposes any requirement or limitation on the basis of a rate of salary or basic pay, the rate of salary or basic pay payable after the application of this section shall be treated as the rate of salary or basic pay.

(g) Nothing in this section shall be considered to permit or require the payment to any employee covered by this section at a rate in excess of the rate that would be payable were this section not in effect.

(h) The Office of Personnel Management may provide for exceptions to the limitations imposed by this section if the Office determines that such exceptions are necessary to ensure the recruitment or retention of qualified employees.

SEC. 614. During the period in which the head of any department or agency, or any other officer or civilian employee of the Government appointed by the President of the United States, holds office, no funds may be obligated or expended in excess of \$5,000 to furnish or redecorate the office of such department head, agency head, officer, or employee, or to purchase furniture or make improvements for any such office, unless advance notice of such furnishing or redecoration is expressly approved by the Committees on Appropriations. For the purposes of this section, the term “office” shall include the entire suite of offices assigned to the individual, as well as any other space used primarily by the individual or the use of which is directly controlled by the individual.

SEC. 615. Notwithstanding section 1346 of title 31, United States Code, or section 610 of this Act, funds made available for the current fiscal year by this or any other Act shall be available for the interagency funding of national security and emergency preparedness telecommunications initiatives which benefit multiple Federal departments, agencies, or entities, as provided by Executive Order No. 12472 (April 3, 1984).

SEC. 616. (a) None of the funds appropriated by this or any other Act may be obligated or expended by any Federal department, agency, or other instrumentality for the salaries or expenses of any employee appointed to a position of a confidential or policy-determining character excepted from the competitive service pursuant to section 3302 of title 5, United States Code, without a certification to the Office of Personnel Management from the head of the Federal department, agency, or other instrumentality employing the Schedule C appointee that the Schedule C position was not created solely or primarily in order to detail the employee to the White House.

(b) The provisions of this section shall not apply to Federal employees or members of the armed services detailed to or from—

- (1) the Central Intelligence Agency;
- (2) the National Security Agency;
- (3) the Defense Intelligence Agency;
- (4) the offices within the Department of Defense for the collection of specialized national foreign intelligence through reconnaissance programs;
- (5) the Bureau of Intelligence and Research of the Department of State;
- (6) any agency, office, or unit of the Army, Navy, Air Force, and Marine Corps, the Department of Homeland Security, the Federal Bureau of Investigation and the Drug Enforcement Administration of the Department of Justice, the Department of Transportation, the Department of the Treasury, and the Department of Energy performing intelligence functions; and
- (7) the Director of Central Intelligence.

SEC. 617. No department, agency, or instrumentality of the United States receiving appropriated funds under this or any other Act for the current fiscal year shall obligate or expend any such funds, unless such department, agency, or instrumentality has in place, and will continue to administer in good faith, a written policy designed to ensure that all of its workplaces are free from discrimination and sexual harassment and that all of its workplaces are not in violation of title VII of the Civil Rights Act of 1964, as amended, the Age Discrimination in Employment Act of 1967, and the Rehabilitation Act of 1973.

SEC. 618. No part of any appropriation contained in this or any other Act shall be available for the payment of the salary of any officer or employee of the Federal Government, who—

(1) prohibits or prevents, or attempts or threatens to prohibit or prevent, any other officer or employee of the Federal Government from having any direct oral or written communication or contact with any Member, committee, or subcommittee of the Congress in connection with any matter pertaining to the employment of such other officer or employee or pertaining to the department or agency of such other officer or employee in any way, irrespective of whether such communication or contact is at the initiative of such other officer or employee or in response to the request or inquiry of such Member, committee, or subcommittee; or

(2) removes, suspends from duty without pay, demotes, reduces in rank, seniority, status, pay, or performance of efficiency rating, denies promotion to, relocates, reassigns, transfers, disciplines, or discriminates in regard to any employment right, entitlement, or benefit, or any term or condition of employment of, any other officer or employee of the Federal Government, or attempts or threatens to commit any of the foregoing actions with respect to such other officer or employee, by reason of any communication or contact of such other officer or employee with any Member, committee, or subcommittee of the Congress as described in paragraph (1).

SEC. 619. (a) None of the funds made available in this or any other Act may be obligated or expended for any employee training that—

(1) does not meet identified needs for knowledge, skills, and abilities bearing directly upon the performance of official duties;

(2) contains elements likely to induce high levels of emotional response or psychological stress in some participants;

(3) does not require prior employee notification of the content and methods to be used in the training and written end of course evaluation;

(4) contains any methods or content associated with religious or quasi-religious belief systems or “new age” belief systems as defined in Equal Employment Opportunity Commission Notice N-915.022, dated September 2, 1988; or

(5) is offensive to, or designed to change, participants’ personal values or lifestyle outside the workplace.

(b) Nothing in this section shall prohibit, restrict, or otherwise preclude an agency from conducting training bearing directly upon the performance of official duties.

SEC. 620. No funds appropriated in this or any other Act may be used to implement or enforce the agreements in Standard Forms 312 and 4414 of the Government or any other nondisclosure policy, form, or agreement if such policy, form, or agreement does not contain the following provisions: “These restrictions are consistent with and do not supersede, conflict with, or otherwise alter the

employee obligations, rights, or liabilities created by Executive Order No. 12958; section 7211 of title 5, United States Code (governing disclosures to Congress); section 1034 of title 10, United States Code, as amended by the Military Whistleblower Protection Act (governing disclosure to Congress by members of the military); section 2302(b)(8) of title 5, United States Code, as amended by the Whistleblower Protection Act (governing disclosures of illegality, waste, fraud, abuse or public health or safety threats); the Intelligence Identities Protection Act of 1982 (50 U.S.C. 421 et seq.) (governing disclosures that could expose confidential Government agents); and the statutes which protect against disclosure that may compromise the national security, including sections 641, 793, 794, 798, and 952 of title 18, United States Code, and section 4(b) of the Subversive Activities Act of 1950 (50 U.S.C. 783(b)). The definitions, requirements, obligations, rights, sanctions, and liabilities created by said Executive order and listed statutes are incorporated into this agreement and are controlling.”: *Provided*, That notwithstanding the preceding paragraph, a non-disclosure policy form or agreement that is to be executed by a person connected with the conduct of an intelligence or intelligence-related activity, other than an employee or officer of the United States Government, may contain provisions appropriate to the particular activity for which such document is to be used. Such form or agreement shall, at a minimum, require that the person will not disclose any classified information received in the course of such activity unless specifically authorized to do so by the United States Government. Such nondisclosure forms shall also make it clear that they do not bar disclosures to Congress or to an authorized official of an executive agency or the Department of Justice that are essential to reporting a substantial violation of law.

SEC. 621. No part of any funds appropriated in this or any other Act shall be used by an agency of the executive branch, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, and for the preparation, distribution or use of any kit, pamphlet, booklet, publication, radio, television or film presentation designed to support or defeat legislation pending before the Congress, except in presentation to the Congress itself.

SEC. 622. None of the funds appropriated by this or any other Act may be used by an agency to provide a Federal employee's home address to any labor organization except when the employee has authorized such disclosure or when such disclosure has been ordered by a court of competent jurisdiction.

SEC. 623. None of the funds made available in this Act or any other Act may be used to provide any non-public information such as mailing or telephone lists to any person or any organization outside of the Federal Government without the approval of the Committees on Appropriations.

SEC. 624. No part of any appropriation contained in this or any other Act shall be used for publicity or propaganda purposes within the United States not heretofore authorized by the Congress.

SEC. 625. (a) In this section the term “agency” —

(1) means an Executive agency as defined under section 105 of title 5, United States Code;

(2) includes a military department as defined under section 102 of such title, the Postal Service, and the Postal Rate Commission; and

(3) shall not include the General Accounting Office.

(b) Unless authorized in accordance with law or regulations to use such time for other

purposes, an employee of an agency shall use official time in an honest effort to perform official duties. An employee not under a leave system, including a Presidential appointee exempted under section 6301(2) of title 5, United States Code, has an obligation to expend an honest effort and a reasonable proportion of such employee's time in the performance of official duties.

SEC. 626. Notwithstanding 31 U.S.C. 1346 and section 610 of this Act, funds made available for the current fiscal year by this or any other Act to any department or agency, which is a member of the Joint Financial Management Improvement Program (JFMIP), shall be available to finance an appropriate share of JFMIP administrative costs, as determined by the JFMIP, but not to exceed a total of \$800,000 including the salary of the Executive Director and staff support.

SEC. 627. Notwithstanding 31 U.S.C. 1346 and section 610 of this Act, the head of each Executive department and agency is hereby authorized to transfer to or reimburse “General Services Administration, government-wide policy” with the approval of the Director of the Office of Management and Budget, funds made available for the current fiscal year by this or any other Act, including rebates from charge card and other contracts: *Provided*, That these funds shall be administered by the Administrator of General Services to support Government-wide financial, information technology, procurement, and other management innovations, initiatives, and activities, as approved by the Director of the Office of Management and Budget, in consultation with the appropriate inter-agency groups designated by the Director (including the Chief Financial Officers Council and the Joint Financial Management Improvement Program for financial management initiatives, the Chief Information Officers Council for information technology initiatives, and the Federal Acquisition Council for procurement initiatives): *Provided further*, That the total funds transferred or reimbursed shall not exceed \$17,000,000: *Provided further*, That such transfers or reimbursements may only be made 15 days following notification of the Committees on Appropriations by the Director of the Office of Management and Budget.

SEC. 628. None of the funds made available in this or any other Act may be used by the Office of Personnel Management or any other department or agency of the Federal Government to prohibit any agency from using appropriated funds as they see fit to independently contract with private companies to provide online employment applications and processing services.

SEC. 629. Notwithstanding any other provision of law, a woman may breastfeed her child at any location in a Federal building or on Federal property, if the woman and her child are otherwise authorized to be present at the location.

SEC. 630. Notwithstanding section 1346 of title 31, United States Code, or section 610 of this Act, funds made available for the current fiscal year by this or any other Act shall be available for the interagency funding of specific projects, workshops, studies, and similar efforts to carry out the purposes of the National Science and Technology Council (authorized by Executive Order No. 12881), which benefit multiple Federal departments, agencies, or entities: *Provided*, That the Office of Management and Budget shall provide a report describing the budget of and resources connected with the National Science and Technology Council to the Committees on Appropriations, the House Committee on Science; and the Senate Committee on Commerce, Science, and Transportation 90 days after enactment of this Act.

SEC. 631. Any request for proposals, solicitation, grant application, form, notification, press release, or other publications involving the distribution of Federal funds shall indicate the agency providing the funds, the Catalog of Federal Domestic Assistance Number, as applicable, and the amount provided: *Provided*, That this provision shall apply to direct payments, formula funds, and grants received by a State receiving Federal funds.

SEC. 632. Subsection (f) of section 403 of Public Law 103-356 (31 U.S.C. 501 note), as amended, is further amended by striking “October 1, 2004” and inserting “October 1, 2005”.

SEC. 633. (a) PROHIBITION OF FEDERAL AGENCY MONITORING OF INDIVIDUALS' INTERNET USE.—None of the funds made available in this or any other Act may be used by any Federal agency—

(1) to collect, review, or create any aggregation of data, derived from any means, that includes any personally identifiable information relating to an individual's access to or use of any Federal Government Internet site of the agency; or

(2) to enter into any agreement with a third party (including another government agency) to collect, review, or obtain any aggregation of data, derived from any means, that includes any personally identifiable information relating to an individual's access to or use of any nongovernmental Internet site.

(b) EXCEPTIONS.—The limitations established in subsection (a) shall not apply to—

(1) any record of aggregate data that does not identify particular persons;

(2) any voluntary submission of personally identifiable information;

(3) any action taken for law enforcement, regulatory, or supervisory purposes, in accordance with applicable law; or

(4) any action described in subsection (a)(1) that is a system security action taken by the operator of an Internet site and is necessarily incident to the rendition of the Internet site services or to the protection of the rights or property of the provider of the Internet site.

(c) DEFINITIONS.—For the purposes of this section:

(1) The term “regulatory” means agency actions to implement, interpret or enforce authorities provided in law.

(2) The term “supervisory” means examinations of the agency's supervised institutions, including assessing safety and soundness, overall financial condition, management practices and policies and compliance with applicable standards as provided in law.

SEC. 634. (a) None of the funds appropriated by this Act may be used to enter into or renew a contract which includes a provision providing prescription drug coverage, except where the contract also includes a provision for contraceptive coverage.

(b) Nothing in this section shall apply to a contract with—

(1) any of the following religious plans:

(A) Personal Care's HMO; and

(B) OSF Health Plans, Inc.; and

(2) any existing or future plan, if the carrier for the plan objects to such coverage on the basis of religious beliefs.

(c) In implementing this section, any plan that enters into or renews a contract under this section may not subject any individual to discrimination on the basis that the individual refuses to prescribe or otherwise provide for contraceptives because such activities would be contrary to the individual's religious beliefs or moral convictions.

(d) Nothing in this section shall be construed to require coverage of abortion or abortion-related services.

SEC. 635. The Congress of the United States recognizes the United States Anti-Doping

Agency (USADA) as the official anti-doping agency for Olympic, Pan American, and Paralympic sport in the United States.

SEC. 636. None of the funds made available under this or any other Act for fiscal year 2005 shall be expended for the purchase of a product or service offered by Federal Prison Industries, Inc. unless the agency making such purchase determines that such offered product or service provides the best value to the buying agency pursuant to government-wide procurement regulations, issued pursuant to section 25(c)(1) of the Office of Federal Procurement Act (41 U.S.C. 421(c)(1)) that impose procedures, standards, and limitations of section 2410n of title 10, United States Code.

SEC. 637. Each Executive department and agency shall evaluate the creditworthiness of an individual before issuing the individual a government purchase charge card or government travel charge card. The department or agency may not issue a government purchase charge card or government travel charge card to an individual that either lacks a credit history or is found to have an unsatisfactory credit history as a result of this evaluation: *Provided*, That this restriction shall not preclude issuance of a restricted-use charge, debit, or stored value card made in accordance with agency procedures to (a) an individual with an unsatisfactory credit history where such card is used to pay travel expenses and the agency determines there is no suitable alternative payment mechanism available before issuing the card, or (b) an individual who lacks a credit history. Each Executive department and agency shall establish guidelines and procedures for disciplinary actions to be taken against agency personnel for improper, fraudulent, or abusive use of government charge cards, which shall include appropriate disciplinary actions for use of charge cards for purposes, and at establishments, that are inconsistent with the official business of the Department or agency or with applicable standards of conduct.

SEC. 638. Notwithstanding any other provision of law, funds appropriated for official travel by Federal departments and agencies may be used by such departments and agencies, if consistent with Office of Management and Budget Circular A-126 regarding official travel for Government personnel, to participate in the fractional aircraft ownership pilot program.

SEC. 639. None of the funds provided in this Act shall be used to implement or enforce regulations for locality pay areas in fiscal year 2005 that are inconsistent with the recommendations of the Federal Salary Council adopted on October 7, 2003.

SEC. 640. (a) Not later than 180 days after the enactment of this Act, the head of each Federal agency shall submit a report to Congress on the amount of the acquisitions made by the agency from entities that manufacture the articles, materials, or supplies outside of the United States in that fiscal year.

(b) The report required by subsection (a) shall separately indicate—

(1) the dollar value of any articles, materials, or supplies purchased that were manufactured outside of the United States;

(2) an itemized list of all waivers granted with respect to such articles, materials, or supplies under the Buy American Act (41 U.S.C. 10a et seq.); and

(3) a summary of the total procurement funds spent on goods manufactured in the United States versus funds spent on goods manufactured outside of the United States.

(c) The head of each Federal agency submitting a report under subsection (a) shall make the report publicly available to the maximum extent practicable.

SEC. 641. Notwithstanding any other provision of law, none of the funds appropriated or made available under this Act or any other appropriations Act may be used to implement or enforce restrictions or limitations on the Coast Guard Congressional Fellowship Program, or 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).

SEC. 642. Subsection (e) of section 3716 of title 31, United States Code, is amended to read as follows:

“(e)(1) Notwithstanding any other provision of law (including 42 U.S.C. 407 and 1383(d)(1), 30 U.S.C. 923(b), and 45 U.S.C. 231(m), regulation, or administrative limitation, no limitation shall terminate the period within which an offset may be initiated or taken pursuant to this section.

“(2) This section does not apply when a statute explicitly prohibits using administrative offset or setoff to collect the claim or type of claim involved.”.

SEC. 643. Section 453(j) of the Social Security Act (42 U.S.C. 653(j)), is amended by adding at the end the following new paragraph:

“(7) INFORMATION COMPARISONS AND DISCLOSURE TO ASSIST IN FEDERAL DEBT COLLECTION.—

“(A) FURNISHING OF INFORMATION BY THE SECRETARY OF THE TREASURY.—The Secretary of the Treasury shall furnish to the Secretary, on such periodic basis as determined by the Secretary of the Treasury in consultation with the Secretary, information in the custody of the Secretary of the Treasury for comparison with information in the National Directory of New Hires, in order to obtain information in such Directory with respect to persons—

“(i) who owe delinquent nontax debt to the United States; and

“(ii) whose debt has been referred to the Secretary of the Treasury in accordance with 31 U.S.C. 3711(g).

“(B) REQUIREMENT TO SEEK MINIMUM INFORMATION.—The Secretary of the Treasury shall seek information pursuant to this section only to the extent necessary to improve collection of the debt described in subparagraph (A).

“(C) DUTIES OF THE SECRETARY.—

“(i) INFORMATION DISCLOSURE.—The Secretary, in cooperation with the Secretary of the Treasury, shall compare information in the National Directory of New Hires with information provided by the Secretary of the Treasury with respect to persons described in subparagraph (A) and shall disclose information in such Directory regarding such persons to the Secretary of the Treasury in accordance with this paragraph, for the purposes specified in this paragraph. Such comparison of information shall not be considered a matching program as defined in 5 U.S.C. 552a.

“(ii) CONDITION ON DISCLOSURE.—The Secretary shall make disclosures in accordance with clause (i) only to the extent that the Secretary determines that such disclosures do not interfere with the effective operation of the program under this part. Support collection under section 466(b) of this title shall be given priority over collection of any delinquent federal nontax debt against the same income.

“(D) USE OF INFORMATION BY THE SECRETARY OF THE TREASURY.—The Secretary of the Treasury may use information provided under this paragraph only for purposes of collecting the debt described in subparagraph (A).

“(E) DISCLOSURE OF INFORMATION BY THE SECRETARY OF THE TREASURY.—

“(i) PURPOSE OF DISCLOSURE.—The Secretary of the Treasury may make a disclosure under this subparagraph only for purposes of collecting the debt described in subparagraph (A).

“(ii) DISCLOSURES PERMITTED.—Subject to clauses (iii) and (iv), the Secretary of the Treasury may disclose information resulting from a data match pursuant to this paragraph only to the Attorney General in connection with collecting the debt described in subparagraph (A).

“(iii) CONDITIONS ON DISCLOSURE.—Disclosures under this subparagraph shall be—

“(I) made in accordance with data security and control policies established by the Secretary of the Treasury and approved by the Secretary;

“(II) subject to audit in a manner satisfactory to the Secretary; and

“(III) subject to the sanctions under subsection (1)(2).

“(iv) ADDITIONAL DISCLOSURES.—

“(I) DETERMINATION BY SECRETARIES.—The Secretary of the Treasury and the Secretary shall determine whether to permit disclosure of information under this paragraph to persons or entities described in subclause (II), based on an evaluation made by the Secretary of the Treasury (in consultation with and approved by the Secretary), of the costs and benefits of such disclosures and the adequacy of measures used to safeguard the security and confidentiality of information so disclosed.

“(II) PERMITTED PERSONS OR ENTITIES.—If the Secretary of the Treasury and the Secretary determine pursuant to subclause (I) that disclosures to additional persons or entities shall be permitted, information under this paragraph may be disclosed by the Secretary of the Treasury, in connection with collecting the debt described in subparagraph (A), to a contractor or agent of either Secretary and to the Federal agency that referred such debt to the Secretary of the Treasury for collection, subject to the conditions in clause (iii) and such additional conditions as agreed to by the Secretaries.

“(v) RESTRICTIONS ON REDISCLOSURE.—A person or entity to which information is disclosed under this subparagraph may use or disclose such information only as needed for collecting the debt described in subparagraph (A), subject to the conditions in clause (iii) and such additional conditions as agreed to by the Secretaries.

“(F) REIMBURSEMENT OF HHS COSTS.—The Secretary of the Treasury shall reimburse the Secretary, in accordance with subsection (k)(3), for the costs incurred by the Secretary in furnishing the information requested under this paragraph. Any such costs paid by the Secretary of the Treasury shall be considered costs of implementing 31 U.S.C. 3711(g) in accordance with 31 U.S.C. 3711(g)(6) and may be paid from the account established pursuant to 31 U.S.C. 3711(g)(7).”.

SEC. 644. (a) IN GENERAL.—Section 6402 of the Internal Revenue Code of 1986, is amended by redesignating subsections (f) through (k) as subsections (g) through (l), respectively, and by inserting after subsection (e) the following new subsection:

“(f) COLLECTION OF PAST-DUE, LEGALLY ENFORCEABLE STATE UNEMPLOYMENT COMPENSATION DEBTS.—

“(1) IN GENERAL.—Upon receiving notice from any State that a person owes a past-due, legally enforceable State unemployment compensation debt to such State, the Secretary shall, under such conditions as may be prescribed by the Secretary—

“(A) reduce the amount of any overpayment payable to such person by the amount of such unemployment compensation debt;

“(B) pay the amount by which such overpayment is reduced under subparagraph (A)

to such State and notify such State of such person's name, taxpayer identification number, address, and the amount collected; and

“(C) notify the person making such overpayment that the overpayment has been reduced by an amount necessary to satisfy a past-due, legally enforceable State unemployment compensation debt. If an offset is made pursuant to a joint return, the notice under subparagraph (B) shall include the names, taxpayer identification numbers, and addresses of each person filing such return.

“(2) PRIORITIES FOR OFFSET.—Any overpayment by a person shall be reduced pursuant to this subsection—

“(A) after such overpayment is reduced pursuant to—

“(i) subsection (a) with respect to any liability for any internal revenue tax on the part of the person who made the overpayment;

“(ii) subsection (c) with respect to past-due support;

“(iii) subsection (d) with respect to any past-due, legally enforceable debt owed to a Federal agency; and

“(B) before such overpayment is credited to the future liability for any Federal internal revenue tax of such person pursuant to subsection (b). If the Secretary receives notice from a State or States of more than one debt subject to paragraph (1) and/or subsection (e) that is owed by a person to such State or States, any overpayment by such person shall be applied against such debts in the order in which such debts accrued.

“(3) NOTICE; CONSIDERATION OF EVIDENCE.—No State may take action under this subsection until such State—

“(A) notifies the person owing the past-due legally enforceable State unemployment compensation debt that the State proposes to take action pursuant to this section;

“(B) gives such person at least 60 days to present evidence that all or part of such liability is not past-due or not legally enforceable;

“(C) considers any evidence presented by such person and determines that an amount of such debt is past-due and legally enforceable; and

“(D) satisfies such other conditions as the Secretary may prescribe to ensure that the determination made under subparagraph (C) is valid and that the State has made reasonable efforts to obtain payment of such unemployment compensation debt.

“(4) PAST-DUE, LEGALLY ENFORCEABLE STATE UNEMPLOYMENT COMPENSATION DEBT.—For purposes of this subsection, the term ‘past-due, legally enforceable State unemployment compensation debt’ means overpayments of unemployment compensation assessed under the law of a State certified by the Secretary of Labor pursuant to section 3304 of the Internal Revenue Code, which have become final under State law and remain uncollected.

“(5) REGULATIONS.—The Secretary shall issue regulations prescribing the time and manner in which States must submit notices of past-due, legally enforceable State unemployment compensation debt and the necessary information that must be contained in or accompany such notices. The regulations shall specify the minimum amount of debt to which the reduction procedure established by paragraph (1) may be applied. The regulations may require States to pay a fee to the Secretary, which may be deducted from amounts collected, to reimburse the Secretary for the cost of applying such procedure. Any fee paid to the Secretary pursuant to the preceding sentence shall be used to reimburse appropriations which bore all or part of the cost of applying such procedure. The regulations may include a requirement that States submit notices of past-due,

legally enforceable State unemployment compensation debt to the Secretary via the Secretary of Labor in accordance with procedures established by the Secretary of Labor. Such procedures may require States to pay a fee to the Secretary of Labor to reimburse the Secretary of Labor for the costs of applying this subsection. Any such fee shall be established in consultation with the Secretary of the Treasury. Any fee paid to the Secretary of Labor may be deducted from amounts collected and shall be used to reimburse the appropriation account which bore all or part of the cost of applying this subsection.

“(6) ERRONEOUS PAYMENT TO STATE.—Any State receiving notice from the Secretary that an erroneous payment has been made to such State under paragraph (1) shall pay promptly to the Secretary, in accordance with such regulations as the Secretary may prescribe, an amount equal to the amount of such erroneous payment (without regard to whether any other amounts payable to such State under such paragraph have been paid to such State).”.

(b) Disclosure of certain information to States requesting refund offsets for past-due legally enforceable State unemployment compensation debt.

(1) Paragraph (10) of section 6103(l) is amended by striking “(c), (d), or (e)” each place it appears and inserting “(c), (d), (e) or (f)”.

(2) Paragraph (10)(A) of section 6103(l) is amended by inserting “and to officers and employees of the Department of Labor in connection with a reduction under subsection (f) of section 6402” after the words “section 6402”.

(3) The heading of paragraph (10) is amended by striking “subsection (c), (d), or (e) of section 6402” and inserting “subsection (c), (d), (e) or (f) of section 6402”.

(c) CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 6402 is amended by striking “(c), (d), and (e),” and inserting “(c), (d), (e) and (f),”.

(2) Paragraph (2) of section 6402(d) is amended by striking “and before such overpayment is reduced pursuant to subsection (e)” and inserting “and before such overpayment is reduced pursuant to subsections (e) and (f)”.

(3) Subsection (g) of section 6402, as redesignated by subsection (a), is amended by striking “(c), (d) or (e)” and inserting “(c), (d), (e) or (f)”.

(4) Subsection (i) of section 6402, as redesignated by subsection (a), is amended by striking “subsection (c) or (e)” and inserting “subsection (c), (e) or (f)”.

(d) EFFECTIVE DATE.—The amendments made by this section shall be effective as to refunds payable under section 6402 of the Internal Revenue Code on or after the date of enactment.

SEC. 645. (a) The adjustment in rates of basic pay for employees under the statutory pay systems that takes effect in fiscal year 2005 under sections 5303 and 5304 of title 5, United States Code, shall be an increase of 3.5 percent, and this adjustment shall apply to civilian employees in the Department of Defense and the Department of Homeland Security and such adjustments shall be effective as of the first day of the first applicable pay period beginning on or after January 1, 2005.

(b) Notwithstanding section 613 of this Act, the adjustment in rates of basic pay for the statutory pay systems that take place in fiscal year 2005 under sections 5344 and 5348 of title 5, United States Code, shall be no less than the percentage in paragraph (a) as employees in the same location whose rates of basic pay are adjusted pursuant to the statutory pay systems under section 5303 and 5304

of title 5, United States Code. Prevailing rate employees at locations where there are no employees whose pay is increased pursuant to section 5303 and 5304 of title 5 and prevailing rate employees described in section 5343(a)(5) of title 5 shall be considered to be located in the pay locality designated as “Rest of US” pursuant to section 5304 of title 5 for purposes of this paragraph.

(c) Funds used to carry out this section shall be paid from appropriations, which are made to each applicable department or agency for salaries and expenses for fiscal year 2005.

SEC. 646. (a) LIMITATION ON CONVERSION TO CONTRACTOR PERFORMANCE.—None of the funds appropriated by this Act or any other Act shall be available to convert to contractor performance an activity or function of an executive agency, that on or after the date of enactment of this Act, is performed by more than 10 Federal employees unless—

(1) the conversion is based on the result of a public-private competition plan that includes a most efficient and cost effective organization plan developed by such activity or function, in accordance with Office of Management and Budget Circular A-76, as implemented on May 29, 2003; and

(2) the Competitive Sourcing Official determines 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 most efficient organization's personnel-related costs for performance of that activity or function by Federal employees; or

(B) \$10,000,000.

The CHAIRMAN pro tempore. Are there any points of order to this portion of the bill?

POINT OF ORDER

Mr. PETRI. Mr. Chairman, I raise a point of order against section 505.

The CHAIRMAN pro tempore. The gentleman will state his point of order.

Mr. PETRI. Mr. Chairman, I raise a point of order against section 505 on page 117, line 7 through line 10.

This provision violates clause 2 of rule XXI. It changes existing law and, therefore, constitutes legislating on an appropriations bill in violation of House rules.

The CHAIRMAN pro tempore. Does any Member wish to be heard on the point of order?

If not, the Chair is prepared to rule.

This section contains legislative prescription. Therefore, the point of order is sustained. Section 505 is stricken.

POINT OF ORDER

Mr. PETRI. Mr. Chairman, I raise a point of order against the language on page 148, lines 11 through 21.

The CHAIRMAN pro tempore. The gentleman will state his point of order.

Mr. PETRI. The language referred to constitutes a violation of House rule XXI which prohibits provisions, changing existing law in a general appropriations bill, especially since it contains the language “or any other act,” which clearly changes existing law, and includes a proviso relating to a specific determination by the agency which also changes substantive law. This is legislating on an appropriations bill in violation of the rules of the House.

The CHAIRMAN pro tempore. Does any Member wish to be heard on the point of order?

If not, the Chair is prepared to rule.

The Chair finds that this section addresses funds in other acts. This section therefore constitutes legislation in violation of clause 2 of rule XXI. The point of order is sustained. Section 636 is stricken from the bill.

PARLIAMENTARY INQUIRY

Mr. SCOTT of Virginia. Mr. Chairman, I have a parliamentary inquiry. Mr. Chairman, was that section 636?

The CHAIRMAN pro tempore. The gentleman is correct.

POINT OF ORDER

Mr. SOUDER. Mr. Chairman, I make a point of order.

The CHAIRMAN pro tempore. The gentleman will state it.

Mr. SOUDER. Mr. Chairman, I raise a point of order against the fourth proviso under the heading, "High Intensity Drug Trafficking Areas" program on page 85, lines 10 to 19. This provision violates clause 2(b) of House rule XXI and proposes to change existing law within the jurisdiction of the Committee on Government Reform and, therefore, constitutes legislating on an appropriations bill in violation of the House rules.

Mr. Chairman, this provision is clearly authorizing language in appropriations legislation, and I am disappointed that it is in the bill. It directly violates language used in H.R. 2096, the Office of National Drug Control Policy Act 2003.

Not only did this pass the House, it passed our subcommittee and full committee unanimously, which is no small feat. Four major committees of this House either waived or sent additional information into the Committee on Rules, the Committee on Education and Workforce, the Committee on Energy and Commerce, the Committee on the Judiciary, and the Permanent Select Committee on Intelligence. Then it came to the floor of the House and passed unanimously.

So I do not understand why in the relations with other committees they would not have worked with us when they choose to authorize on an appropriations bill.

Let me get to the specifics of this. This has to do with High Intensity Drug Trafficking Areas. What has happened to this program, which was supposed to focus on High Intensity Drug Trafficking Areas, it has become a pork program in many cases to move money around to individual Members' personal HIDTAs. The bill that passed the House unanimously says that will give flexibility to the appropriators, but there has to be a fixed amount that goes to the southwest border HIDTA, which is the number one drug trafficking point we have in the United States, and then next to the seven HIDTAs originally authorized and appropriated by the Committee on Appropriations, and then the rest of the money can be divided; but you have to have some priority system in the HIDTA program.

We have passed this unanimously in the House. We see the changing patterns of drug trafficking. We know we need more HIDTAs. We know we need more money. We have methamphetamine problems across the country. But when we establish a program and we have rules of the House, that needs to be followed.

So I appreciate all of the work that the chairman has done in the drug area, and I regret that I have to make a point of order; but I believe that without this point of order, this bill is in clear violation of the House rules and would also devastate our High Intensity Drug Trafficking Program.

The CHAIRMAN pro tempore. The Chair would remind Members that they should confine their remarks to the point of order.

If no other Member wishes to be heard on this point of order, the Chair is prepared to rule.

The Chair finds that this proviso includes language imparting direction. It therefore constitutes legislation in violation of clause 2 of rule XXI.

The point of order is sustained. The fourth proviso is stricken from the last paragraph that begins on page 84.

POINT OF ORDER

Mr. FRANK of Massachusetts. Mr. Chairman, I make a point of order against section 642 as legislation in an appropriations bill.

The CHAIRMAN pro tempore. Does the gentleman wish to speak on his point of order?

Mr. FRANK of Massachusetts. No, Mr. Chairman. I think it is pretty clear.

The CHAIRMAN pro tempore. Does any other Member wish to be heard?

If not, the Chair is prepared to rule.

The Chair finds that this section directly amends existing law. The section therefore constitutes legislation in violation of clause 2 of rule XXI.

The point of order is sustained. Section 642 is stricken from the bill.

POINT OF ORDER

Mr. FRANK of Massachusetts. Mr. Chairman, I make a point of order that section 643 is legislation in an appropriations bill.

The CHAIRMAN pro tempore. Does the gentleman wish to be heard on his point?

Mr. FRANK of Massachusetts. I make the same argument as I made on the previous point of order.

The CHAIRMAN pro tempore. Does any other Member wish to be heard?

If not, the Chair is prepared to rule.

The Chair finds that this section directly amends existing law. This section therefore constitutes legislation in violation of clause 2 of rule XXI.

The point of order is sustained. Section 643 is stricken from the bill.

POINT OF ORDER

Mr. FRANK of Massachusetts. Mr. Chairman, I make a point of order that section 644 is legislation on an appropriations bill and therefore should be stricken.

The CHAIRMAN pro tempore. The same response?

Mr. FRANK of Massachusetts. Yes, Mr. Chairman.

The CHAIRMAN pro tempore. If there are no other remarks, the Chair is prepared to rule.

The Chair finds that this section directly amends existing law. The section therefore constitutes legislation in violation of clause 2 of rule XXI.

The point of order is sustained. Section 644 is stricken from the bill.

POINT OF ORDER

Mr. SHAYS. Mr. Chairman, I have 11 points of order, and I will try to go through them quickly.

I rise for a point of order against section 407. This provision violates clause 2(b) of the House rule XXI. I could speak longer, but I can end here.

The CHAIRMAN pro tempore. Does any Member wish to be heard on the point of order?

If not, the Chair is prepared to rule.

The Chair finds that this section explicitly supercedes existing law. The section therefore constitutes legislation in violation of clause 2 of rule XXI.

The point of order is sustained. Section 407 is stricken from the bill.

POINT OF ORDER

Mr. SHAYS. Mr. Chairman, I raise a point of order against section 408. This provision violates clause 2(b) of House rule XXI.

The CHAIRMAN pro tempore. Does any Member wish to be heard?

If not, the Chair is prepared to rule.

The Chair finds that this section directly amends existing law. The section therefore constitutes legislation in violation of clause 2 of rule XXI.

The point of order is sustained. Section 408 is stricken from the bill.

POINT OF ORDER

Mr. SHAYS. Mr. Chairman, I raise a point of order against section 409. This provision violates clause 2(b) of House rule XXI.

The CHAIRMAN pro tempore. Does any Member wish to be heard?

If not, the Chair will rule.

The Chair finds that this section explicitly supercedes existing law. The section therefore constitutes legislation in violation of clause 2 of rule XXI.

The point of order is sustained. Section 409 is stricken from the bill.

POINT OF ORDER

Mr. SHAYS. Mr. Chairman, I raise a point of order against section 410. This provision violates clause 2(b) of House rule XXI.

The CHAIRMAN pro tempore. Does any Member wish to be heard?

If not, the Chair is prepared to rule.

The Chair finds that this section explicitly supercedes existing law. The section therefore constitutes legislation in violation of clause 2 of rule XXI.

The point of order is sustained. Section 410 is stricken from the bill.

POINT OF ORDER

Mr. SHAYS. Mr. Chairman, I raise a point of order against section 509. This

provision violates clause 2(b) of House rule XXI.

The CHAIRMAN pro tempore. Does any Member wish to be heard on this point of order?

If not, the Chair is prepared to rule.

The Chair finds that this section contains a legislative contingency. The section therefore constitutes legislation in violation of clause 2 of rule XXI.

The point of order is sustained. Section 509 is stricken from the bill.

POINT OF ORDER

Mr. SHAYS. Mr. Chairman, I raise a point of order against section 510. This provision violates clause 2(b) of House rule XXI.

The CHAIRMAN pro tempore. Does any Member wish to be heard on the point of order?

If not, the Chair is prepared to rule.

The Chair finds that this section expresses a legislative sentiment. The section therefore constitutes legislation in violation of clause 2 of rule XXI.

The point of order is sustained. Section 510 is stricken from the bill.

POINT OF ORDER

Mr. SHAYS. Mr. Chairman, I raise a point of order against section 511. This provision violates clause 2(b) of House rule XXI.

The CHAIRMAN pro tempore. Does any Member wish to be heard on the point of order?

If not, the Chair is prepared to rule.

The Chair finds that this section contains legislative prescription. The section therefore constitutes legislation in violation of clause 2 of rule XXI.

The point of order is sustained. Section 511 is stricken from the bill.

POINT OF ORDER

Mr. SHAYS. Mr. Chairman, I raise a point of order against section 628. This provision violates clause 2(b) of House rule XXI.

The CHAIRMAN pro tempore. Does any Member wish to be heard on this point of order?

If not, the Chair is prepared to rule.

The Chair finds that this section addresses funds in other acts. The section therefore constitutes legislation in violation of clause 2 of rule XXI.

The point of order is sustained. Section 628 is stricken from the bill.

POINT OF ORDER

Mr. SHAYS. Mr. Chairman, I raise a point of order against section 637. This provision violates clause 2(b) of House rule XXI.

The CHAIRMAN pro tempore. Does any Member wish to be heard on the point of order?

If not, the Chair is prepared to rule.

The Chair finds that this section imparts direction. The section therefore constitutes legislation in violation of clause 2 of rule XXI.

The point of order is sustained. Section 637 is stricken from the bill.

POINT OF ORDER

Mr. SHAYS. Mr. Chairman, I raise a point of order against section 640. This

provision violates clause 2(b) of House rule XXI.

The CHAIRMAN pro tempore. Does any Member wish to be heard?

If not, the Chair is prepared to rule.

The Chair finds that this section imparts direction. The section therefore constitutes legislation in violation of clause 2 of rule XXI.

The point of order is sustained. Section 640 is stricken from the bill.

POINT OF ORDER

Mr. SHAYS. Mr. Chairman, finally, and I do appreciate the indulgence of the House and the chairman of the subcommittee, I make a point of order against section 646. This provision violates clause 2(b) of House rule XXI. That is section 646.

The CHAIRMAN pro tempore. Does any Member wish to be heard on the point of order?

If not, the Chair is prepared to rule.

The Chair finds that this section addresses funds in other acts. The section therefore constitutes legislation in violation of clause 2 of rule XXI.

The point of order is sustained. Section 646 is stricken from the bill.

Are there any other points of order to this portion of the bill?

Are there any amendments to this portion of the bill?

AMENDMENT OFFERED BY MR. POMBO

Mr. POMBO. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. POMBO:

At the end of the bill before the short title, insert the following:

SEC. 647. None of the funds made available in this Act shall be available for the development or dissemination by the Federal Highway Administration of any version of a programmatic agreement which regards the Dwight D. Eisenhower National System of Interstate and Defense Highways as eligible for inclusion on the National Register of Historic Places.

□ 2115

Mr. POMBO. Mr. Chairman, my amendment is a simple one. No funds in this bill are to be used by the Federal Highway Administration to pursue a nationwide programmatic agreement that would make part of the Interstate Highway System eligible for inclusion on the National Register Of Historic Places.

I do not question the historic importance of the Interstate Highway System. Things like the Golden Gate and George Washington Bridges are undoubtedly historic elements that should be protected. However, the importance of these elements does not make the entire system something that should be shoehorned into the Historic Preservation Act.

The programmatic agreement has several problems, including the fact that my committee which has exclusive jurisdiction over the National Historic Preservation Act was not included. Another and more basic problem with the programmatic agreement is the fact that it incorrectly assumes that the entire interstate highway sys-

tem is something that should be eligible for inclusion on the register. In other words, including massive public work projects like the interstate system is not consistent with the intent of the Historic Preservation Act.

Little, if anything, would be gained by listing the interstate system on the register and it is becoming more and more obvious that there is a growing effort by some groups to use Federal laws such as the Historic Preservation Act to further a land usage agenda which includes preventing road construction.

Finally and most important, adding another bureaucratic layer by listing the interstate system could have the effect of delaying critical safety improvements in a timely way.

All of this being said, I understand the Federal Highway Administration may attempt to craft an administrative exemption for the interstate system. It is not my intention that my amendment would affect that effort.

Finally, I want to say that dealing with the issue of including the interstate system on the National Register is yet another reason why we need to complete work on the 6-year transportation bill, which will include a strong exemption of the interstate system from the Historic Preservation Act. With that, I ask the support of my amendment.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. Is there further discussion on the amendment?

The question is on the amendment offered by the gentleman from California (Mr. POMBO).

The amendment was agreed to.

AMENDMENT OFFERED BY MS. DELAURO

Ms. DELAURO. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Ms. DELAURO:

At the end of the bill (before the short title), insert the following:

SEC. 647. None of the funds made available in this Act may be used to enter into any contract with an incorporated entity where such entity's sealed bid or competitive proposal shows that such entity is incorporated or chartered in Bermuda, Barbados, the Cayman Islands, Antigua, or Panama.

Ms. DELAURO (during the reading). Mr. Chairman, I ask the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Connecticut?

There was no objection.

Mr. ISTOOK. Mr. Chairman, I ask unanimous consent that debate on this amendment and any amendment thereto be limited to 20 minutes to be equally divided and controlled by the proponents and myself, the opponent.

The CHAIRMAN. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

The CHAIRMAN. The gentlewoman from Connecticut (Ms. DELAURO) will

control 10 minutes. The gentleman from Oklahoma (Mr. ISTOOK) will control 10 minutes in opposition.

The Chair recognizes the gentleman from Connecticut (Ms. DELAURO).

Ms. DELAURO. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment is simple. It would prevent the departments and agencies under this bill from using any funds to contract with American companies which have created shell corporations in tax haven countries in order to avoid paying U.S. taxes. Both the House and the Senate have now passed a similar ban on the Homeland Security Appropriations bill.

Recent data shows that despite costing our government \$5 billion in lost tax revenue, corporate expatriates reaped \$1.4 billion in Federal contracts in 2002 alone. This in the middle of a budget crisis. As a result, this bill lacks sufficient funding for public transit for the Nation's commuters and for Amtrak.

We are struggling to find the resources to fund an ongoing war on terrorism, to equip our first responders, and ensure the safety of our ports and air transit. The notion that we would reward these companies for their bad behavior with taxpayer funded contracts is not only counterintuitive, it offends our values as Americans.

This amendment will not affect existing contracts. Let me repeat that. This amendment will not affect existing contracts. It will simply ensure that in the future we will favor good corporate citizens with government contracts rather than rewarding companies for moving overseas and putting tax paying American companies at a permanent competitive disadvantage.

Failing to pass this amendment will allow companies who reduce their tax burdens by setting up these shell corporations overseas to underbid these good corporate citizens. That hurts American companies who pay their taxes and employ citizens across this Nation.

These companies have made a clear choice to leave this country and not pay their taxes. It is now up to us to make a choice. We should set standards. We should set the tone. We should set the obligation that if they are going to do that and not pay taxes in the United States, then in fact they can not feed at the public trough and get government contracts.

I urge my colleagues to support this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. ISTOOK. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I think it is important that we distinguish what is being claimed from what is actually being sought. I want to read to people so they understand. I want to read to them what this amendment actually says. I ask the gentlewoman that if we have

the wrong copy for any reason, please correct us.

The amendment that is before the House states, "None of the funds made available in this act may be used to enter into any contract with an incorporated entity where such entity's sealed bids or competitive proposal shows that such entities is incorporated or chartered in Bermuda, Barbados, the Cayman Islands, Antigua or Panama."

This is not about corporations that started in the U.S. and went someplace else. This is not about corporations that are necessarily involved in any colorable claim of tax evasion.

This is saying if you are chartered in Bermuda, Barbados, the Cayman Islands, Antigua or Panama, you cannot do business with the United States Government. It does not matter whether you are a big company or a small one. It does not matter whether you are offering lodging or travel services or financial services or what knows what. It does not matter if you ever had a presence in the United States before this time. This is not about jobs that started in the U.S. and have been moved overseas.

No matter what you claim the amendment may be about, it is important that everyone who votes on the amendment reads it and knows what it is really doing.

Now, we could just as easily say, we have got some beefs with France. Why do we not add France to this list? There are a lot of Americans that are unhappy about France. Or we could say maybe somebody does not want America to do business with Italy or South Africa or Luxembourg, Thailand, pick your country. Automatically, automatically under the amendment being offered here we are going to pick out nations and start disqualifying them not based upon any logical claim that they have done something wrong in transferring jobs or trying to evade our tax laws, but that is where they are incorporated.

I think that is a bad policy, Mr. Chairman, and I would ask people to vote against the amendment.

Ms. DELAURO. Mr. Chairman, will the gentleman yield?

Mr. ISTOOK. I yield to the gentleman from Connecticut.

Ms. DELAURO. I thank the gentleman. I appreciate his comments and his argument except that the countries were culled from a list of corporate expatriates and their countries of incorporation. They are the top destinations of corporate tax dodgers. It is also I think important for people to know none are members of the WTO.

Mr. ISTOOK. Reclaiming my time, I thought I was yielding for a question.

The fact that there may be corporate expatriates in these countries does not mean you should disqualify everybody that is in those countries. If you want to get at corporate expatriates, go after them, but do not say that because, maybe, let us pick a number,

maybe it is as high as 5 percent of the companies that are chartered in one of these nations is a corporate expatriate you are disqualifying 100 percent.

I do not know what those ratios are, but I do know the vast majority of companies in these nations are not corporate expatriates. The fact that the list that you have of corporate expatriates say these are their chosen destinations does not mean that everybody in those countries are corporate expatriates.

Ms. DELAURO. Mr. Chairman, will the gentleman yield?

Mr. ISTOOK. Mr. Chairman, no. I do not want running debate.

Just because people that may do a corporate inversion, may choose to go to these countries does not mean that everybody that is in there is. If you live in a country or in a city where there is a lot of crime, it does not mean that you are a criminal. You do not say we will go out and penalize everybody in that community because some among them are people that we do not like. We should not do that to any other country on the Earth.

Mr. Chairman, I reserve the balance of my time.

Ms. DELAURO. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the gentleman would not yield me time and I want to say that, in fact, we have been trying over the last probably 2 years to deal with the issue of corporate expatriates. And, quite frankly, as I said in my opening remarks, we have had success in both the House and the Senate. And they have now passed a civil ban on the Homeland Security Appropriations bill. And that is because the rank and file members of this institution and in the other body realize that, in fact, this is the height of un-Americanism.

These are corporations who try to diminish their tax liabilities by going overseas to places like Bermuda and the Cayman Islands, and they do it for one purpose and one purpose alone, and that is not to pay their fair share of taxes to this country.

We have tried in committee, we have tried in the floor and we have, truly, we have had moderate success and for that I am grateful to my colleagues on both sides of the aisle. But the fact of the matter is that at every opportunity the leadership on the other side of the aisle, the White House, have truly removed, removed the will of the body in their legislation in the bills that have been passed here.

I would say to you that we are going to continue to address this issue. We do need to make a choice. We do have to demonstrate values and what we are about, and whether or not we are going to allow businesses who walk away from their tax obligation and their responsibility to the United States of America, we are going to allow them as we did this here afternoon to be exonerated from legal liability and then we are going to say to them, come back and get government contracts because

your behavior has been so exemplary that we want to reward you with billions and billions of dollars of taxpayers funds.

Do we really believe that that says what this country is all about? It defies logic. Individuals in this Nation and businesses who are good corporate citizens are paying their fair share of taxes. They cannot evade them. They cannot dodge them. Why should these corporations be allowed to do that at a time when we have so few resources that we cannot do anything about health care, about retirement security, about education, about transportation?

□ 2130

I say to my colleagues, those who vote against this amendment surely do have some explaining to do to their constituents and their constituents deserve an answer; and if the answer is they will allow these tax dodgers to be able to get billions of dollars in Federal funds and in contracts, then maybe the constituents ought to think twice when election time rolls around.

Mr. Chairman, I reserve the balance of my time.

Mr. ISTOOK. Mr. Chairman, I have no other speakers except myself to close. I am not sure if the gentlewoman has any other speakers or if she was yielding back her time.

The CHAIRMAN pro tempore (Mr. HASTINGS of Washington). She reserved her time.

Mr. ISTOOK. Mr. Chairman, I reserve my time until closing. I believe I have the right to close.

The CHAIRMAN pro tempore. The gentleman from Oklahoma (Mr. ISTOOK) has the right to close.

Ms. DELAURO. Mr. Chairman, I yield myself the remaining time.

In closing, let me just say I have no other speakers. As I have said, this is an issue of values, and it is an issue of priorities. We talk a lot today about values and what they mean in our lives, what they mean to this country and who, in fact, is the best representation of the fundamentals of this country, as adhered to in its entire history.

If my colleagues want to stand with corporations who have abandoned our country in a time of war and have gone through such elaborate contortions to avoid paying U.S. taxes or they have to look into their souls tonight and say can they stand with those companies who have been good corporate citizens, they employ Americans, they live up to their responsibilities to their Nation, I think if we ask any American citizen, whether they be a Democrat or a Republican, that the answer would be the same. I have to pay my taxes, why do they not?

Let us put this people's House on record. Let us take an opportunity to demonstrate that we are on the side of everyday Americans, middle-class Americans, and let us tell these corporate expatriates, the free ride is over. Vote in favor of this amendment.

Mr. Chairman, I yield back the balance of my time.

Mr. ISTOOK. Mr. Chairman, I yield myself such time as I may consume.

I just want to reiterate that this is not an amendment aimed at corporate inversions. This is not an amendment aimed at expatriating companies from the United States. This is an amendment that says if you are in those countries, you are not only presumed to be guilty, you are judged beyond all doubt that you are guilty and we do not want to do business with you. It is presuming guilt, not presuming innocence. It is making guilt not just an assumption, but an absolute finding that nobody can question.

This would cut off trade between our Nation and Bermuda, Barbados, the Cayman Islands, Antigua, and Panama. Talk about going too far. If my colleagues want to go after companies that were once in the U.S. and moved their headquarters to these, fine, bring an amendment that is targeted that way; but do not say that every business in these countries is disqualified. The vast majority of those in these nations are not corporate expatriates. They are not corporate inversions. My colleagues disqualify every business in those nations, not just those who may have moved their corporate presence out of the United States and into them.

This amendment goes too, too far. It ought to be rejected. It is not what the author purports it to be, and I ask people to reject the amendment accordingly.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentlewoman from Connecticut (Ms. DELAURO).

The question was taken; and the Chairman pro tempore announced that the yeas appeared to have it.

Ms. DELAURO. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentlewoman from Connecticut (Ms. DELAURO) will be postponed.

Are there further amendments?

AMENDMENT OFFERED BY MRS. KELLY

Mrs. KELLY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. KELLY:

At the end of the bill (before the short title), insert the following:

SEC. . The amounts otherwise provided by this Act are revised by increasing the amount made available for "Financial Crimes Enforcement Network—Salaries and Expenses"; and reducing the amount made available for "General Services Administration—Real Property Activities—Federal Buildings Fund" (consisting of a reduction of \$12,750,000 in the amount made available for rental of space and a reduction of \$12,750,000 in the amount made available for building operations); by \$25,500,000.

Mr. ISTOOK. Mr. Chairman, I ask unanimous consent that debate on this amendment and any amendments thereto be limited to 20 minutes to be equally divided and controlled by the proponent and myself, the opponent.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

The CHAIRMAN pro tempore. The gentlewoman from New York (Mrs. KELLY) will control 10 minutes and the gentlewoman is recognized.

Mrs. KELLY. Mr. Chairman, I ask unanimous consent that the amendment be considered as the Kelly-Oxley-Frank-Gutierrez-Royce-Maloney-Lowey amendment.

The CHAIRMAN pro tempore. The Chair would state that the gentlewoman's unanimous consent request does not recognize cosponsors, but we will acknowledge that there are others that are with her on this.

Mrs. KELLY. Mr. Chairman, I yield myself such time as I may consume.

This is a solidly bipartisan amendment to increase funding for the Financial Crimes Enforcement Network within the Treasury Department, which is known as FinCEN.

This amendment increases funding for the Financial Crimes Enforcement Network, FinCEN, by \$25.5 million to provide new tools to expand and improve the agency's ability to combat terrorist financing. This money would be used to secure the appropriate application of state-of-the-art technology that would dramatically improve FinCEN's ability to track terrorist financing and enable the agency to hire very much-needed, full-time employees to improve compliance with the anti-terror finance laws.

Mr. Chairman, I want to thank the gentleman from Oklahoma (Chairman ISTOOK) for allowing me to offer this amendment at this time. I know he recognizes the important role of FinCEN, and he did that by meeting the level requested by the administration at the start of this year, but things have changed since the start of this year. The need for FinCEN to have more money is more acute than was originally thought.

I offer this amendment because I think the modest funding in this bill will not be enough, and that is based on the amount of hearings that we have held and the testimony of the GAO in front of my committee. They testified that FinCEN needs \$25.5 million in order to do the job that FinCEN must do, and that is, to disseminate the information that FinCEN collects to the appropriate agencies. This is a piece of the fight against terrorism.

Mr. Chairman, I yield such time as he might consume to the gentleman from Ohio (Mr. OXLEY), the chairman of the full Committee on Financial Services.

Mr. OXLEY. Mr. Chairman, let me first commend the gentlewoman from New York (Mrs. KELLY) and the other cosponsors for this important legislation.

In late August, our committee held a hearing on the 9/11 Commission recommendations. We heard from the Homeland Security Department, we heard from the Justice Department and

the Treasury Department. A lead witness was our former colleague and good friend, Lee Hamilton from Indiana, who, as my colleagues know, was the vice chair of the 9/11 Commission, vice chair to Governor Kean of New Jersey.

In his testimony, Mr. Hamilton made it very clear that FinCEN not only plays an important logistical and strategic position in determining and finding terrorist financing, but that their desire for new technology and a need for new technology was very much appreciated by the commission. As a result of that testimony, the gentlewoman from New York (Mrs. KELLY), showing excellent leadership having had a number of oversight hearings on terrorist financing, and indeed the gentlewoman from New York (Mrs. KELLY) is one of the real experts in this Congress on terrorist financing, she felt it imperative to introduce this legislation that would provide another \$25 million so FinCEN could provide this kind of information in real-time, working with some 70 other countries to locate, identify, in some cases freeze, or certainly try to recapture those amounts of funding by terrorist groups.

So I come to the floor not only as a cosponsor of the gentlewoman from New York's (Mrs. KELLY) amendment, but as chairman of the Committee on Financial Services to say that clearly Mr. Hamilton made the kind of point that all of us need to listen to. As we will begin our efforts in the Congress to adopt the 9/11 Commission report this month or early next month, this is a first opportunity we have in this vehicle, this appropriations measure to show that the Congress is serious about funding FinCEN with the kind of funding necessary for them to be fully implemented and fully up to speed in terms of technology. That is what this amendment is about, and I commend the gentlewoman.

Twenty-five million dollars in the overall scheme of things in an appropriation is not a lot of money, but FinCEN is not a large government bureaucracy. It is a very effective, relatively small group that does an excellent job.

So I stand here in strong support of the gentlewoman from New York's (Mrs. KELLY) amendment.

Mrs. KELLY. Mr. Chairman, I reserve the balance of my time.

Mr. ISTOOK. Mr. Chairman, I reserve the balance of my time to close.

Mrs. KELLY. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois (Mr. GUTIERREZ).

Mr. GUTIERREZ. Mr. Chairman, I am proud to offer along with my colleagues an amendment to increase funding by \$25.5 million for the Financial Crimes Enforcement Network, an agency that is critically important to our efforts to combat terrorist financing and money laundering.

I am pleased to work, once again, with the gentlewoman from New York (Mrs. KELLY), my cochair on the congressional Anti-Terrorist Financing

Task Force. We have also worked on these issues in our roles on the oversight subcommittee in the Committee on Financial Services, and I thank her for her leadership on these issues which are so important to both of us.

Since its establishment in 1990, FinCEN has been dedicated to collecting, analyzing, and distributing financial data to help identify and trace financial intersection of potential criminal and terrorist activity. While FinCEN is a small agency with relatively little funding, the agency is at the center of our Nation's anti-money laundering infrastructure, supporting the critical work of the financial services, law enforcement and intelligence communities.

Recently, the 9/11 Commission stressed the importance of building global alliances. FinCEN also plays a key role in our country's international efforts to trace illicit money by actively promoting coordination with other countries. The agency chairs a global network of 94 countries that works to improve funding and information sharing and interaction.

Increasing funding for FinCEN by a small amount would have a significant impact on our government's ability to fight the global war against terrorism. In fact, it is estimated that the agency needs \$25 million to expand and improve its capabilities. It will help FinCEN secure the appropriate application of state-of-the-art technology that would dramatically improve its ability to track and expose terrorist financing.

I hope we can all join in adding this very, very necessary \$25.5 million.

Mrs. KELLY. Mr. Chairman, I yield 2 minutes to the gentlewoman from New York (Mrs. MALONEY), my colleague.

□ 2145

Mrs. MALONEY. Mr. Chairman, I thank the gentlewoman for yielding me this time and for her leadership on oversight terrorist financing and money laundering; and, in fact, she has spearheaded a leadership role on an Anti-Terrorism Task Force on which I serve.

Mr. Chairman, this is a very, very important amendment. FinCEN is currently a small bureau of the Treasury Department, but it has suddenly been put into the position of being at the very center of the government effort to combat terrorist financing. If the 9/11 Commission recommendations were implemented, and I firmly support all 41 of the recommendations and have introduced legislation to implement them, FinCEN would be required by the government to analyze and distribute financial information for all of the United States Government. They have very few members now in their area, and this money is needed for the technology and the infrastructure and the personnel to complete the task that is being thrust upon them.

FinCEN was underfunded in the budget request, therefore this amendment is very much needed and very

much in order. We know that the terrorists, like any small business, if they are out of money, they are out of business. And if you track the money, you can figure out what is going on.

Mr. Chairman, this is a tremendously important amendment. I support this \$25 million allocation and I hope that my colleagues will join me in supporting it in a bipartisan way.

Mr. ISTOOK. Mr. Chairman, I yield 2½ minutes to the gentleman from Massachusetts (Mr. OLVER).

Mr. OLVER. Mr. Chairman, I thank the gentleman for yielding me this time, and to the Members of this body, we had a request from the President for \$64.5 million for FinCEN. In the chairman's mark at the subcommittee level, the number that the chairman gave for this agency was \$59 or \$60 million, exactly \$60 million. I urged, and persuaded actually, I think, the chairman to raise that to the President's request, to \$64.5 million, because I felt this was a very important agency. It is a front-line agency of the Department of the Treasury for fighting financial crimes and getting at terrorist networks.

Now, the President has never been very shy about asking for large sums of money increases if he really thought that those were necessary. He has asked for some other agencies within this legislation for at least a 50 percent increase in the monies. The amendment that the gentlewoman from New York has now offered has grown since I first heard about it earlier this evening from about \$8 million, which I probably would not have bothered to stand up for, but now it is \$25 million, on top of what is already the President's full request for this agency.

There has been no information given to me, as the ranking member, from any of the people who are saying this is an important thing to do that we need this kind of an increase. I am not quite sure that any agency is able to take a 60 percent increase all at once in an effective kind of a way. I would think it would be much better that we try to work this out in conference and see whether in fact the President's Office of Budget, and so forth, thinks that this is what we ought to be doing at this time.

So at this point, Mr. Chairman, I am going to oppose and vote against the amendment as it has been proposed, as best I understand it, because I have heard no real evidence for how this would be done. No one has come to me as the ranking member to defend this kind of an increase in the amount for this agency.

Mrs. KELLY. Mr. Chairman, how much time do I have remaining?

The CHAIRMAN pro tempore (Mr. HASTINGS of Washington). The gentlewoman from New York has 30 seconds remaining.

Mrs. KELLY. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, the President's request for FinCEN was made prior to several high-profile regulatory failures.

Since then, the 9/11 Commission has testified before our committee, and the Committee on Financial Services has also looked at this and has also considered this legislation. It is very important to FinCEN. It is very important in our fight against the terrorists financing that we give FinCEN the appropriate amount of appropriate money that they deserve. So I urge Members to support my amendment.

Mr. Chairman, I yield back the balance of my time.

Mr. ISTOOK. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I very much appreciate the words of my ranking member, the gentleman from Massachusetts (Mr. OLVER), and I agree with him that this matter is going to ultimately be resolved in conference.

We have had a very tight bill, and I realize that some Members think that, well, because money has been freed up by all these points of order that we can accomplish lots of things now. But when we get back to conference, we have to compare the priority of this proposal with everything else.

FinCEN has already received in this bill a 12.7 percent increase. The administration has not asked us for one penny more. We have given them every penny they have asked for, and if they are communicating with other Members of Congress and not coming to our committee about their financial needs, they are sure going about things the wrong way.

When someone says, well, maybe they need \$8 million more, and then it balloons up to \$25 million more, that is going about things the wrong way. And so I am not going to subject Members of this body to a vote for somebody claiming that this is crucial to fight terrorism when we have not even had a proposal from the administration that reflects how supposedly this money would be spent to do that.

We will take care of the needs of FinCEN, the legitimate needs, in conference. We will make sure that the effort to combat the financial network of terrorism is fully funded. But to say on the spur of the moment, and to suddenly have a sky-is-falling mentality that if they do not get a 40 percent increase in a brand new agency, far more than they have asked for, I think, is going way overboard.

Mr. Chairman, I do not think this issue has been well handled, because if the administration wanted more money for this, they would have come to the Committee on Appropriations. They have not done so. Like I say, I am not going to subject Members to a vote on this because somebody might think that somehow they are voting against terrorism, but it will be resolved in a correct manner in the conference committee.

We have given this agency a 12.7 percent increase already, every penny that they were asking for. And people can always say things have changed since then, but we would have heard from

the administration if they wanted this change, and we have not heard from them on the Committee on Appropriations.

Mr. Chairman, I urge Members to vote this down. We have other needs that need to be done. We do not need to give an agency more money than they can consume just because people claim if you do not do it you are not against terrorism. I urge opposition to this amendment.

Mrs. MALONEY. Mr. Chairman, I rise in support of the amendment to increase funding for the Financial Crimes Enforcement Network (FinCEN), an agency that is critically important to our efforts to combat terrorist financing and money laundering. I am pleased to offer this amendment together with a bipartisan group of my colleagues from the Financial Services Committee.

As a co-founder of the 9/11 Commission Caucus, dedicated to implementing the recommendations of the 9/11 Commission, I am also a strong supporter of this amendment because it is an important step in that direction.

In its Report, the 9/11 Commission made clear recommendation on how best to fight terrorism in the financial arena: "Follow the Money."

That is the mission of FinCEN, which is dedicated to collecting, analyzing and disseminating financial data for the purpose of combating crime.

The Commission's recommendation puts FinCEN in the limelight, and requires a relatively small Treasury bureau with little funding to assume a key role in fighting terrorism.

FinCEN is essential—as never before—to the work of the intelligence, law enforcement, and financial services communities in tracing terrorist money and disrupting potential terrorist action.

The 9/11 Commission also advised that we cannot succeed in combating terrorist funding without building global alliances.

FinCEN is the United States' voice in that effort.

The present appropriation to FinCEN does not adequately provide for the bureau to assume the responsibilities that have been thrust upon it.

The additional funding provided by this amendment would allow FinCEN to purchase appropriate technology and hire additional staff—steps that would dramatically improve its ability to track terrorist financing and provide critical information to our government and our global allies.

I can think of few investments that are more worth while than this amendment. I ask for your support for additional funding for FinCEN.

Mr. ISTOOK. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentlewoman from New York (Mrs. KELLY).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Mrs. KELLY. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentlewoman from New York (Mrs. KELLY) will be postponed.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments on which further proceedings were postponed in the following order: Amendment No. 3 offered by the gentleman from Ohio (Mr. OXLEY), amendment offered by the gentlewoman from Connecticut (Ms. DeLauro), and amendment offered by the gentlewoman from New York (Mrs. KELLY).

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

AMENDMENT NO. 3 OFFERED BY MR. OXLEY

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on amendment No. 3 offered by the gentleman from Ohio (Mr. OXLEY) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 222, noes 177, not voting 34, as follows:

[Roll No. 452]

AYES—222

Abercrombie	Doggett	Kaptur
Allen	Dooley (CA)	Kennedy (MN)
Andrews	Doyle	Kennedy (RI)
Baca	Dreier	Kildee
Bachus	Edwards	Kilpatrick
Baird	Ehlers	Kind
Baldwin	Emanuel	King (NY)
Beauprez	English	Kolbe
Becerra	Eshoo	Kucinich
Bell	Etheridge	LaHood
Berkley	Evans	Lampson
Berman	Farr	Lantos
Berry	Fattah	Larsen (WA)
Biggart	Filner	Larson (CT)
Bishop (GA)	Flake	Latham
Bishop (NY)	Ford	LaTourrette
Blumenauer	Frank (MA)	Leach
Blunt	Frost	Lee
Boehner	Gilchrest	Levin
Boswell	Gillmor	Lewis (GA)
Brady (PA)	Gonzalez	Lofgren
Brown (OH)	Gordon	Lowe
Brown, Corrine	Green (TX)	Lucas (KY)
Butterfield	Greenwood	Lucas (OK)
Cantor	Grijalva	Lynch
Capps	Gutierrez	Majette
Capuano	Harman	Maloney
Cardin	Hart	Markey
Cardoza	Hastings (FL)	Matheson
Carson (IN)	Hastings (WA)	Matsui
Castle	Hensarling	McCarthy (MO)
Clyburn	Herse	McCarthy (NY)
Cooper	Hill	McCollum
Costello	Hinchey	McCrery
Cummings	Hinojosa	McDermott
Davis (AL)	Hoeffel	McGovern
Davis (CA)	Holt	McNulty
Davis (FL)	Honda	Meehan
Davis (IL)	Hoolley (OR)	Meek (FL)
Davis (TN)	Hoyer	Meeks (NY)
Davis, Tom	Hulshof	Menendez
DeGette	Inslee	Michaud
Delahunt	Israel	Millender-
DeLauro	Jackson (IL)	McDonald
Deutsch	Jackson-Lee	Miller (NC)
Diaz-Balart, L.	(TX)	Miller, George
Diaz-Balart, M.	Jefferson	Mollohan
Dicks	Jones (OH)	Moore
Dingell	Kanjorski	Moran (VA)

Nadler
Napolitano
Neal (MA)
Ney
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Oxley
Pallone
Pascarell
Pastor
Payne
Pearce
Pelosi
Pickering
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Quinn
Rahall

Rangel
Reyes
Rodriguez
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Sabó
Sánchez, Linda
T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Sherman
Skelton
Smith (WA)
Snyder
Solis
Spratt
Stark

Strickland
Stupak
Tauscher
Terry
Thompson (CA)
Thompson (MS)
Tiberi
Tierney
Toomey
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Walsh
Waters
Watson
Watt
Waxman
Weller
Wexler
Wilson (NM)
Wilson (SC)
Woolsey
Wu
Wynn

Sherwood
Slaughter
Tauszin

Taylor (MS)
Towns
Weiner

Young (AK)

Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-
McDonald
Miller, George
Mollohan
Moore
Nadler
Napolitano
Neal (MA)
Northup
Oberstar
Obey
Olver

Ortiz
Pallone
Pascarell
Pastor
Payne
Pelosi
Peterson (MN)
Rahall
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Sabó
Sánchez, Linda
T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Shays

Sherman
Simmons
Skelton
Smith (NJ)
Smith (WA)
Snyder
Solis
Stark
Stearns
Stenholm
Strickland
Stupak
Tauscher
Thompson (CA)
Thompson (MS)
Tierney
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Watson
Watt
Waxman
Wexler
Woolsey
Wu
Wynn

NOES—177

Aderholt
Akin
Alexander
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Bilirakis
Bishop (UT)
Blackburn
Bonilla
Bono
Boozman
Boucher
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite,
Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Capito
Carson (OK)
Carter
Case
Chabot
Chandler
Chocola
Coble
Cole
Collins
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Deal (GA)
DeFazio
DeLay
DeMint
Doolittle
Duncan
Emerson
Feeney
Ferguson
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly

Garrett (NJ)
Gerlach
Gibbons
Gingrey
Goode
Goodlatte
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hayes
Hayworth
Hefley
Herger
Hobson
Hoekstra
Holden
Hostettler
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
King (IA)
Kingston
Kirk
Kline
Knollenberg
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Manzullo
Marshall
McCotter
McHugh
McIntyre
McKeon
Mica
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
Northup
Norwood
Otter

Paul
Pence
Peterson (MN)
Peterson (PA)
Petri
Pitts
Platts
Pombo
Putnam
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rohrabacher
Royce
Ryan (OH)
Ryan (WI)
Ryun (KS)
Saxton
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Stenholm
Sullivan
Sweeney
Tancredo
Tanner
Taylor (NC)
Thomas
Thornberry
Tiahrt
Turner (OH)
Upton
Visclosky
Vitter
Walden (OR)
Wamp
Weldon (FL)
Weldon (PA)
Whitfield
Wicker
Wolf
Young (FL)

NOT VOTING—34

Ackerman
Baker
Ballenger
Boehrlert
Bonner
Cannon
Clay
Conyers
Crowley

Dunn
Engel
Everett
Gephardt
Goss
Houghton
John
Johnson, E. B.
Klecza

Langevin
McInnis
Miller (FL)
Murtha
Nethercutt
Owens
Rogers (MI)
Schrock
Serrano

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (Mr. HASTINGS of Washington) (during the vote). Members are advised that 2 minutes remain in this vote.

□ 2220

Mr. LIPINSKI and Mrs. CAPITO changed their vote from “aye” to “no.”
Mr. BROWN of Ohio and Ms. SCHAKOWSKY changed their vote from “no” to “aye.”

So the amendment was agreed to.
The result of the vote was announced as above recorded.

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, the remainder of this series will be conducted as 5-minute votes.

AMENDMENT OFFERED BY MS. DELAURO

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on the amendment offered by the gentlewoman from Connecticut (Ms. DELAURO) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will designate the amendment.

The Clerk designated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 189, noes 211, not voting 33, as follows:

[Roll No. 453]

AYES—189

Abercrombie
Allen
Andrews
Baca
Baird
Baldwin
Bass
Becerra
Bell
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Boswell
Boucher
Bradley (NH)
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Chandler
Clyburn
Cooper
Costello
Cummings
Davis (AL)
Davis (CA)
Davis (FL)

Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dingell
Doggett
Doyle
Duncan
Edwards
Emanuel
Eshoo
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gonzalez
Goode
Gordon
Green (TX)
Grijalva
Gutierrez
Harman
Hastings (FL)
Hayes
Herseht
Hill
Hinchey
Hinojosa
Hoefel

Holden
Holt
Honda
Hooey (OR)
Hoyer
Hunter
Inslee
Israel
Jackson (IL)
Jackson-Lee
(TX)
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kucinich
Lampson
Lantos
Larsen (WA)
Larson (CT)
Latham
Lee
Levin
Lewis (GA)
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lynch
Majette

Aderholt
Akin
Alexander
Bachus
Barrett (SC)
Bartlett (MD)
Barton (TX)
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehner
Bonilla
Bono
Boozman
Boyd
Brady (TX)
Brown (SC)
Brown-Waite,
Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cantor
Capito
Carter
Case
Castle
Chabot
Chocola
Coble
Cole
Collins
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dooley (CA)
Doolittle
Dreier
Ehlers
Emerson
English
Etheridge
Feeney
Ferguson
Flake
Foley
Forbes
Fossella

NOES—211

Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goodlatte
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Hulshof
Hyde
Isakson
Issa
Istook
Jefferson
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
Lucas (OK)
Manzullo
McCotter
McCrery
McHugh
McKeon
Mica
Miller (MI)
Miller (NC)
Miller, Gary
Moran (KS)
Moran (VA)
Murphy
Musgrave
Myrick
Neugebauer

Ney
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ryan (WI)
Ryun (KS)
Saxton
Sensenbrenner
Sessions
Shadegg
Shaw
Shimkus
Shuster
Simpson
Smith (MI)
Smith (TX)
Souder
Spratt
Sullivan
Sweeney
Tancredo
Tanner
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Waters
Weldon (FL)

Weldon (PA) Wicker Wolf
Weller Wilson (NM) Young (FL)
Whitfield Wilson (SC)

NOT VOTING—33

Ackerman Everett Nethercutt
Baker Gephardt Owens
Ballenger Goss Schrock
Boehlert Houghton Serrano
Bonner John Sherwood
Cannon Johnson, E. B. Slaughter
Clay Kleczka Tauzin
Conyers Langevin Taylor (MS)
Crowley McInnis Towns
Dunn Miller (FL) Weiner
Engel Murtha Young (AK)

ANNOUNCEMENT BY THE CHAIRMAN PRO
TEMPORE

The CHAIRMAN pro tempore (during the vote). Members are advised that 2 minutes remain in this vote.

□ 2228

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MRS. KELLY

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on the amendment offered by the gentlewoman from New York (Mrs. KELLY) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will designate the amendment.

The Clerk designated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 360, noes 37, not voting 36, as follows:

[Roll No. 454]

AYES—360

Abercrombie Brown-Waite, Davis, Jo Ann
Akin Ginny DeFazio
Alexander Burgess DeGette
Allen Burns Delahunt
Andrews Burr DeLauro
Baca Butterfield DeLay
Bachus Buyer DeMint
Baird Calvert Deutsch
Baldwin Camp Diaz-Balart, L.
Barrett (SC) Cantor Diaz-Balart, M.
Bartlett (MD) Capito Dicks
Barton (TX) Capps Dingell
Bass Capuano Doggett
Beauprez Cardin Dooley (CA)
Becerra Cardoza Doolittle
Bell Carson (IN) Doyle
Berkley Carson (OK) Dreier
Berman Carter Edwards
Berry Case Ehlers
Biggert Castle Emanuel
Bilirakis Chabot Emerson
Bishop (GA) Chandler Eshoo
Bishop (NY) Chocola Etheridge
Bishop (UT) Clyburn Evans
Blackburn Cole Farr
Blumenauer Cooper Fattah
Blunt Costello Feeney
Boehner Cox Ferguson
Bono Cramer Filner
Boozman Crane Flake
Boswell Crenshaw Foley
Boucher Cubin Forbes
Boyd Culberson Ford
Bradley (NH) Cummings Fossella
Brady (PA) Davis (AL) Frank (MA)
Brady (TX) Davis (CA) Franks (AZ)
Brown (OH) Davis (FL) Frelinghuysen
Brown (SC) Davis (IL) Frost
Brown, Corrine Davis (TN) Gallegly

Garrett (NJ) Lofgren
Gerlach Lowey
Gibbons Lucas (KY)
Gilchrest Lucas (OK)
Gillmor Lynch
Gingrey Majette
Gonzalez Maloney
Goodlatte Manzullo
Gordon Markey
Granger Marshall
Graves Matheson
Green (TX) McCarthy (MO)
Green (WI) McCarthy (NY)
Greenwood McCollum
Grijalva McCotter
Gutierrez McCrery
Gutknecht McDermott
Hall McGovern
Harman McHugh
Harris McIntyre
Hart McKeon
Hastings (FL) McNulty
Hastings (WA) Meehan
Hayworth Meek (FL)
Hefley Meeks (NY)
Hensarling Menendez
Herger Mica
Herseth Michaud
Hill Millender
Hinchey McDonald
Hinojosa Miller (MI)
Hobson Miller (NC)
Hoeffel Miller, Gary
Hoekstra Miller, George
Holden Moore
Holt Moran (KS)
Honda Murphy
Hoolley (OR) Musgrave
Hoyer Nadler
Hulshof Napolitano
Hunter Neal (MA)
Hyde Neugebauer
Inslee Ney
Isakson Northup
Israel Nunes
Issa Nussle
Jackson (IL) Obey
Jackson-Lee (TX) Ortiz
Jefferson Osborne
Jenkins Ose
Johnson (CT) Otter
Johnson (IL) Oxley
Jones (OH) Pallone
Kanjorski Pascarell
Kaptur Payne
Keller Pearce
Kelly Pelosi
Kennedy (MN) Pence
Kennedy (RI) Peterson (MN)
Kildee Peterson (PA)
Kilpatrick Pitts
Kind Platts
King (NY) Pombo
Kirk Pomeroy
Kline Porter
Kolbe Portman
Kucinich Price (NC)
LaHood Pryce (OH)
Lampson Putnam
Lantos Quinn
Larsen (WA) Radanovich
Larson (CT) Rahall
Latham Ramstad
LaTourette Rangel
Leach Regula
Lee Rehberg
Levin Renzi
Lewis (GA) Reyes
Lewis (KY) Reynolds
Linder Rodriguez
Lipinski Rogers (AL)
LoBiondo Rogers (KY)
Rogers (MI)

NOES—37

Aderholt Jones (NC)
Burton (IN) King (IA)
Coble Kingston
Collins Knollenberg
Cunningham Lewis (CA)
Davis, Tom Mollohan
Deal (GA) Moran (VA)
Duncan Myrick
Goode Norwood
Hayes Oberstar
Hostettler Oliver
Istook Pastor
Johnson, Sam Paul

Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sánchez, Linda
T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (NC)
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Vitter
Walden (OR)
Walsh
Wamp
Watson
Watt
Waxman
Weldon (PA)
Weller
Wexler
Wilson (NM)
Wolf
Woolsey
Wu
Wynn
Young (FL)

NOT VOTING—36

Ackerman English Murtha
Baker Everett Nethercutt
Ballenger Gephardt Owens
Boehlert Goss Schrock
Bonilla Houghton Serrano
Bonner John Sherwood
Cannon Johnson, E. B. Slaughter
Clay Kleczka Tauzin
Conyers Langevin Taylor (MS)
Crowley Matsui Towns
Dunn McInnis Weiner
Engel Miller (FL) Young (AK)

ANNOUNCEMENT BY THE CHAIRMAN PRO
TEMPORE

The CHAIRMAN pro tempore (Mr. HASTINGS of Washington) (during the vote). Members are advised that 2 minutes remain in this vote.

□ 2236

So the amendment was agreed to.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Chairman, on Tuesday, September 14, 2004, I was granted an official leave of absence as a result of my illness. Therefore, I was unable to make rollcall votes 444 to 454.

Had I been here, I would have voted “no” for rollcall No. 444, providing for consideration of the bill (H.R. 4571) to amend rule 11 of the Federal Rules of Civil Procedure to improve attorney accountability; “no” for rollcall No. 445, H.R. 3369, Nonprofit Athletic Organization Protection Act; “aye” for rollcall No. 446, H.R. 1787, Good Samaritan Volunteer Firefighter Assistance Act; “aye” for rollcall No. 447, H.R. 1084, Volunteer Pilot Organization Protection Act; “aye” for rollcall No. 448, the Turner Substitute Amendment; “aye” for rollcall No. 449, On Motion to Recommit with Instructions; “no” for rollcall No. 450, H.R. 4571, Lawsuit Abuse Reduction Act; “yes” for rollcall No. 451, on Ordering the Previous Question; “yes” for rollcall No. 452, the Oxley Amendment; “yes” for rollcall No. 453, the DeLauro Amendment; “yes” for rollcall No. 454, the Kelly Amendment.

Mr. ISTOOK. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. KLINE) having assumed the chair, Mr. HASTINGS of Washington, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5025) making appropriations for the Departments of Transportation and Treasury, and independent agencies for the fiscal year ending September 30, 2005, had come to no resolution thereon.

LIMITATION ON AMENDMENTS
DURING FURTHER CONSIDERATION
OF H.R. 5025, TRANSPORTATION,
TREASURY, AND INDEPENDENT AGENCIES
APPROPRIATIONS ACT, 2005

Mr. ISTOOK. Mr. Speaker, I ask unanimous consent that during further consideration of H.R. 5025 in the Committee of the Whole pursuant to House Resolution 770, no amendment to the bill may be offered except: