

terms and conditions that are being sought from foreign air carriers.

“(C) For purposes of this subsection, the Postal Service shall use a methodology for determining fair and reasonable prices for the Postal Service designated region or regions developed in consultation with, and with the concurrence of, certificated air carriers representing at least 51 percent of available ton miles in the markets of interest.

“(D) For purposes of this subsection, ceiling prices determined pursuant to the methodology used under subparagraph (C) shall be presumed to be fair and reasonable if they do not exceed the ceiling prices derived from—

“(i) a weighted average based on market rate data furnished by the International Air Transport Association or a subsidiary unit thereof; or

“(ii) if such data are not available from those sources, such other neutral, regularly updated set of weighted average market rates as the Postal Service, with the concurrence of certificated air carriers representing at least 51 percent of available ton miles in the markets of interest, may designate.

“(E) If, for purposes of subparagraph (D)(ii), concurrence cannot be attained, then the most recently available market rate data described in this subparagraph shall continue to apply for the relevant market or markets.

“(2) CONTRACT PROCESS.—The Postal Service shall contract for foreign air transportation as set forth in paragraph (1) through an open procurement process that will provide—

“(A) potential offerors with timely notice of business opportunities in sufficient detail to allow them to make a proposal;

“(B) requirements, proposed terms and conditions, and evaluation criteria to potential offerors; and

“(C) an opportunity for unsuccessful offerors to receive prompt feedback upon request.

“(3) EMERGENCY OR UNANTICIPATED CONDITIONS; INADEQUATE LIFT SPACE.—The Postal Service may enter into contracts to transport mail by air in foreign air transportation with a certificated air carrier or a foreign air carrier without complying with the requirements of paragraphs (b)(1) and (2) if—

“(A) emergency or unanticipated conditions exist that make it impractical for the Postal Service to comply with such requirements; or

“(B) its demand for lift exceeds the space available to it under existing contracts and—

“(i) there is insufficient time available to seek additional lift using procedures that comply with those requirements without compromising the Postal Service's service commitments to its own customers; and

“(ii) the Postal Service first offers any certificated air carrier holding a contract to carry mail between the relevant points the opportunity to carry such excess volumes under the terms of its existing contract.

“(c) GOOD FAITH EFFORT REQUIRED.—The Postal Service and potential offerors shall put a good-faith effort into resolving disputes concerning the award of contracts made under subsection (b).”

(b) CONFORMING AMENDMENTS TO TITLE 49.—

(1) Section 41901(a) is amended by striking “39.” and inserting “39, and in foreign air transportation under section 5402(b) and (c) of title 39.”

(2) Section 41901(b)(1) is amended by striking “in foreign air transportation or”.

(3) Section 41902 is amended—

(A) by striking “in foreign air transportation or” in subsection (a);

(B) by striking subsection (b) and inserting the following:

“(b) STATEMENTS ON PLACES AND SCHEDULES.—Every air carrier shall file with the United States Postal Service a statement showing—

“(1) the places between which the carrier is authorized to transport mail in Alaska;

“(2) every schedule of aircraft regularly operated by the carrier between places described in paragraph (1) and every change in each schedule; and

“(3) for each schedule, the places served by the carrier and the time of arrival at, and departure from, each such place.”;

(C) by striking “subsection (b)(3)” each place it appears in subsections (c)(1) and (d) and inserting “subsection (b)(2)”;

(D) by striking subsections (e) and (f).

(4) Section 41903 is amended by striking “in foreign air transportation or” each place it appears.

(5) Section 41904 is amended—

(A) by striking “to or in foreign countries” in the section heading;

(B) by striking “to or in a foreign country” and inserting “between two points outside the United States”;

(C) by inserting after “transportation,” the following: “Nothing in this section shall affect the authority of the Postal Service to make arrangements with noncitizens for the carriage of mail in foreign air transportation under subsections 5402(b) and (c) of title 39.”

(6) Section 41910 is amended by striking the first sentence and inserting “The United States Postal Service may weigh mail transported by aircraft between places in Alaska and make statistical and administrative computations necessary in the interest of mail service.”

(7) Chapter 419 is amended—

(A) by striking sections 41905, 41907, 41908, and 41911; and

(B) redesignating sections 41906, 41909, 41910, and 49112 as sections 41905, 41906, 41907, and 41908, respectively.

(8) The chapter analysis for chapter 419 is amended by redesignating the items relating to sections 41906, 41909, 41910, and 49112 as relating to sections 41905, 41906, 41907, and 41908, respectively.

(9) Section 101(f) of title 39, United States Code, is amended by striking “mail and shall make a fair and equitable distribution of mail business to carriers providing similar modes of transportation services to the Postal Service.” and inserting “mail.”

(10) Subsections (b) and (c) of section 3401 of title 39, United States Code, are amended—

(A) by striking “at rates fixed and determined by the Secretary of Transportation in accordance with section 41901 of title 49” and inserting “or, for carriage of mail in foreign air transportation, other air carriers, air taxi operators or foreign air carriers as permitted by section 5402 of this title”;

(B) by striking “at rates not to exceed those so fixed and determined for scheduled United States air carriers”;

(C) by striking “scheduled” each place it appears and inserting “certificated”;

(D) by striking the last sentence in each such subsection.

(11) Section 5402(a) of title 39, United States Code, is amended—

(A) by inserting “‘foreign air carrier.’” after “‘interstate air transportation,’” in paragraph (2);

(B) by redesignating paragraphs (7) through (23) as paragraphs (8) through (24) and inserting after paragraph (6) the following:

“(7) the term ‘certificated air carrier’ means an air carrier that holds a certificate of public convenience and necessity issued under section 41102(a) of title 49;”;

(C) by redesignating paragraphs (9) through (24), as redesignated, as paragraphs

(10) through (25), respectively, and inserting after paragraph (8) the following:

“(9) the term ‘code-share relationship’ means a relationship pursuant to which any certificated air carrier or foreign air carrier’s designation code is used to identify a flight operated by another air carrier or foreign air carrier;”;

(D) by inserting “foreign air carrier,” after “terms” in paragraph (2).

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2008.

## AUTHORIZING THE PRODUCTION OF RECORDS

### AUTHORIZING TESTIMONY AND LEGAL REPRESENTATION

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the Senate proceed en bloc to the immediate consideration of S. Res. 686 and S. Res. 687, which were submitted earlier today.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the measures en bloc.

Thereupon, the Senate proceeded to consider the resolutions en bloc.

S. RES. 686

Mr. REID. Mr. President, the office of Senator CHRISTOPHER S. BOND has received a U.S. request from the U.S. Department of Justice for records regarding a former employee that may be relevant to its investigation into improper activities by lobbyists. The Justice Department has advised that its request arises from its belief that Senator BOND himself was an innocent victim of potentially improper conduct by lobbyists and former staff. Senator BOND seeks to comply with this request. Accordingly, in keeping with Senate rules and practice, this resolution would authorize the office of Senator BOND to produce documents for use in this investigation.

S. RES. 687

Mr. REID. Mr. President, this resolution concerns a request for testimony and representation in a criminal action pending before the Sixth Judicial Circuit Court, Oakland County, MI, in which the defendant is charged with two counts: malicious use of telecommunications services and possession of a firearm by a felon. The first count arises out of a threatening telephone conversation the defendant had with a member of Senator STABENOW's staff. The prosecuting attorney has subpoenaed that staff member for the trial, which is likely to be held in the first week of November 2008. Senator STABENOW would like to cooperate by providing testimony from that staff member. This resolution would authorize that staff member, and any other employee of Senator STABENOW's office from whom evidence may be required, to testify in connection with this action, with representation by the Senate Legal Counsel.

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the resolutions be agreed to, the preambles be

agreed to en bloc, and the motions to reconsider be laid upon the table.

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

The resolutions (S. Res. 686 and 687) were agreed to.

The preambles were agreed to.

The resolutions, with their preambles, read as follows:

#### S. RES. 686

Whereas, the United States Department of Justice is conducting an investigation into improper activities by lobbyists and related matters;

Whereas, the Office of Senator Christopher S. Bond has received a request for records from the Department of Justice for use in the investigation of a former employee;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by administrative or judicial process, be taken from such control or possession but by permission of the Senate; and

Whereas, when it appears that evidence under the control or in the possession of the Senate is needed for the promotion of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now therefore, be it

*Resolved*, That the Office of Senator Christopher S. Bond is authorized to provide to the United States Department of Justice records requested for use in legal and investigatory proceedings, except where a privilege should be asserted.

#### S. RES. 687

Whereas, in the case of *People of the State of Michigan v. Sereal Leonard Gravlin* (Case No. 08-007750), pending in, the Sixth Judicial Circuit Court (Oakland County, Michigan), the prosecuting attorney has subpoenaed testimony from Ruth Gallop, an employee in the office of Senator Debbie Stabenow;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2), the Senate may direct its counsel to represent employees of the Senate with respect to any subpoena, order, or request for testimony relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial or administrative process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it

*Resolved*, That Ruth Gallop and any other employee of Senator Stabenow's office from whom testimony may be required are authorized to testify in the case of *People of the State of Michigan v. Sereal Leonard Gravlin*, except concerning matters for which a privilege should be asserted.

SEC. 2. The Senate Legal Counsel is authorized to represent Ruth Gallop and any other employee of the Senator from whom evidence may be required in the action referenced in section one of this resolution.

#### AUTHORIZING TESTIMONY

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consider-

ation of S. Res. 688 which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 688) to authorize testimony in *United States v. Max Obuszewski*, et al.

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. Mr. President, this resolution concerns a request for testimony in a criminal misdemeanor action in Superior Court for the District of Columbia. In this action, protesters have been charged with disruption of Congress for loudly chanting slogans during Senate debate on or about the afternoon of March 12, 2008. A trial is scheduled to commence on September 29, 2008. The prosecution has subpoenaed a doorkeeper of the Senate who witnessed the charged conduct. The Senate Sergeant at Arms would like to cooperate by providing testimony from that employee. This resolution would authorize that employee to testify in connection with this action.

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, and that any statements be printed in the RECORD.

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

The resolution (S. Res. 688) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

#### S. RES. 688

Whereas, in the case of *United States v. Max Obuszewski*, et al., Case No. 2008-CMD-5824, pending in the Superior Court for the District of Columbia, the prosecution has subpoenaed testimony from Justin Beller, an employee in the Office of the Senate Sergeant at Arms;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial or administrative process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it

*Resolved*, That Justin Beller is authorized to testify in the case of *United States v. Max Obuszewski*, et al., except concerning matters for which a privilege should be asserted.

#### AUTHORIZING THE PRINTING OF A REVISED EDITION OF THE SENATE RULES AND MANUAL

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 689 which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 689) to authorize the printing of a revised edition of the Senate Rules and Manual.

There being no objection, the Senate proceeded to consider the resolution.

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the resolution be agreed to, the motions to reconsider be laid upon the table, and that any statements related to this item be printed in the RECORD.

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

The resolution (S. Res. 689) was agreed to, as follows:

#### S. RES. 689

*Resolved*, That—

(1) the Committee on Rules and Administration shall prepare a revised edition of the Senate Rules and Manual for the use of the 110th Congress;

(2) the manual shall be printed as a Senate document; and

(3) in addition to the usual number of documents, 1,500 additional copies of the manual shall be bound, of which—

(A) 500 paperbound copies shall be for the use of the Senate; and

(B) 1,000 copies shall be bound (550 paperbound; 250 nontabbed black skiver; 200 tabbed black skiver) and delivered as may be directed by the Committee on Rules and Administration.

#### SHAWN BENTLEY ORPHAN WORKS ACT OF 2008

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 738, S. 2913.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 2913) to provide a limitation on judicial remedies in copyright infringement cases involving orphan works.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

#### SECTION 1. SHORT TITLE.

*This Act may be cited as the "Shawn Bentley Orphan Works Act of 2008".*

#### SEC. 2. LIMITATION ON REMEDIES IN CASES INVOLVING ORPHAN WORKS.

(a) *LIMITATION ON REMEDIES.*—Chapter 5 of title 17, United States Code, is amended by adding at the end the following:

#### "§514. Limitation on remedies in cases involving orphan works

"(a) *DEFINITIONS.*—In this section, the following definitions shall apply:

"(1) *MATERIALS.*—The term 'materials' includes—

"(A) the records of the Copyright Office that are relevant to identifying and locating copyright owners;

"(B) sources of copyright ownership information and, where appropriate, licensor information, reasonably available to users, including private databases;

"(C) technology tools and expert assistance; and

"(D) electronic databases, including databases that are available to the public through the Internet, that allow for searches of copyrighted works and for the copyright owners of works,