

10, United States Code, to require emergency contraception to be available at all military health care treatment facilities.

S. 2924

At the request of Mr. LEAHY, the names of the Senator from Maine (Ms. COLLINS), the Senator from Montana (Mr. BAUCUS) and the Senator from Hawaii (Mr. INOUE) were added as cosponsors of S. 2924, a bill to reauthorize the Boys & Girls Clubs of America, in the wake of its Centennial, and its programs and activities.

S. 2946

At the request of Ms. STABENOW, the name of the Senator from Minnesota (Mr. FRANKEN) was added as a cosponsor of S. 2946, a bill to direct the Secretary of the Army to take action with respect to the Chicago waterway system to prevent the migration of bighead and silver carps into Lake Michigan, and for other purposes.

S. 2961

At the request of Mr. DODD, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 2961, a bill to provide debt relief to Haiti, and for other purposes.

S. 2977

At the request of Mrs. HUTCHISON, her name was added as a cosponsor of S. 2977, a bill to prohibit the use of Department of Justice funds for the prosecution in Article III courts of the United States of individuals involved in the September 11, 2001 terrorist attacks.

S. 2983

At the request of Mr. SCHUMER, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 2983, a bill to amend the Internal Revenue Code of 1986 to provide an exemption from employer social security taxes with respect to previously unemployed individuals, and to provide a credit for the retention of such individuals for at least 1 year.

S. 2989

At the request of Ms. LANDRIEU, the name of the Senator from New Hampshire (Mrs. SHAHEEN) was added as a cosponsor of S. 2989, a bill to improve the Small Business Act, and for other purposes.

S. 2990

At the request of Mr. DEMINT, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 2990, a bill to establish an earmark moratorium for fiscal years 2010 and 2011.

S. 2998

At the request of Mrs. GILLIBRAND, the names of the Senator from New Jersey (Mr. LAUTENBERG) and the Senator from Illinois (Mr. BURRIS) were added as cosponsors of S. 2998, a bill to temporarily expand the V non-immigrant visa category to include Haitians whose petition for a family-sponsored immigrant visa was approved on or before January 12, 2010.

S. 3003

At the request of Mr. DODD, the name of the Senator from Ohio (Mr. BROWN)

was added as a cosponsor of S. 3003, a bill to enhance Federal efforts focused on public awareness and education about the risks and dangers associated with Shaken Baby Syndrome.

S.J. RES. 27

At the request of Mr. DEMINT, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S.J. Res. 27, a joint resolution proposing a balanced budget amendment to the Constitution of the United States.

S. RES. 400

At the request of Mr. KERRY, the name of the Senator from Colorado (Mr. BENNET) was added as a cosponsor of S. Res. 400, a resolution urging the implementation of a comprehensive strategy to address instability in Yemen.

S. RES. 404

At the request of Mr. FEINGOLD, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. Res. 404, a resolution supporting full implementation of the Comprehensive Peace Agreement and other efforts to promote peace and stability in Sudan, and for other purposes.

S. RES. 409

At the request of Mr. FEINGOLD, the names of the Senator from Connecticut (Mr. LIEBERMAN), the Senator from Alaska (Mr. BEGICH), the Senator from Florida (Mr. NELSON), the Senator from Pennsylvania (Mr. CASEY) and the Senator from Colorado (Mr. UDALL) were added as cosponsors of S. Res. 409, a resolution calling on members of the Parliament in Uganda to reject the proposed "Anti-Homosexuality Bill", and for other purposes.

S. RES. 416

At the request of Mr. HARKIN, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. Res. 416, a resolution amending the Standing Rules of the Senate to provide for cloture to be invoked with less than a three-fifths majority after additional debate.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DODD (for himself, Mr. MENENDEZ, Ms. MIKULSKI, and Mr. CARDIN):

S. 3015. A bill to amend chapter 53 of title 49, United States Code, to establish a public transportation safety program, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mr. DODD. Mr. President, I rise today to introduce, at the request of the administration and on behalf of my fellow original cosponsors Senator MENENDEZ, Senator MIKULSKI, and Senator CARDIN, the Public Transportation Safety Program Act of 2010. This legislation is designed to provide the Federal Transit Administration with the proper funding and rulemaking, examination, and enforcement authority to improve the safety of our nation's transit systems.

The issue of improving transit safety is a bipartisan issue, on which I think all Members can come to agreement. While this proposal from the administration is a good and appropriate first step in the Federal Government's efforts to improve transit safety, I look forward to working with my cosponsors and all of my colleagues on the Senate Banking Committee to make the final bill, which will emerge from the Senate Banking Committee, the strongest legislation possible for ensuring the safety of our nation's transit systems.

Transit is among the safest modes of transportation. Between 1998 and 2007, incidents on public transportation rail systems fell by half.

But in light of a recent series of high-profile accidents, Americans have grown concerned, and rightfully so. As our Nation's transit systems age, it is becoming increasingly clear that it is time for the Federal government to take a more direct role in their oversight.

Currently, the Federal Transit Administration has limited authority to implement and enforce national transit safety standards and we have gone without a proper national transit safety program for far too long.

Having been handed an unfunded mandate, States have been forced to scrape by with State Safety Oversight boards. Many of these boards lack authority, expertise, a dedicated budget or even full-time employees to monitor safety.

This is unacceptable. This ad hoc approach to transit safety oversight must be replaced with better oversight and clear national transit safety standards. Congress should provide the FTA with the authority and the resources to bring consistency and Federal leadership to our transit safety system. It is our duty to ensure that accidents like those that occurred in 2009 are prevented.

I commend the Administration, particularly Secretary LaHood and administrator Rogoff, for taking a leadership role on this very important issue and sending the proposed legislation to Congress. This proposal is a good start, and I look forward to discussing it with my colleagues.

The Obama administration has indicated its commitment to improving transit safety. It is time for us to do the same.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 3015

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Public Transportation Safety Program Act of 2010".

SEC. 2. PUBLIC TRANSPORTATION SAFETY PROGRAM.

(a) IN GENERAL.—Section 5329 of title 49, United States Code, is amended to read as follows:

“§ 5329. Public transportation safety program

“(a) RAIL FIXED GUIDEWAY SAFETY.—

“(1) PROGRAM.—The Secretary shall, as soon as practicable, establish and implement a public transportation safety program to improve the safety of, and reduce the number and severity of accidents involving, the design, construction, and revenue service operation of rail fixed guideway public transportation systems that receive financial assistance under this chapter.

“(2) EXCLUSION.—This section shall not apply to rail fixed guideway public transportation systems subject to regulation by the Federal Railroad Administration under subtitle V of this title and the Rail Safety Improvement Act of 2008 (Public Law 110-432; 122 Stat. 4848).

“(3) NATIONAL TRANSPORTATION SAFETY BOARD.—When promulgating public safety transportation regulations, the Secretary shall, to the extent practicable, take into consideration relevant recommendations of the National Transportation Safety Board.

“(b) BUS SAFETY.—The Secretary may establish and implement a public transportation safety program to improve the safety of, and reduce the number and severity of accidents involving, public transportation bus systems that receive financial assistance under this chapter in accordance with the provisions of this section.

“(c) REGULATIONS AND ORDERS.—

“(1) IN GENERAL.—The Secretary shall promulgate regulations and issue orders for the safe operation of rail fixed guideway public transportation systems, after appropriate consideration of costs and benefits. The Secretary shall ensure that the regulations establish a Federal certification program for employees and contractors who carry out a State public transportation safety program in compliance with this section and oversee the performance of employees or contractors responsible for performing safety activities identified in such program.

“(2) CONSULTATION BY DHS SECRETARY.—Before prescribing a security regulation or issuing a security order that affects the safety of public transportation design, construction or operations, the Secretary of Homeland Security shall consult with the Secretary.

“(3) WAIVERS.—The Secretary may waive compliance with any part of a regulation promulgated or order issued under this section if the waiver is in the public interest, or a regulation or order issued under this section. The Secretary shall not issue a waiver and shall immediately revoke a waiver if the waiver would not be consistent with the goals and objectives of this section. The Secretary shall make public the reasons for granting or revoking the waiver.

“(d) PREEMPTION.—

“(1) IN GENERAL.—A State may adopt or continue in force a law, regulation, or order related to public transportation safety until the Secretary promulgates a regulation or issues an order covering the subject matter of the State requirement. A State may adopt or continue in force an additional or more stringent law, regulation, or order related to public transportation safety only if the law, regulation, or order—

“(A) has a safety benefit;

“(B) is not incompatible with a law, regulation, or order of the United States Government; and

“(C) does not unreasonably burden interstate commerce.

“(2) DAMAGES.—Nothing in this section shall be construed to preempt an action under State law seeking damages for personal injury, death, or property damage alleging that a party—

“(A) has failed to comply with the Federal standard of care established by a regulation

or order issued by the Secretary under this section;

“(B) has failed to comply with its own program, rule, or standard that it created under a regulation or order issued by the Secretary; or

“(C) has failed to comply with a State law, regulation, or order that is not incompatible with paragraph (1) of this subsection.

“(3) EFFECTIVE DATE.—This subsection shall apply to all State law causes of action arising from events or activities occurring on or after the enactment of this section.

“(4) FEDERAL JURISDICTION.—Nothing in this section creates a Federal cause of action on behalf of an injured party or confers Federal question jurisdiction for State law causes of action.

“(e) SAFETY PROGRAM ACTIVITIES.—

“(1) IN GENERAL.—In carrying out this section, the Secretary may take actions the Secretary considers necessary, including—

“(A) conducting inspections, investigations, audits, examinations, and testing of a public transportation system's equipment, facilities, rolling stock, operations, and persons engaged in the business of a public transportation system;

“(B) delegating to a public entity or other qualified person the conduct of inspections, investigations, audits, examinations, and testing of a public transportation system's equipment, facilities, rolling stock, operations, and persons engaged in the business of a public transportation system;

“(C) making reports, issuing subpoenas, requiring the production of documents, taking depositions, and prescribing recordkeeping and reporting requirements; and

“(D) making grants or entering into agreements—

“(i) for research, development, testing and training of every area of public transportation safety; and

“(ii) to assist a public entity or qualified person in carrying out the delegated activities set forth in subparagraph (B) of this paragraph.

“(2) ACCIDENTS AND INCIDENTS.—Activities authorized under this subsection may be engaged in for safety purposes, including accident and incident prevention and investigation.

“(3) COST SHARING.—The Federal share of a grant awarded or an agreement entered into under paragraph (1)(D) of this section may be up to 100 percent.

“(4) ENTRY.—In carrying out this subsection, an officer or employee of the Secretary, or agent designated by the Secretary under paragraph (1)(B) of this subsection, at reasonable times and in a reasonable way, may enter and inspect public transportation equipment, facilities, rolling stock, operations, and relevant records. When requested, the officer, employee, or the designated agent shall display proper credentials. During an inspection, the officer, employee, or designated agent of the Secretary qualifies as an employee of the United States Government under chapter 171 of title 28.

“(f) STATE PARTICIPATION.—

“(1) SAFETY PROGRAM.—A State may establish and implement a State public transportation safety program through statute and regulation that requires, at a minimum, compliance with the regulations and policies issued by the Secretary under this section and complies with subsection (d) of this section.

“(2) GRANTS.—The Secretary may make grants or enter into agreements under this subsection to carry out a State public transportation safety program, including to train employees necessary to administer and manage the program, and to enforce Federal and State public transportation safety laws, regulations and orders, provided that—

“(A) employees responsible for carrying out the safety oversight functions of a State public transportation safety program meet the safety certification criteria established through regulations issued under subsection (c)(1) of this section;

“(B) a State submits its public transportation safety program, which shall provide a right of entry and inspection to carry out the program, to the Secretary for review and written approval prior to implementing the program; and

“(C) a State submits each amendment to its public transportation safety program to the Secretary for review and written decision at least 60 days before the amendment becomes effective. If a State does not receive a written response from the Secretary by the end of the 60-day period, the amendment shall be deemed to be approved.

“(3) MULTI-STATE REQUIREMENTS.—When a single public transportation authority operates in more than one State, the affected States, if establishing and implementing a public transportation safety program as authorized under this subsection, shall—

“(A) establish and implement the program jointly to ensure uniform safety standards and enforcement procedures that shall be, at a minimum, in compliance with this section and the regulations and policies issued by the Secretary under this section; or

“(B) designate an entity (other than the public transportation authority) to carry out the activities and requirements specified by subparagraph (A) of this paragraph.

“(4) CONFLICT OF INTEREST.—A State may not—

“(A) allocate grant funds awarded under paragraph (1) of this subsection to a State agency or local entity that operates a public transportation system that receives Federal transit assistance;

“(B) allow a State agency or local entity that operates a public transportation system to provide funds to a State agency or an entity designated by the State that is responsible for establishing, implementing, or maintaining a State public transportation safety program; or

“(C) allow a State agency or local entity that operates a public transportation system to participate in the oversight of establishing, implementing, or maintaining a State public transportation safety program.

“(5) COST SHARING.—In the case of a State that implements a safety program under this section, the following applies:

“(A) The Secretary shall reimburse the State from a grant made or agreement entered into under this section, an amount that is up to 100 percent of the costs incurred by the State in a fiscal year for developing, implementing and enforcing a State public transportation safety program.

“(B) The Secretary, through regulations promulgated under this section, shall establish a schedule of reimbursable costs that the Secretary shall use to assist the State in defraying the State's costs of developing, implementing and enforcing a State public transportation safety program.

“(C) To help defray the costs of developing, implementing and enforcing a State public transportation safety program, the State may submit to the Secretary a voucher that does not exceed the amount identified on the schedule of reimbursable costs for an eligible activity.

“(D) The Secretary shall pay the State an amount not more than the Federal Government's share of costs incurred as of the date of the voucher.

“(6) NOTICE OF WITHDRAWAL.—The Secretary shall ensure that the State is carrying out the State public transportation safety program, as follows:

“(A) If the Secretary finds, after notice and opportunity to comment, that the State transportation safety program previously approved is not being followed or has become inadequate to ensure enforcement of the regulations or orders, the Secretary shall withdraw approval of the program and notify the State.

“(B) A State public transportation safety program shall no longer be in effect upon the State's receipt of the Secretary's notice of withdrawal of approval.

“(C) A State receiving notice under subparagraph (A) of this paragraph may seek judicial review of the Secretary's decision under chapter 7 of title 5, United States Code.

“(D) Notwithstanding the withdrawal, a State may retain jurisdiction in administrative and judicial proceedings begun before the withdrawal if the issues involved are not related directly to the reasons for the withdrawal.

“(g) ENFORCEMENT.—

“(1) IN GENERAL.—The Secretary has the authority—

“(A) to establish, impose and compromise a civil penalty for a violation of a public transportation safety regulation promulgated or order issued under this section;

“(B) to establish, impose and compromise a civil penalty for violation of the alcohol and controlled substances testing provisions under section 5331 of this chapter;

“(C) to request an injunction for a violation of a public transportation safety regulation promulgated or order issued under this section; and

“(D) to notify the Attorney General when the Secretary receives evidence of a possible criminal violation under paragraph (5).

“(2) DEPOSIT OF CIVIL PENALTIES.—An amount collected by the Secretary under this section shall be deposited into the General Fund of the United States Treasury.

“(3) ENFORCEMENT BY THE ATTORNEY GENERAL.—At the request of the Secretary, the Attorney General shall bring a civil action—

“(A) for appropriate injunctive relief to ensure compliance with this section;

“(B) to collect a civil penalty imposed or an amount agreed upon in a compromise under paragraph (1) of this subsection; or

“(C) to enforce a subpoena, request for admissions, request for production of documents or other tangible things, or request for testimony by deposition issued by the Secretary under this section.

“(4) JURISDICTION.—An action under paragraph (3) of this subsection may be brought in a district court of the United States in any State in which the relief is required. On a proper showing, the court shall issue a temporary restraining order or preliminary or permanent injunction. An injunction under this section may order a public transportation agency receiving assistance under this chapter to comply with this section, or a regulation promulgated under this section.

“(5) CRIMINAL PENALTY.—A person who knowingly violates this section or a public transportation safety regulation or order issued under this section shall be fined under title 18, United States Code, imprisoned for not more than 5 years, or both; except that the maximum amount of imprisonment shall be 10 years in any case in which the violation results in death or bodily injury to any person. For purposes of this subparagraph—

“(A) a person acts knowingly when—

“(i) the person has actual knowledge of the facts giving rise to the violation; or

“(ii) a reasonable person acting in the circumstances and exercising reasonable care would have that knowledge; and

“(B) actual knowledge of the existence of a statutory provision, or a regulation or a requirement required by the Secretary is not

an element of an offense under this paragraph.

“(h) EMERGENCY AUTHORITY.—

“(1) ORDERING RESTRICTIONS AND PROHIBITIONS.—If, through testing, inspection, investigation, or research carried out under this section, the Secretary decides that an unsafe condition or practice, or a combination of unsafe conditions and practices, causes an emergency situation involving a hazard of death, personal injury, or significant harm to the environment, the Secretary immediately may order restrictions and prohibitions, without regard to section 553 and section 554 of title 5, United States Code, that may be necessary to abate the emergency situation.

“(2) EMERGENCY CONDITION OR PRACTICE.—The order shall describe the condition or practice, or a combination of conditions and practices, that causes the emergency situation and promulgate standards and procedures for obtaining relief from the order. This paragraph does not affect the Secretary's discretion under this subsection to maintain the order in effect for as long as the emergency situation exists.

“(3) REVIEW OF ORDERS.—After issuing an order under this subsection, the Secretary shall provide an opportunity for review of the order under section 554 of title 5, United States Code. If a petition for review is filed and the review is not completed by the end of the 30-day period beginning on the date the order was issued, the order stops being effective at the end of that period unless the Secretary decides in writing that the emergency situation still exists.

“(4) CIVIL ACTIONS TO COMPEL ISSUANCE OF ORDERS.—An employee of a rail fixed guideway public transportation system provider who may be exposed to imminent physical injury during that employment because of the Secretary's failure, without any reasonable basis, to issue an order under paragraph (1) of this subsection, or the employee's authorized representative, may bring a civil action against the Secretary in a district court of the United States to compel the Secretary to issue an order. The action shall be brought in the judicial district in which the emergency situation is alleged to exist, in which the employing provider has its principal executive office, or in the District of Columbia. The Secretary's failure to issue an order under paragraph (1) of this subsection may be reviewed only under section 706 of title 5, United States Code.

“(i) EFFECT ON EMPLOYEE QUALIFICATIONS AND COLLECTIVE BARGAINING.—This section does not—

“(1) authorize the Secretary to promulgate regulations and issue orders related to qualifications of employees, except qualifications specifically related to safety; or

“(2) prohibit collective bargaining agreements between public transportation agencies and public transportation employees or their representatives, including agreements related to qualifications of the employees that are not inconsistent with regulations and orders promulgated under this section.

“(j) PUBLIC TRANSPORTATION EMPLOYEE PROTECTIONS.—Applicable provisions of the public transportation employee protection provisions under section 1413 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (6 U.S.C. 1142) apply to direct and indirect recipients of Federal transit assistance under this chapter.

“(k) JUDICIAL REVIEW.—A person adversely affected or aggrieved by a final action of the Secretary under this section or under section 5331 of this title may petition for review of the final action in the United States Court of Appeals for the District of Columbia or in the court of appeals for the United States for the circuit in which the person resides and

has its principal place of business. Judicial procedures require—

“(1) the petition be filed not more than 60 days after the Secretary's action becomes final;

“(2) the clerk of the court immediately send a copy of the petition filed under paragraph (3) of this section to the Secretary;

“(3) the Secretary file with the court a record of any proceeding in which the final action was issued as provided in section 2112 of title 28, United States Code; and

“(4) the court to consider an objection to a final action of the Secretary only if the objection was made in the course of the proceeding or review conducted by the Secretary or if there was a reasonable ground for not making the objection in the proceeding.”.

(b) AUTHORIZATIONS.—Section 5338 of title 49, United States Code, is amended—

(1) by redesignating subsections (e), (f) and (g) as subsections (f), (g) and (h), respectively;

(2) by inserting after subsection (d) the following:

“(e) SAFETY PROGRAM.—There are authorized to be appropriated such amounts in each fiscal year as necessary to administer section 5329 and to make grants or enter into agreements to carry out section 5329.”; and

(3) in subsection (h), as redesignated, by striking “and (d)” and inserting “(d) and (e)”.

(c) PROHIBITIONS AGAINST REGULATING OPERATIONS AND CHARGES.—Section 5334(b)(I) of title 49, United States Code, is amended by inserting “or for purposes of establishing and enforcing programs to improve the safety of the nation's public transportation systems, and reducing accidents on rail fixed guideway and bus systems for public transportation,” after “emergency.”.

(d) ALCOHOL AND CONTROLLED SUBSTANCES TESTING.—Section 5331(b)(2) of title 49, United States Code, is amended—

(1) by redesignating subparagraphs (A) and (B) as subparagraphs (B) and (C), respectively; and

(2) by inserting before subparagraph (B), as so redesignated, the following:

“(A) shall establish and implement an enforcement program, including the imposition of penalties for failure to comply with this section.”.

(e) CONFORMING AMENDMENT; REPEAL.—

(1) CHAPTER ANALYSIS.—The analysis for chapter 53 of title 49, United States Code, is amended by striking the item relating to section 5329 and inserting the following:

“5329. Public Transportation Safety Program.”.

(2) REPEAL.—Section 5330 of title 49, United States Code, is repealed 3 years after the effective date of final regulations issued by the Secretary under section 5329 of title 49, as amended by this section.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 418—COMMEMORATING THE LIFE OF THE LATE CYNTHIA DELORES TUCKER

Mr. CASEY submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 418

Whereas the late Cynthia DeLores Tucker dedicated her life to eliminating racial barriers by championing civil rights and rights of women in the United States;

Whereas, having grown up in Philadelphia during the Great Depression, C. DeLores