

to Federal taxation, up to \$170 per month. However, this tax exemption was lost for all employees if the parking was offered in lieu of compensation for just one employee. In other words, if an employer gave just one employee a choice between parking and some other benefit (such as a transit pass, or increased salary), the parking of all other employees in the company became taxable. It goes without saying that no employers jeopardized a tax benefit for the overwhelming majority of their employees to provide flexibility to others. In effect, the tax code prohibited employers from offering their employees a choice. Parking was a take-it or leave-it benefit.

The changes in these two laws make it possible for employers to offer their employees more choices by eliminating the take-it or leave-it restriction in the Federal tax code. Employees whose only transportation benefit is parking can now instead accept a salary enhancement, and find other means to get to work such as car pooling, van pooling, biking, walking, or taking transit.

Unfortunately, Federal employees will not be able to benefit from the increased flexibility available to private sector employees, unless Federal compensation law is modified. Current Federal law provides that a Federal employee may not receive additional pay unless specifically authorized by law. Therefore, a Federal employee could not "cash out" a parking space at work, and instead receive cash or other benefits.

To address this limitation for transit passes and similar benefits, the "Federal Employees Clean Air Incentives Act" allows the Federal government to provide transit benefits, bicycle services, and non-monetary incentives to employees. However, when this legislation was enacted, the Federal tax code prohibited the so-called "cash out" option discussed above, and therefore was not included in the list of transportation-related exemptions in that statute.

The short and simple bill we introduce today would add "taxable cash reimbursement for the value of an employer-provided parking space" to the list of benefits that can be received by Federal employees.

Let me assure my colleagues and Federal employees that this bill would not require that Federal employees lose their parking spaces, as may be feared when there is discussion of Federal employee parking spaces. The bill simply provides Federal employees the same flexibility that is available to private sector employees. Employees who want to retain their tax-free parking space would be free to do so.

We think it is vital that the Federal government show leadership on the application of new and innovative ways to solve our transportation and environmental problems. I hope that my colleagues will join me in supporting this bill and that we can act swiftly on it in the next session of Congress.

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

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

S. 2575

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

**SECTION 1. CASH PAYMENT TO FEDERAL EMPLOYEES FOR PARKING SPACES.**

(a) SHORT TITLE.—This Act may be cited as the "Federal Employee Flexibility Act of 1998".

(b) IN GENERAL.—Section 7905(b)(2) of title 5, United States Code, is amended—

(1) in subparagraph (B) by striking "and" after the semicolon;

(2) in subparagraph (C) by striking the period and inserting a semicolon and "and"; and

(3) by adding at the end the following:

"(D) taxable cash payment to an employee in lieu of an agency-provided parking space."

Mr. MOYNIHAN. Mr. President, I rise today with my friend and colleague Senator CHAFEE to introduce the "Federal Employee Flexibility Act of 1998," a bill to provide Federal employees with the commuting benefits that were created in the Transportation Equity Act for the 21st Century, known as TEA-21, and are now available for private sector employees.

This Act is part of an ongoing effort that we started over seven years ago in the Intermodal Surface Transportation Efficiency Act to introduce pricing and economic incentives into our national transportation policy. Traditionally, U.S. transportation policy has favored new highway construction over repair and maintenance and auto travel over transit and other modes. Our tax code also reflected this bias by providing large incentives to employers to offer their employees tax-free parking spaces, while making it less attractive to provide transit or cash benefits in lieu of parking.

The Finance Committee first set out to tackle this problem in the National Energy Policy Act of 1992. That Act capped non-taxable monthly parking benefits at \$155, increased monthly transit benefits from \$21 to \$60, and added an annual COLA adjustment for both. However, because of the "constructive receipt" principle in the tax code, under the 1992 Act, an employer could not offer his employees the tax-free commuting benefits in lieu of taxable salary.

In other words, if an employer offered to provide his employees non-taxable \$65 monthly transit passes but lower their salaries by \$65 a month, and any employee chose to keep the salary—maybe they walk to work—under the "constructive receipt" principle, the transit passes for the other employees would lose their tax-free status. This made the transit benefit program of only limited attractiveness to employers since they could only offer it as part of a negotiated increase in salary, not as a benefit in lieu of existing salary.

Likewise, Federal tax code allowed an employer to offer tax-free parking up to a value of 4170 per month per employee. However, if an employer gave just one employee a choice between parking and some other taxable benefit—such as increased salary—the parking of all other employees in the company became taxable. The result—employers have had no incentive to offer employees the opportunity to "cash out" their parking, perhaps taking an increase in salary and using mass transit or carpooling. That hidden pro-parking bias in the tax code has likely resulted in far too many employees choosing to drive to work over riding transit and other modes.

The tax title of TEA-21 now contains the proper language and offsets in place to eliminate this "constructive receipt" requirement—and increase the transit benefit from its current \$65 to \$100 in 2002. It means that employers who provide the transit benefit in lieu of salary will pay less in payroll taxes, while employees will receive a benefit worth a full \$65, instead of taxable income of \$65. Likewise employers can now offer employee cash instead of a tax-free parking parking space, and we hope reduce the number of employees who drive to work. The measure is "paid for," in Budget Act parlance, by a one-year freeze in the COLA adjustments for parking benefits, currently at \$175 per month, and transit benefits.

But, unfortunately, the job is not quite done. Federal employees will not be able to benefit from the increased flexibility available to private sector employees, unless Federal compensation law is modified. Current Federal law provides that a Federal employee may not receive additional pay unless specifically authorized by law. Therefore, a Federal employee could not "cash out" a parking space at work, and instead receive cash or other benefits. This has particularly unfortunate consequences here in Washington, one of the most congested cities in the country, with an enormous Federal workforce, the great majority of whom drive single-occupancy vehicles to work every day.

The simple bill that Senator CHAFEE and I introduce today would add "taxable cash reimbursement for the value of an employer-provided parking space" to the list of benefits Federal employees can receive. I hope my colleagues will join us in supporting this bill and that we can act swiftly on this bill in the next session of Congress.

**ADDITIONAL COSPONSORS**

S. 1286

At the request of Mr. JEFFORDS, the name of the Senator from Utah [Mr. BENNETT] was added as a cosponsor of S. 1286, a bill to amend the Internal Revenue Code of 1986 to exclude from gross income certain amounts received as scholarships by an individual under the National Health Corps Scholarship Program.

S. 1466

At the request of Mr. ABRAHAM, the name of the Senator from Georgia [Mr. COVERDELL] was added as a cosponsor of S. 1466, a bill to amend the Public Health Service Act to permit faith-based substance abuse treatment centers to receive Federal assistance, to permit individuals receiving Federal drug treatment assistance to select private and religiously oriented treatment, and to protect the rights of individuals from being required to receive religiously oriented treatment.

S. 1720

At the request of Mr. LEAHY, the name of the Senator from Illinois [Mr. DURBIN] was added as a cosponsor of S. 1720, a bill to amend title 17, United States Code, to reform the copyright law with respect to satellite retransmissions of broadcast signals, and for other purposes.

S. 1970

At the request of Mr. ABRAHAM, the name of the Senator from Rhode Island [Mr. CHAFEE] was added as a cosponsor of S. 1970, a bill to require the Secretary of the Interior to establish a program to provide assistance in the conservation of neotropical migratory birds.

S. 2080

At the request of Mr. HELMS, the names of the Senator from Alabama [Mr. SHELBY], the Senator from Kentucky [Mr. FORD], and the Senator from Montana [Mr. BURNS] were added as cosponsors of S. 2080, a bill to provide for the President to increase support to the democratic opposition in Cuba, to authorize support under the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 for the provision and transport of increased humanitarian assistance directly to the oppressed people of Cuba to help them regain their freedom, and for other purposes.

S. 2180

At the request of Mr. LOTT, the names of the Senator from Louisiana [Ms. LANDRIEU], the Senator from Texas [Mrs. HUTCHISON], and the Senator from West Virginia [Mr. ROCKEFELLER] were added as cosponsors of S. 2180, a bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to clarify liability under that Act for certain recycling transactions.

S. 2263

At the request of Mr. GORTON, the names of the Senator from California [Mrs. FEINSTEIN] and the Senator from Hawaii [Mr. INOUE] were added as cosponsors of S. 2263, a bill to amend the Public Health Service Act to provide for the expansion, intensification, and coordination of the activities of the National Institutes of Health with respect to research on autism.

S. 2268

At the request of Mr. BINGAMAN, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of S. 2268, a bill to amend the

Internal Revenue Code of 1986 to improve the research and experimentation tax credit, and for other purposes.

S. 2283

At the request of Mr. DEWINE, the name of the Senator from Illinois [Mr. DURBIN] was added as a cosponsor of S. 2283, a bill to support sustainable and broad-based agricultural and rural development in sub-Saharan Africa, and for other purposes.

S. 2356

At the request of Mr. ROBERTS, the names of the Senator from Arkansas [Mr. HUTCHINSON] and the Senator from Idaho [Mr. KEMPTHORNE] were added as cosponsors of S. 2356, a bill to amend the Federal Food, Drug, and Cosmetic Act to provide for uniform food safety warning notification requirements, and for other purposes.

S. 2358

At the request of Mr. ROCKEFELLER, the name of the Senator from New Mexico [Mr. BINGAMAN] was added as a cosponsor of S. 2358, a bill to provide for the establishment of a service-connection for illnesses associated with service in the Persian Gulf War, to extend and enhance certain health care authorities relating to such service, and for other purposes.

S. 2364

At the request of Mr. CHAFEE, the names of the Senator from Wisconsin [Mr. FEINGOLD], the Senator from Louisiana [Mr. BREAU], and the Senator from Vermont [Mr. LEAHY] were added as cosponsors of S. 2364, a bill to reauthorize and make reforms to programs authorized by the Public Works and Economic Development Act of 1965.

S. 2415

At the request of Mr. SANTORUM, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of S. 2415, a bill to amend the Internal Revenue Code of 1986 to reduce the tax on beer to its pre-1991 level.

S. 2418

At the request of Mr. JEFFORDS, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 2418, a bill to establish rural opportunity communities, and for other purposes.

S. 2514

At the request of Mr. LEAHY, the name of the Senator from New Hampshire [Mr. SMITH] was added as a cosponsor of S. 2514, a bill to amend the Communications Act of 1934 to clarify State and local authority to regulate the placement, construction, and modification of broadcast transmission and telecommunications facilities, and for other purposes.

S. 2525

At the request of Mr. LOTT, the name of the Senator from Missouri [Mr. ASHCROFT] was added as a cosponsor of S. 2525, a bill to establish a program to support a transition to democracy in Iraq.

## SENATE CONCURRENT RESOLUTION 94

At the request of Mr. ABRAHAM, the name of the Senator from Ohio [Mr.

DEWINE] was added as a cosponsor of Senate Concurrent Resolution 94, a concurrent resolution supporting the religious tolerance toward Muslims.

## SENATE CONCURRENT RESOLUTION 121

At the request of Mr. SPECTER, the names of the Senator from Minnesota [Mr. WELLSTONE], the Senator from Montana [Mr. BAUCUS], and the Senator from Illinois [Ms. MOSELEY-BRAUN] were added as cosponsors of Senate Concurrent Resolution 121, a concurrent resolution expressing the sense of Congress that the President should take all necessary measures to respond to the increase in steel imports resulting from the financial crises in Asia, the independent States of the former Soviet Union, Russia, and other areas of the world, and for other purposes.

## SENATE RESOLUTION 56

At the request of Mr. GRASSLEY, the names of the Senator from Indiana [Mr. LUGAR] and the Senator from Colorado [Mr. ALLARD] were added as cosponsors of Senate Resolution 56, a resolution designating March 25, 1997 as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy."

## SENATE RESOLUTION 257

At the request of Mr. MURKOWSKI, the name of the Senator from West Virginia [Mr. BYRD] was added as a cosponsor of Senate Resolution 257, a resolution expressing the sense of the Senate that October 15, 1998, should be designated as "National Inhalant Abuse Awareness Day."

## SENATE RESOLUTION 289—AUTHORIZING THE PRINTING OF THE "TESTIMONY FROM THE HEARINGS OF THE TASK FORCE ON ECONOMIC SANCTIONS"

Mr. MCCONNELL submitted the following resolution; which was considered and agreed to:

## S. RES. 289

*Resolved*, That the "Testimony from the Hearings of the Task Force on Economic Sanctions", be printed as a Senate document, and that there be printed 300 additional copies of such document for the use of the Task Force on Economic Sanctions at a cost not to exceed \$16,311.

## SENATE RESOLUTION 290—TO AUTHORIZE REPRESENTATION BY SENATE LEGAL COUNSEL

Mr. LOTT (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

## S. RES. 290

Whereas, Senator John F. Kerry has received a subpoena for documents in the case of *Tyree v. Central Intelligence Agency, et al.*, Case No. 98-CV-11829, now pending in the United States District Court for the District of Massachusetts;

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)(1), the Senate may direct its counsel to represent Members of the Senate with respect to any subpoena, order, or request for documents relating to their official responsibilities; and