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Senate

The Senate met at 9:30 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The guest Chaplain, Rev. Madison T. Shockley II, of Congregational Church of Christian Fellowship, United Church of Christ, Los Angeles, CA, offered the following prayer:

Good morning, Senators. Please join me in a word of prayer.

Dear God of all, though You look upon Your creation and see our world without the borders we draw or the barriers we erect, hear the cry of Your people in this corner of Your great universe. We implore You on behalf of the men and women who govern these United States of America as Senators to grant to them wisdom, justice, mercy, and love in quantities not common to humankind. For, indeed, the task they share and the burden they bear is not a common one. Charged as they are to lead a Nation which stands out among all the nations of the world, the very fate of this planet is altered by what they do.

Mighty and ever loving God, You have been so gracious to us, we cannot begin to express our gratitude for the rich resources of fertile land, refreshing rivers, and majestic forests with which You have blessed this Nation. All this is magnified by the fact that no merit of ours has earned these blessings—no merit. For who can claim merit in the presence of Your divine goodness? Who can claim merit before Your sublime righteousness? And so with these awesome blessings come great responsibility. For You have instructed us that ''From the one to whom much has been entrusted, even more will be demanded''. —Luke 12:48.

Sovereign Spirit, help the Senators hear Your demand upon a people of freedom to seek liberation for all; a people of wealth to seek prosperity for everyone; a people of justice to seek righteousness for all. May all gathered here execute their office with mercy, love, and compassion. May this august assembly seek to share the blessings of this Nation with all of its people and even with those who do not share this badge of our citizenship but who still are our brothers and sisters whom You have commanded us to love and who share in that larger circle of the whole human family of which You are the one Divine Parent.

Let us all say—amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader is recognized.

SCHEDULE

Mr. ASHCROFT. Mr. President, this morning there will be an immediate vote on the motion to invoke cloture on the motion to proceed to the so-called Vacancies Act. Following that vote, the Senate will resume consideration of the FAA authorization bill, with an almost immediate vote on or in relation to the Inhofe amendment regarding emergency license removal. Following that vote, the Senate will continue consideration of the FAA bill with amendments being offered and debated throughout today's session. Therefore, Members should expect rollcall votes during the day and into the evening in relation to the FAA bill or any other legislative or executive items cleared for action.

Finally, the leader would like to notify all Members that there will be rollcall votes during Friday's session of the Senate.

I thank my colleagues for their attention.

The PRESIDING OFFICER (Mr. GREGG). The Senator from California.

Mrs. BOXER. Thank you, Mr. President.

REV. MADISON T. SHOCKLEY II

Mrs. BOXER. Mr. President, I am so pleased and proud to welcome Rev. Madison Shockley to the Senate today where he has just delivered the opening prayer. Reverend Shockley is pastor of the Congregational Church of Christian Fellowship, United Church of Christ in Los Angeles, CA.

Mr. President, I had the great pleasure of attending services at his church a few weeks ago. On that particular day, we were reeling from a number of things both at home and abroad. His words were so fitting and healing. I was honored to be sitting in his congregation.

Reverend Shockley has been a civil rights and human rights leader in Los Angeles for more than a decade. His accomplishments, his leadership and his compassion make him one of California's most respected members of the clergy.

Following the 1992 civil unrest in Los Angeles, Reverend Shockley helped establish a 3-year program of ''community conversation,'' bringing together people from all racial and ethnic backgrounds, as well as leaders from across this country, to talk about the causes of unrest and tension and to bring peace and love to a community that was torn by hate and fear.

Most recently, Pastor Shockley has authored a series of critically acclaimed articles in the Los Angeles Times covering a broad range of important social topics. I congratulate and I thank Reverend Shockley for coming all the way from California on a redeye flight, no less, which is not easy to do, and to share his prayers with us today. Our country so needs the healing message that he brings us every day.

I yield the floor.

● This ''bullet'' symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

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FEDERAL VACANCIES REFORM ACT OF 1988—MOTION TO PROCEED

CLOTURE MOTION

The PRESIDING OFFICER. Under rule XXII, the clerk will now report the motion to invoke cloture on the motion to proceed to S. 2176.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provision of Rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to S. 2176, the Vacancies Act:

Trent Lott, Strom Thurmond, Charles Grassley, Thad Cochran, Wayne Allard, Ben Nighthorse Campbell, Don Nickles, Orrin G. Hatch, Pat Roberts, Tim Hutchinson, Richard Shelby, Conrad Burns, Jim Inhofe, Connie Mack, Fred Thompson, Spencer Abraham, and Robert C. Byrd.

CALL OF THE ROLL

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum under the rule is waived.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the motion to proceed to S. 2176, the vacancy bill, shall be brought to a close?

The yeas and nays are required under the rule. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Ohio (Mr. GLENN) and the Senator from Illinois (Ms. MOSELEY-BRAUN), are absent on official business.

I also announce that the Senator from Minnesota (Mr. WELLSTONE) is attending a funeral.

I further announce that, if present and voting, the Senator from Minnesota (Mr. WELLSTONE) would vote ''aye.''

The yeas and nays resulted—yeas 96, nays 1, as follows:

[Rollcall Vote No. 285 Leg.]

YEAS—96

Abraham	Faircloth	Lieberman
Akaka	Feingold	Lott
Allard	Feinstein	Lugar
Ashcroft	Ford	Mack
Baucus	Frist	McCain
Bennett	Gorton	McConnell
Biden	Graham	Mikulski
Bingaman	Gramm	Moynihan
Bond	Grams	Murkowski
Boxer	Grassley	Murray
Breaux	Gregg	Nickles
Brownback	Hagel	Reed
Bryan	Harkin	Reid
Bumpers	Hatch	Robb
Burns	Helms	Roberts
Byrd	Hollings	Rockefeller
Campbell	Hutchinson	Roth
Chafee	Hutchison	Santorum
Cleland	Inhofe	Sarbanes
Coats	Inouye	Sessions
Cochran	Jeffords	Shelby
Collins	Johnson	Smith (NH)
Conrad	Kempthorne	Smith (OR)
Coverdell	Kennedy	Snowe
Craig	Kerrey	Specter
D'Amato	Kerry	Stevens
Daschle	Kohl	Thomas
DeWine	Kyl	Thompson
Dodd	Landrieu	Thurmond
Domenici	Lautenberg	Torricelli
Dorgan	Leahy	Warner
Enzi	Levin	Wyden

NAYS—1

Durbin

NOT VOTING—3

Glenn Moseley-Braun Wellstone

The PRESIDING OFFICER (Mr. SANTORUM). On this vote, the yeas are 96, the nays are 1. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader.

UNANIMOUS-CONSENT AGREEMENT

Mr. LOTT. I ask unanimous consent that notwithstanding rule XXII, the Senate immediately proceed to the order with respect to the Inhofe amendment.

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

Mr. LOTT. For the information, then, of all Senators, another vote will occur in approximately 10 minutes relative to the Inhofe amendment which is pending to the FAA reauthorization bill, and after that vote we will announce what the process will be thereafter.

WENDELL H. FORD NATIONAL AIR TRANSPORTATION SYSTEM IMPROVEMENT ACT OF 1998

The PRESIDING OFFICER. The Senate will proceed to S. 2279 which the clerk will report.

The legislative clerk read as follows:

A bill (S. 2279) to amend title 49, United States Code, to authorize programs of the Federal Aviation Administration for fiscal years 1999, 2000, 2001 and 2002, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Inhofe amendment No. 3620, to provide for the immediate application of certain orders relating to the amendment, modification, suspension, or revocation of certificates under chapter 447 of title 49, United States Code.

AMENDMENT NO. 3620

The PRESIDING OFFICER. The Senate will come to order.

There are 10 minutes equally divided on the Inhofe amendment. Who yields time?

Mr. MCCAIN. Mr. President, I ask unanimous consent that because of his eloquence, the Senator from Oklahoma be allowed 7 minutes and I will take 3 minutes.

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

The Senator from Oklahoma.

Mr. INHOFE. Mr. President, there is a process that is used by the FAA which is known as the emergency revocation process. This process will allow an inspector in the event of an alleged violation by a licensed pilot to take away the pilot's certificate. He would take away the certificate under the emergency revocation clause declaring that an emergency exists.

The problem with this is that many times when you have an inspector do this, or an examiner take away a certificate, there is not even an emergency nature to the revocation. Consequently, we have many, many cases where the individuals have been abused.

I would like to suggest that Ted Stewart, who is an American Airlines pilot, has been a pilot for over 12 years and presently flying Boeing 767s. In May of 1995, there was an emergency revocation. He was not guilty of anything. There was not an emergency attached to this. There was never any hazard to anyone's health or safety.

However, it was 2 months until he was able to get his certificate back. Then an examiner went back to him in June of 1996 and again revoked his certificate under the emergency revocation. Consequently, for another 2 months he was unable to earn a living. Fortunately, he worked for American Airlines; they were good enough to keep his paychecks coming, but in many cases that is not the case.

I happen to be a very close friend of a man named Bob Hoover. I think most of you can remember who Bob Hoover is. He is considered to be the best performer in the circuit of airshows. In fact, I have flown airshows with him. In 1992—and I was there at the time—an inspector came in, an examiner for the FAA, and said to him, We think you have a problem. We think perhaps there is a mental problem or something—they didn't really define it—and they revoked his certificate. It wasn't for another 4 years he was able to get his certificate back. In the meantime, he was flying his airshows but outside the United States.

Now, very simply, what my amendment does is set up a process whereby if you lose your certificate, you have 48 hours to take it to the NTSB and let the NTSB make a determination as to whether or not there is any kind of an emergency nature to the revocation. After they have looked this over and decided there is no emergency involved to the nature of the revocation, then at the end of 7 days the pilot will get his certificate back. If there is, then he would not get it back. They can go ahead then and go through the normal adjudication of the violation.

This is something that has been going on for quite some time. We have been concerned about reforming this process. This is a compromise, because this makes it very clear if there is any hazard out there, if there is any risk to anyone's safety, the flying public or the pilot himself, the pilot is not going to be able to fly. It is as simple as that.

A lot of people say that there are only 300 emergency revocations a year. Therefore, it is not really a problem; it doesn't really affect that many people. I suggest to you that if you take 300 people, there might be 20 or 30 of those who make their living flying airplanes for American Airlines or one of the other airlines, in which case that takes them out of their occupation.

The other problem we have is there are 650,000 pilots right now licensed in

the United States and they all live in mortal fear that something like this would happen to them.

At this point let me yield 1 minute to Senator FRIST.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. FRIST. Mr. President, I rise in support of the Inhofe amendment. Clearly, the FAA will be against this amendment because they will not voluntarily relinquish anything in terms of regulatory authority. I believe this amendment is reasonable. It provides, in essence, due process for pilots who do have their privileges revoked, with attention given to safety. It really assures accountability within the FAA.

As a pilot who has been witness to the potential abuses—and the Senator from Oklahoma has demonstrated several well-documented examples of how the FAA has really unfairly used a necessary power to prematurely revoke certificates—this amendment will address the issue while assuring accountability.

I rise in support of the amendment, a more reasonable approach which assures accountability and assures due process.

Mr. INHOFE. I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I, of course, respect very much the views expressed by Senators FRIST and INHOFE, both of whom are pilots. The FAA has objected to this amendment. I believe it goes too far. I understand Senator INHOFE's concerns. They were voiced a couple of years ago on a similar measure when we were doing another bill, the aviation bill. The fact is, we need to address this issue.

I believe this goes too far. I look forward to working with Senator INHOFE and Senator FRIST on it, but I am very hesitant to take a measure which could, at the end of the day, possibly endanger safety. That is why I have to oppose this amendment at this time.

I yield 30 seconds to the Senator from Kentucky.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, I have to oppose this amendment, also. The FAA must have the ability to act when it believes safety is at risk. The FAA is often criticized for not acting quickly enough on safety matters. Here they revoke a certificate for safety purposes and we want to make it harder for them to act. Right now the court of appeals has upheld the FAA actions in every case. They do not second guess the agency charged with the regulation of safety, so let's be sure we give the FAA the authority for safety in the air.

The PRESIDING OFFICER. The time of the Senator has expired. The Senator from Oklahoma.

Mr. INHOFE. Mr. President just a few years ago we went through the same thing with the civil penalties of the FAA Act, so there would be someone other than the FAA involved. Prior to that time, the FAA was the judge, the jury, and the appellate court. They made all the decisions and they were protecting their own, because every bureaucracy does this—EPA, IRS, FDA and all the rest of them.

We changed the regulation so the NTSB, then, would be the appellate court for civil penalties, and it has worked very well. The junior Senator from Texas served on the NTSB, and I yield her whatever time she needs.

The PRESIDING OFFICER. The Senator is recognized for 1 minute 20 seconds.

Mrs. HUTCHISON. Mr. President, I do support the Inhofe amendment. Having served on the National Transportation Safety Board, I can tell you that the NTSB normally does not overturn the FAA revocation of pilots' licenses. But they do, after they go through the process and look at all of the evidence. I think it is quite fair to say if someone is going to be disadvantaged by having a license revoked, that the NTSB could very easily, and quickly, look at the type of evidence that they are going to hear and, without making a final adjudication, determine that this person would or would not be eligible to fly during the pendency of the proceedings.

I think it would introduce a new level in the process. It would be the emergency level. I think the NTSB can handle this. I think they are competent to do it, and I think their record shows that they have done it in the past.

I do support the amendment.

Mr. INHOFE. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 14 seconds.

Mr. INHOFE. I will conclude by saying this in no way impairs the flying safety of the flying public or the pilots. The fact that the average time between the alleged violation and the revocation is 132 days pretty much tells you it is not really an emergency problem in most of these cases. I urge you to join the 625,000 pilots and myself in supporting the Inhofe amendment.

The PRESIDING OFFICER. The time of the Senator has expired.

The Senator from Arizona has 1 minute 30 seconds.

Mr. MCCAIN. Mr. President, I thank the Senator from Oklahoma. If he does not prevail on this amendment, which I oppose, I want to pledge to him that I will work with him. There have been abuses. He pointed out the case of Mr. Hoover, who was respected and admired by all of us, who was mistreated by the bureaucracy. Unfortunately, there are always cases where these things happen. But I think we have always to keep safety as the paramount concern, and I believe this amendment possibly—I am not saying absolutely—but possibly could endanger the FAA's ability to carry out their primary responsibilities.

I thank the Senator from Oklahoma for his deep involvement in this and other aviation issues. I look forward to working with him in addressing what is clearly a problem.

I yield back the remainder of my time.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Ohio (Mr. GLENN) and the Senator from Illinois (Ms. MOSELEY-BRAUN) are necessarily absent.

I also announce that the Senator from Minnesota (Mr. WELLSTONE) is absent attending a funeral.

I further announce that, if present and voting, the Senator from Minnesota (Mr. WELLSTONE) would vote ''no.''

The result was announced—yeas 46, nays 51, as follows:

[Rollcall Vote No. 286 Leg.]

YEAS—46

Abraham	Enzi	Murkowski
Allard	Faircloth	Nickles
Ashcroft	Frist	Roberts
Bennett	Grams	Santorum
Bond	Grassley	Sessions
Breaux	Hatch	Shelby
Brownback	Helms	Smith (NH)
Burns	Hutchinson	Smith (OR)
Campbell	Hutchison	Snowe
Chafee	Inhofe	Specter
Coats	Jeffords	Stevens
Cochran	Kempthorne	Thomas
Collins	Kyl	Thurmond
Coverdell	Lott	Warner
Craig	Lugar	
Domenici	McConnell	

NAYS—51

Akaka	Feinstein	Leahy
Baucus	Ford	Levin
Biden	Gorton	Lieberman
Bingaman	Graham	Mack
Boxer	Gramm	McCain
Bryan	Gregg	Mikulski
Bumpers	Hagel	Moynihan
Byrd	Harkin	Murray
Cleland	Hollings	Reed
Conrad	Inouye	Reid
D'Amato	Johnson	Robb
Daschle	Kennedy	Rockefeller
DeWine	Kerrey	Roth
Dodd	Kerry	Sarbanes
Dorgan	Kohl	Thompson
Durbin	Landrieu	Torricelli
Feingold	Lautenberg	Wyden

NOT VOTING—3

Glenn	Moseley-Braun	Wellstone

The amendment (No. 3620) was rejected.

Mr. FORD. Mr. President, I move to reconsider the vote.

Mr. LOTT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MCCAIN. Mr. President, I thank Senator INHOFE. I intend to work with him. We are going to take this bill to conference. He has a legitimate concern here and the closeness of the vote indicated that. I will work with him on this. He has clearly identified this as a serious problem, and I thank him for the spirited debate and the ventilation of a very important issue.

FEDERAL VACANCIES REFORM ACT OF 1998—MOTION TO PROCEED

The Senate continued with the motion to proceed.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. Mr. President, what is the pending business?

The PRESIDING OFFICER. A motion to proceed to S. 2176, postcloture.

Mr. LOTT. I know of no further debate.

The PRESIDING OFFICER. The question is on agreeing to the motion to proceed to S. 2176.

The motion was agreed to.

FEDERAL VACANCIES REFORM ACT OF 1998

The PRESIDING OFFICER. The clerk will report the bill.

The legislative clerk read as follows:

A bill (S. 2176) to amend sections 3345 through 3349 of title 5, United States Code (commonly referred to as the ''Vacancies Act'') to clarify statutory requirements relating to vacancies in and appointments to certain Federal offices, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Governmental Affairs, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic,)

S. 2176

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 ''Federal Vacancies Reform Act of 1998''.

SEC. 2. FEDERAL VACANCIES AND APPOINTMENTS.

(a) IN GENERAL.—Chapter 33 of title 5, United States Code, is amended by striking sections 3345 through 3349 and inserting the following:

''§ 3345. Acting officer

''(a) If an officer of an Executive agency (including the Executive Office of the President, and other than the General Accounting Office) whose appointment to office is required to be made by the President, by and with the advice and consent of the Senate, dies, resigns, or is otherwise unable to perform the functions and duties of the office—

''(1) the first assistant of such officer shall perform the functions and duties of the office temporarily in an acting capacity, subject to the time limitations of section 3346; or

''(2) notwithstanding paragraph (1), the President (and only the President) may direct a person who serves in an office for which appointment is required to be made by the President, by and with the advice and consent of the Senate, to perform the functions and duties of the office temporarily in an acting capacity, subject to the time limitations of section 3346.

''(b) Notwithstanding section 3346(a)(2), a person may not serve as an acting officer for an office under this section, if—

''(1) on the date of the death, resignation, or beginning of inability to serve of the applicable officer, such person serves in the position of first assistant to such officer;

''(2) during the 365-day period preceding such date, such person served in the position of first assistant to such officer for less than 180 days; and

''(3) the President submits a nomination of such person to the Senate for appointment to such office.

''(c) With respect to the office of the Attorney General of the United States, the provisions of section 508 of title 28 shall be applicable.

''§ 3346. Time limitation

''(a) The person serving as an acting officer as described under section 3345 may serve in the office—

''(1) for no longer than 150 days beginning on the date the vacancy occurs; or

''(2) subject to subsection (b), once a first or second nomination for the office is submitted to the Senate, *from the date of such nomination* for the period that the nomination is pending in the Senate.

''(b)(1) If the first nomination for the office is rejected by the Senate, withdrawn, or returned to the President by the Senate, the person may continue to serve as the acting officer for no more than 150 days after the date of such rejection, withdrawal, or return.

''(2) **[**If**]** *Notwithstanding paragraph (1), if* a second nomination for the office (of a different person than first nominated in the case of a rejection or withdrawal) is submitted to the Senate **[**during the 150-day period**]** after the rejection, withdrawal, or return of the first nomination, the person serving as the acting officer may continue to serve—

''(A) until the second nomination is confirmed; or

''(B) for no more than 150 days after the second nomination is rejected, withdrawn, or returned.

''(c) If a person begins serving as an acting officer during an adjournment of the Congress sine die, the 150-day period under subsection (a) shall begin on the date that the Senate first reconvenes.

''§ 3347. Application

''(a) Sections 3345 and 3346 are applicable to any office of an Executive agency (including the Executive Office of the President, and other than the General Accounting Office) for which appointment is required to be made by the President, by and with the advice and consent of the Senate, unless—

''(1) another statutory provision expressly provides that such provision supersedes sections 3345 and 3346;

[''(2) a statutory provision in effect on the date of enactment of the Federal Vacancies Reform Act of 1998 expressly authorizes the President, or the head of an Executive department, to designate an officer to perform the functions and duties of a specified office temporarily in an acting capacity; or**]**

''(2) a statutory provision in effect on the date of enactment of the Federal Vacancies Reform Act of 1998 expressly—

''(A) authorizes the President, a court, or the head of an Executive department, to designate an officer or employee to perform the functions and duties of a specified office temporarily in an acting capacity; or

''(B) designates an officer or employee to perform the functions and duties of a specified office temporarily in an acting capacity; or

''(3) the President makes an appointment to fill a vacancy in such office during the recess of the Senate pursuant to clause 3 of section 2 of article II of the United States Constitution.

''(b) Any statutory provision providing general authority to the head of an Executive agency (including the Executive Office of the President, and other than the General Accounting Office) to delegate duties to, or to reassign duties among, officers or employees of such Executive agency, is not a statutory provision to which subsection (a)(2) applies.

''§ 3348. Vacant office

''(a) In this section—

''(1) the term 'action' includes any agency action as defined under section 551(13); and

''(2) the term 'function or duty' means any function or duty of the applicable office that—

''(A)(i) is established by statute; and

''(ii) is required by statute to be performed by the applicable officer (and only that officer); or

''(B)(i)(I) is established by regulation; and

''(II) is required by such regulation to be performed by the applicable officer (and only that officer); and

''(ii) includes a function or duty to which clause (i) (I) and (II) applies, and the applicable regulation is in effect at any time during the 180-day period preceding the date on which the vacancy occurs, notwithstanding any regulation that—

''(I) is issued on or after the date occurring 180 days before the date on which the vacancy occurs; and

''(II) limits any function or duty required to be performed by the applicable officer (and only that officer).

''(b) Subject to section 3347 and subsection (c)—

''(1) if the President does not submit a first nomination to the Senate to fill a vacant office within 150 days after the date on which a vacancy occurs—

''(A) the office shall remain vacant until the President submits a first nomination to the Senate; and

''(B) in the case of an office other than the office of the head of an Executive agency (including the Executive Office of the President, and other than the General Accounting Office), only the head of such Executive agency may perform any function or duty of such office, until a nomination is made in accordance with subparagraph (A);

''(2) if the President does not submit a second nomination to the Senate within 150 days after the date of the rejection, withdrawal, or return of the first nomination—

''(A) the office shall remain vacant until the President submits a second nomination to the Senate; and

''(B) in the case of an office other than the office of the head of an Executive agency (including the Executive Office of the President, and other than the General Accounting Office), only the head of such Executive agency may perform any function or duty of such office, until a nomination is made in accordance with subparagraph (A); and

''(3) if an office is vacant after 150 days after the rejection, withdrawal, or return of the second nomination—

''(A) the office shall remain vacant until a person is appointed by the President, by and with the advice and consent of the Senate; and

''(B) in the case of an office other than the office of the head of an Executive agency (including the Executive Office of the President, and other than the General Accounting Office), only the head of such Executive agency may perform any function or duty of such office, until an appointment is made in accordance with subparagraph (A).

''(c) If the last day of any 150-day period under subsection (b) is a day on which the Senate is not in session, the first day the Senate is next in session and receiving nominations shall be deemed to be the last day of such period.

''(d)(1) Except as provided under paragraphs (1)(B), (2)(B), and (3)(B) of subsection (b), an action shall have no force or effect if such action—

''(A)(i) is taken by any person who fills a vacancy in violation of subsection (b); and

''(ii) is the performance of a function or duty of such vacant office; or

''(B)(i) is taken by a person who is not filling a vacant office; and

''(ii) is the performance of a function or duty of such vacant office.

''(2) An action that has no force or effect under paragraph (1) may not be ratified.

''(d) This section shall not apply to—

''(1) the General Counsel of the National Labor Relations Board;

''(2) the General Counsel of the Federal Labor Relations Authority; or

''(3) any Inspector General appointed by the President, by and with the advice and consent of the Senate.

''§ 3349. Reporting of vacancies

''(a) The head of each Executive agency (including the Executive Office of the President, and other than the General Accounting Office) shall submit to the Comptroller General of the United States and to each House of Congress—

''(1) notification of a vacancy and the date such vacancy occurred immediately upon the occurrence of the vacancy;

''(2) the name of any person serving in an acting capacity and the date such service began immediately upon the designation;

''(3) the name of any person nominated to the Senate to fill the vacancy and the date such nomination is submitted immediately upon the submission of the nomination; and

''(4) the date of a rejection, withdrawal, or return of any nomination immediately upon such rejection, withdrawal, or return.

''(b) If the Comptroller General of the United States makes a determination that an officer is serving longer than the 150-day period including the applicable exceptions to such period under section 3346, the Comptroller General shall report such determination to—

''(1) the Committee on Governmental Affairs of the Senate;

''(2) the Committee on Government Reform and Oversight of the House of Representatives;

''(3) the Committees on Appropriations of the Senate and House of Representatives;

''(4) the appropriate committees of jurisdiction of the Senate and House of Representatives;

''(5) the President; and

''(6) the Office of Personnel Management.

''§ 3349a. Presidential inaugural transitions

''(a) In this section, the term 'transitional inauguration day' means the date on which any person swears or affirms the oath of office as President, if such person is not the President on the date preceding the date of swearing or affirming such oath of office.

[''(b) With respect to any vacancy that exists during the 60-day period beginning on a transitional inauguration day, the 150-day period under section 3346 or 3348 shall be deemed to—

[''(1) begin on the later of—

[''(A) the date following such transitional inauguration day; or

[''(B) the date the vacancy occurs; and

[''(2) be a period of 180 days.**]**

''(b) With respect to any vacancy that exists during the 60-day period beginning on a transitional inauguration day, the 150-day period under section 3346 or 3348 shall be deemed to begin on the later of the date occurring—

''(1) 90 days after such transitional inauguration day; or

''(2) 90 days after the date on which the vacancy occurs.

''§ 3349b. Holdover provisions relating to certain independent establishments

''With respect to any independent establishment for which a single officer is the head of the establishment, sections 3345 through 3349a shall not be construed to affect any statute that authorizes a person to continue to serve in any office—

''(1) after the expiration of the term for which such person is appointed; and

''(2) until a successor is appointed or a specified period of time has expired.

''§ 3349c. Exclusion of certain officers

''Sections 3345 through 3349b shall not apply to—

''(1) any member who is appointed by the President, by and with the advice and consent of the Senate to any board, commission, or similar entity that—

''(A) is composed of multiple members; and

''(B) governs an independent establishment or Government corporation; or

''(2) any commissioner of the Federal Energy Regulatory Commission.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—

(1) TABLE OF SECTIONS.—The table of sections for chapter 33 of title 5, United States Code, is amended by striking the matter relating to subchapter III and inserting the following:

''SUBCHAPTER III—DETAILS, VACANCIES, AND APPOINTMENTS

''3341. Details; within Executive or military departments.
''[3342. Repealed.]
''3343. Details; to international organizations.
''3344. Details; administrative law judges.
''3345. Acting officer.
''3346. Time limitation.
''3347. Application.
''3348. Vacant office.
''3349. Reporting of vacancies.
''3349a. Presidential inaugural transitions.
''3349b. Holdover provisions relating to certain independent establishments.
''3349c. Exclusion of certain officers.''.

(2) SUBCHAPTER HEADING.—The subchapter heading for subchapter III of chapter 33 of title 5, United States Code, is amended to read as follows:

''SUBCHAPTER III—DETAILS, VACANCIES, AND APPOINTMENTS''.

SEC. 3. EFFECTIVE DATE AND APPLICATION.

(a) EFFECTIVE DATE.—This Act and the amendments made by this Act shall take effect on the date of enactment of this Act.

(b) APPLICATION.—This Act shall apply to any office that—

(1) becomes vacant after the date of enactment of this Act; or

(2) is vacant on such date, except sections 3345 through 3349 of title 5, United States Code (as amended by this Act), shall apply as though such office first became vacant on such date.

CLOTURE MOTION

Mr. LOTT. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provision of Rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on S. 2176, the Vacancies Act:

Trent Lott, Strom Thurmond, Charles Grassley, Thad Cochran, Wayne Allard, Ben Nighthorse Campbell, Don Nickles, Orrin G. Hatch, Pat Roberts, Tim Hutchinson, Richard Shelby, Conrad Burns, Jim Inhofe, Connie Mack, Fred Thompson, Spencer Abraham.

Mr. LOTT. Mr. President, for the information of all Senators, this cloture vote will occur Monday, September 28. I now ask unanimous consent that, notwithstanding rule XXII, the cloture vote occur at 5:30 p.m. on Monday and the mandatory quorum under rule XXII be waived. I further ask that at 3:30 p.m. on Monday, the Senate resume the bill for debate only, with no action occurring, and that there be 2 hours of debate equally divided between the two leaders, or their designees.

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

WENDELL H. FORD NATIONAL AIR TRANSPORTATION SYSTEM IMPROVEMENT ACT OF 1998

Mr. LOTT. Mr. President, I now ask unanimous consent that the Senate resume consideration of the FAA reauthorization bill.

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

The clerk will report the bill.

The legislative clerk read as follows:

A bill (S. 2279) to amend title 49, United States Code, to authorize the programs of the Federal Aviation Administration for fiscal years 1999, 2000, 2001, and 2002, and for other purposes.

The Senate continued with the consideration of the bill.

Mr. LOTT. Mr. President, I ask unanimous consent that no call for the regular order be in order prior to the conclusion of the FAA reauthorization bill.

Mr. MCCAIN. Mr. President, reserving the right to object. I ask the leader, does the leader intend to attempt for us to move forward with the Internet Tax Freedom Act as well?

Mr. LOTT. Certainly, I do. We have tried to get that cleared a couple times and there have been objections. I know there is a lot of interest in it. I am receiving calls, and I know there is support for it on both sides of the aisle. So we will continue to try to work that out, and we will try to get an agreement to go forward on it later today.

Mr. MCCAIN. I will not object.

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

Mr. LOTT. Mr. President, I yield the floor.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, we are back on the FAA authorization bill. We have a number of amendments that will require debate and votes. We also are working to resolve a number of them. I want to say to my colleagues that I don't know what the leaders on both sides intend to do this evening, but the Senator from Kentucky and I intend to try to get rid of all amendments by this evening. If we are unable to have Members come over here to propose amendments, then, obviously, we have no choice but to move forward

on the legislation. We have a number of amendments: A Dorgan amendment, a Mikulski-Sarbanes amendment, a Torricelli amendment, a Robb amendment, a Domenici amendment, and others that are on the unanimous-consent agreement. I hope that those Senators will come over and offer the amendments and stand ready to debate them and vote on them.

I yield the floor.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, I join my colleague in asking the Senators to help us move this bill along. We worked late into the night last evening in order to try to accommodate as many Senators as we could. There were some changes in language to where the amendments could be agreeable. Those amendments will be offered because both sides have agreed. We are down to maybe five or six amendments that will need votes. I don't know of any other vote that would be necessary.

Under the unanimous consent agreement of last evening, we said that these were first-degree amendments and that there might be second-degree amendments. We hope not. I want to encourage those on my side, if they have amendments that they want to debate and discuss, we are ready to take the time to do it now.

It gets a little frustrating here at the end of a session when everybody wants something done and nobody is here to help us get things done. It is the ''nature of the brute,'' as I have heard quite often. But we will be in a crunch, we will be here Saturdays and Sunday afternoon if we are going to get out by October 9, or we will be labeled as a ''do-nothing Congress.'' I don't like that label, and I don't like to work on Saturdays or Sundays. I don't think my colleagues do either.

If they would just come and offer their amendments and give us a time agreement, we can stack votes. We can do a lot of things to accommodate our Members.

I hope they will listen to the admonishment of my friend from Arizona that we want to finish this bill today, if at all possible. We intend to do that. If colleagues are not cooperative, then third reading is always possible.

I thank the Chair, and I yield the floor.

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I ask unanimous consent to speak as if in morning business.

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

Mr. FORD. Mr. President, how long will the Senator be?

Mr. FEINGOLD. Up to 20 minutes.

Mr. FORD. The reason I ask—I apologize for interrupting—is for others who want to come to the floor, and we can give them a time at which they can get here. So it would be roughly 10 minutes after 11.

I thank the Senator.

Mr. FEINGOLD. Mr. President, I thank the Senator from Kentucky.

THE 1998 TAX MEASURE

Mr. FEINGOLD. Mr. President, I rise to offer a few comments on the budget picture and the tax measure that appears likely to move through Congress in these few days remaining in the session.

Over the last several days, a number of my colleagues have come to the floor to voice concerns about the increasing use of the emergency spending provisions in our budget rule as a device to circumvent the tough limits we have imposed on our budget requiring that all new spending be paid for.

Those Members are properly alarmed because those spending provisions, which by any reasonable measure were predictable and expected, have now been designated as emergency appropriations precisely to avoid the need for offsetting spending cuts.

Mr. President, I want you to know that I share the concerns of those Members.

The spending limits to which we agreed in the bipartisan budget agreement last year are indeed tough. They were intended to be tough. But if we are to make progress toward a truly balanced budget, those limits have to be respected—not just last year's but also this year and into the future.

Along those same lines, I have some very serious concerns about the proposed tax bill that is working its way through Congress. To many it will not come as a surprise that I have serious concerns about this measure.

In 1994, I was the first Member of either House to fault both parties for the irresponsible tax policies they were advocating while our Nation still faced a very serious budget deficit. Then, as now, I firmly believed that balancing the budget has to be our highest economic priority, and that the irresponsible tax legislation being offered at that time made that task much harder. I think that subsequent events have proved that point.

The 104th Congress pursued the so-called Contract With America budget, a proposal that featured massive cuts in Medicare and Medicaid to help fund an irresponsible tax cut. That proposal in effect tried to serve two masters at the same time—a reduced deficit, and a massive tax cut.

The result was a measure that was unsustainable economically and politically, and the political gridlock that followed in the wake of that budget produced a Government shutdown, and little, if any, new progress toward balancing the Federal budget.

So the result was that the 104th Congress missed an important opportunity to finish the job that we started in the 103d Congress with the successful enactment of the historic deficit reduction package passed in August of 1993. It was the 1993 deficit reduction package that helped finally turn the budget around. It also helped turn Congress around by focusing attention on the need for continuing deficit reduction.

Unfortunately, the 104th Congress failed to advance the work of the 103d Congress. It sadly lost the focus of deficit reduction and the politically driven tax cut proposal undercut the potential for a sustainable deficit reduction package.

Then, at the beginning of the 105th Congress, we began to regain part of our focus on reducing the deficit. The political gridlock that characterized most of the previous Congress was really a slap in the face to many, and the following Congress—this Congress—there was a historic bipartisan effort to get back on track.

As a Member of the Senate Budget Committee, I was proud to be part of that bipartisan effort.

Once again, let me pay special notice to our distinguished chairman, the Senator from New Mexico, and our ranking member, the Senator from New Jersey, for their leadership in helping to craft a bipartisan spending-cut bill that we passed in 1997.

Mr. President, taken together, the 1993 deficit package, and to a lesser but still important extent the 1997 budget-cutting bill, have put this Nation on the road—''on the road''; we are not there yet, but on the road—to a truly balanced budget. We are not there yet, but the goal is in sight.

As I noted, I was proud to support the budget-cutting bill last year. I voted for the tough spending cuts that included. However, I did not support the separate irresponsible tax-cut bill that was also part of those discussions.

A large part of the reason we have not reached our goal of a balanced budget is last year's tax-cut legislation. In fact, that tax cut should not have been enacted for a great many reasons. But first and foremost, Mr. President, it shouldn't have been enacted because it was premature. In effect, it created over a 10-year period a $292 billion net tax cut—a net tax cut of $292 billion—while we were still facing significant budget deficits.

Mr. President, the bottom line is that because our budget is still in deficit, the tax cut was effectively funded with Social Security revenues. Make no mistake about it. That $292 billion comes out of the Social Security trust fund, because it is the only pot that is left when you have a deficit.

Mr. President, this terrible problem in last year's tax bill is the very same problem that plagued this year's tax proposal.

There are other problems, as well, with last year's tax bill. Not only was it premature, but the bill's costs were heavily backloaded, putting even a greater burden on our children and grandchildren, and even adding more complexity, if you can believe it—even more complexity—to a Tax Code already thick with it.

And by committing revenues to a variety of specific interests, it further

jeopardized the broad-based tax reform that so many of us genuinely want to see, and that we really thought was going to happen after the 1994 election.

Mr. President, the most telling legacy of last year's premature tax cut is that, if it had not been enacted, our Federal budget would have finally achieved a significant surplus by 2002 instead of having to wait until at least as long as 2006, 4 years earlier.

Mr. President, this bears repeating.

As we have talked for years about how we wanted to have a truly balanced budget by the year 2002, that goal and that achievement was sacrificed to the desire to give out a premature tax cut last year. If Congress had not enacted last year's premature tax cut, today we would be looking at the chance of real budget surpluses in the year 2002 instead of having to wait at least until the year 2006, and perhaps beyond, if the appetite for premature tax cuts is not satiated.

Mr. President, this mistake of last year should have been a lesson for us. Regrettably, it appears at least some have not learned a lesson.

We now come to the end of the 105th Congress, and again we are presented with yet another tax-cut proposal.

Estimates from the Joint Committee on Taxation puts the cost of the tax cuts in this new proposal at about $86 billion over the next 5 years. Naturally, all of us who care about truly balancing the budget say, ''OK. Where are the offsets? What about the offsets? What revenue increases or spending cuts are included in the package to offset this cost of $86 billion in lost revenue?''

Apparently, other than about $5 billion in revenue offsets, there are none. So it begins to look an awful lot like the 1997 tax bill, which involved at least $86 billion to $90 billion in net tax reductions—not offsets—over the course of 5 years.

Mr. President, this new proposal essentially has no offsets. It is a net $80-billion-deficit increase.

How can this be? What possible justification is offered to again balloon the deficit in this way?

The answer is the same shell-game explanation that has been given to the public for about 30 years.

Proponents of this legislation argue that somehow there is no deficit, that the budget currently has a surplus, and that all this tax bill does is merely return some of that surplus to the taxpayer.

That portrayal of our budget is simply wrong and, frankly, is misleading.

We do not have the surplus. The budget this year is projected to have about a $40 billion deficit. And except for briefly achieving balance in 2002 and 2005, the Congressional Budget Office does not project a significant budget surplus until at least the year 2006, 8 years from now, if, and only if, their economic assumptions hold. And they, of course, are optimistic economic assumptions based on the rather healthy economy we have enjoyed for several years.

In response to a letter from our ranking member on the Budget Committee, the Congressional Budget Office indicates that if a recession similar to the one that occurred in 1990 and 1991 were to begin in late 1999, the budget's bottom line in that year would be close to $50 billion worse than is currently projected. CBO goes on to note that this impact on the budget would grow to almost $150 billion by the year 2002.

Put simply, if we were to experience a recession similar to the one we experienced in 1990 and 1991, instead of having a balanced budget in the year 2002, we would have a budget deficit of $150 billion—all the more reason for us to be fiscally prudent.

Let me reiterate, we do not have a budget surplus today. Our budget is currently projected to end the current fiscal year with a deficit of about $40 billion. How can proponents argue that we have a budget surplus when we do not? What is the difference? What is the difference between their view and their argument and the real budget? The difference is Social Security. Those who are pushing this tax measure want to include Social Security trust fund balances in our budget. They want to use Social Security balances to pay for their tax cut. And that is what is wrong with this tax cut.

A recent release from the Concord Coalition said it quite well. They said, ''It is inconsistent for Congress to say that Social Security is 'off budget' while at the same time using the Social Security surplus to pay for tax cuts or new spending.''

That is exactly what is being proposed here. Years of fiscal discipline are being squandered for the sake of an election year tax cut bill.

What is equally troubling, the future discipline that will be needed to finish the job and balance the budget is also put at risk by this tax bill. Our budget rules cannot by themselves eliminate our deficit and balance the budget, but they can help sustain the tough decisions we make here. They play an important role in ensuring that Congress does not backslide in efforts to balance the budget.

The tax measure as it currently is being debated in the other body appears to violate several critical budget rules. It violates the pay-go rule, which is supposed to ensure that tax and entitlement bills do not aggravate the deficit. It violates section 311(A)(2)(b) of the Budget Act by undercutting the revenue levels established in the most recent budget resolution. And it may violate section 306 of the Budget Act if, as some believe will happen, the majority includes language which would include further provisions to avoid the automatic cuts made by the sequester process.

This proposal may well become a triple threat. It ignores rules requiring offsets, it ignores rules establishing revenue floors, and before we are done it may also seek to circumvent the sequester provisions—the last line of defense to protect the budget.

I know this can sound very complicated. The people pushing this tax bill are counting on it sounding complicated. But it is really not complicated. Put simply, what they want to do, just like they did last year, is to use the Social Security trust funds to pay for an election year tax cut. They will balloon the deficit and imperil Social Security, and that is a bad idea.

This is the legacy of the tax bill as it is the legacy of the 1997 tax bill—raiding the Social Security trust fund, busting the budget and trashing budget discipline, all for an election year tax cut. For the sake of expediency, this body will be asked to put fiscal prudence on the block.

Last year's tax bill was premature. This year's tax bill is equally reckless. We are within sight of our goal of a truly balanced budget. We really should not stray from that path. I urge my colleagues to join with me to oppose any tax measure which violates our budget rules and sets us once again on a fiscally irresponsible course.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. TORRICELLI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

WENDELL H. FORD NATIONAL AIR TRANSPORTATION SYSTEM IMPROVEMENT ACT OF 1998

The Senate continued the consideration of the bill.

AMENDMENT NO. 3627

(Purpose: To reestablish the Office of Noise Abatement and Control in the Environmental Protection Agency)

Mr. TORRICELLI. Mr. President, I rise today to offer an amendment on the underlying legislation of FAA reauthorization. I do so in recognition of the reality of life of hundreds of thousands of people that I represent—and, indeed, most Members of the Senate represent—who, by the chance of the place of their birth or where they choose to live, have a daily encounter with the rising problem of airplane noise in our country.

We have through recent decades learned to expand our concept of pollution of the air and the water to toxins, to chemicals we work with every day. But to most Americans they, in their own lives, have already come to understand and reach the decision that I bring before this Senate today: Noise is a pollution, and it is a very real part of the quality of life of most people in our country, impacting their communities.

I offer this amendment because this problem will not solve itself and, indeed, as the years pass, it is clear it is

going to get worse. The FAA predicts that by the year 2007 there will be 36 percent more airplane flights than this Nation will experience this year; 60 of the 100 largest airports in this country in each of our major metropolitan regions are planning expansions with new runways. To some, this is a choice between economic expansion and the quality of life or health of our families. We do not have to reach that choice. If we build airports, plan their expansion, and deal with the issue of flight paths with good, scientific information, understanding the impact of noise on health and how it can be mitigated, there is no reason to compromise economic growth while we legitimately address the health of our families.

We already know that 25 million Americans are impacted by noise problems every day. Even the rudimentary studies that have been undertaken lead us to understand that noise exposure is an element of hypertension difficulties and cardiovascular problems. It is estimated that another 40 million people with different levels of noise exposure have sleep or work disruption that affect their productivity and their own quality of life.

The Environmental Protection Agency for a time was involved in these issues. Some of the judgment I bring before the Senate today was made more than two decades ago. Then Congress understood the impact of noise on health and quality of life. But in 1981 the Congress eliminated the Office of Noise Abatement and Control, so much scientific work and the advice of scientists and others with this responsibility ceased.

In the EPA's absence, the Federal Aviation Administration has been charged with the responsibility of monitoring aircraft noise. Mr. President, the FAA has a mission, it has technical capabilities, and it performs its mission admirably. But dealing with the problem of noise is not its expertise or its mission. There is an obvious conflict of interest between promoting the expansion of the aviation industry and its airports and their operations, and dealing with the problem of noise. This conflict was recently highlighted by the Natural Resources Defense Council's own study that found that the FAA's policy, relying on a 65-decibel threshold for determining the level of noise compatibility with residential communities, was far too high and completely inappropriate. Yet that is the level the FAA continues to use because it does not force the critical choices in dealing with noise abatement.

I cannot adequately describe, for the quarter of a million people who live in New Jersey who are impacted by noise problems from Newark Airport, JFK, and La Guardia every day, how disappointing it is that this work in the Federal Government has ceased and the FAA alone is exercising this responsibility.

In our absence in these 17 years, much of this work and much of the progress on the question of noise and airports has been ceded to European leadership where much of the current health studies are being undertaken. For example, in Munich, Germany, a scientific study recently found that chronic exposure to airplane noise was affecting the psychological well-being of young children. Another study in England, where in our absence this work also was continuing, found that children studying under flight paths to Heathrow Airport in London had a reading age 6 months behind children who were not similarly exposed to aircraft noise.

The amendment I offer today, of which I now speak, would reengage the EPA in the serious business of evaluating alternatives and the impacts of airplane noise. It is based on legislation that I introduced last year with Senators SARBANES, WELLSTONE, LAUTENBERG, MOYNIHAN, MURRAY, D'AMATO, and BOXER. I have termed it the ''Quiet Communities Act,'' and it would reestablish within the EPA an Office of Noise Abatement and Control.

Some of that mission is reflected in the amendment I bring to the floor today for this authorization legislation. It will require the EPA to conduct a study which examines the FAA selection of noise measurement methodologies, so we know when the FAA does undertake studies whether their methodologies are sound and reasonable, as well as establishing a threshold of noise at which health impacts are felt.

So that in communities all across America, when people gather with local airport authorities and State authorities and Federal authorities, there is a scientific basis to know with some certainty whether or not their children's health is being impacted.

It is important to note that this bill will only give the EPA the authority to recommend new standards. It will only give them authority to recommend. It imposes nothing. The EPA can make its suggestions. It can do scientific studies. It can give a baseline. It will not change the authority in making final judgments.

Mr. President, I believe this is a reasonable suggestion to go down the path that other industrialized democracies have followed and which this Congress recognized two decades ago, that noise is a real and persistent problem in America that affects health. It is only reasonable that on a voluntary basis the EPA be able to make recommendations at what level and what methodologies so we can have an informed debate.

Mr. President, I offer this amendment for my colleagues' consideration, and I urge its adoption.

I yield the floor.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I understand that the Senator from New Jersey seeks a recorded vote on this; is that correct?

Mr. TORRICELLI. That is correct.

Mr. MCCAIN. I will make a motion to table the Torricelli-Lautenberg amendment and ask for the yeas and nays.

The PRESIDING OFFICER. There is no amendment pending.

Mr. MCCAIN. I say to my friend from New Jersey, I do not believe he has sent the amendment to the desk yet.

Mr. TORRICELLI. It is at the desk.

The PRESIDING OFFICER. Does the Senator from New Jersey ask that it be reported?

Mr. TORRICELLI. I ask that it be reported, and I ask unanimous consent that before the recorded vote, each side be given 2 minutes to explain their positions.

Mr. MCCAIN. That is fine.

Who has the floor, Mr. President?

The PRESIDING OFFICER. The unanimous consent agreement calls for 1 hour of debate on this amendment, evenly divided.

Mr. MCCAIN. Sure.

Mr. TORRICELLI. I reserve the remainder of my time pending Senator LAUTENBERG having a chance to come to the floor.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from New Jersey [Mr. TORRICELLI], for himself, Mr. LAUTENBERG, Mr. D'AMATO, Mr. MOYNIHAN and Mr. WELLSTONE, proposes an amendment numbered 3627.

Mr. MCCAIN. I ask unanimous consent that reading of the amendment be dispensed with.

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

(The text of the amendment is printed in today's RECORD under ''Amendments Submitted.'')

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. MCCAIN. Mr. President, we will be glad to use whatever time the Senator from New Jersey desires, along with his colleague.

I still move to table the amendment, and ask unanimous consent that the time for that vote——

The PRESIDING OFFICER. A motion to table is not in order until the time has been used.

Mr. MCCAIN. Until such time as the time has expired or the Senator from New Jersey yields back, at that time, I intend to seek a tabling motion, and that tabling motion would be at the agreement of the two leaders, since it is not clear as to exactly when that vote would be held. So that is my intention.

Mr. President, I would like to speak on the amendment.

This amendment to reestablish the Office of Noise Abatement and Control in the EPA is something that I believe is very unnecessary. The language of the proposal is being represented as dealing with noise from all sources. It is clearly targeted at aviation noise.

I also say to the Senator from New Jersey, I understand the aviation noise problems in his State, as well as neighboring States.

Mr. President, aviation noise issues involve a careful balancing of many concerns, including technology, safety, airspace management, research and education, and land use. The expertise and necessary center of authority for dealing with these highly interrelated matters has always resided in the FAA.

Replication of the necessary expertise within the EPA, along with the creation of jurisdictional ambiguities, would not only be wasteful of our limited Federal resources, but would also serve to complicate and confound existing efforts to deal with and better understand community noise concerns. The fact of the matter is that the EPA does not have any expertise in aerodynamics, which is fundamental to addressing aircraft noise issues.

Mr. President, I think it is important to point out that noisy Stage 2 aircraft are currently being phased out. The FAA estimates that by the year 2000, the population exposed to significant aircraft noise will be approximately 600,000. That is a dramatic decrease from the more than 4.5 million just 8 years ago. It is clear that current noise mitigation efforts have significantly reduced the exposure of a great many people to aircraft noise. We should allow this substantive work to continue without any interference.

Reestablishing the Office of Noise Abatement and Control strikes me as a needless return to big government. The last thing I think we need to be doing now is funding, even with a budget surplus, another bureaucratic office, especially when the underlying concerns are already being addressed.

Mr. President, the FAA News, i.e., the press release that was issued on September 9, says:

Aircraft Noise Levels Continue to Decline, Secretary Slater Announces.

It goes on to say:

With the continued removal of noisier aircraft and the introduction of quieter airplanes to the U.S. fleet, approximately 80 percent of airplanes operating in the United States today are the quieter Stage 3 aircraft, Secretary of Transportation Rodney E. Slater reported today.

* * * * * *

This is the sixth consecutive year that the aircraft fleet has been ahead of the requirement to transition to a quieter aircraft. The Airport Noise and Capacity Act of 1990 requires that all airplanes meet quieter Stage 3 noise levels by the year 2000.

I might add that that legislation was a direct result of the efforts of the Senator from Kentucky.

Secretary Slater's report to Congress shows that operators surpassed the Dec. 31 interim compliance requirement. Operators either had to reduce noisier Stage 2 airplanes by 50 percent or have 65 percent of the quieter Stage 3 airplanes in their fleets. Just this past year, 225 noisier Stage 2 aircraft have been removed from service while 554 quieter Stage 3 aircraft have entered service in the United States.

Mr. President, I ask unanimous consent that this complete statement be printed in the RECORD.

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

[From FAA News, Sept. 9, 1998]

AIRCRAFT NOISE LEVELS CONTINUE TO DECLINE, SECRETARY SLATER ANNOUNCES

WASHINGTON.—With the continued removal of noisier aircraft and the introduction of quieter airplanes to the U.S. fleet, approximately 80 percent of airplanes operating in the United States today are the quieter Stage 3 aircraft, Secretary of Transportation Rodney E. Slater reported today.

''President Clinton is committed to protecting the environment, and I am pleased by this progress,'' said Secretary Slater.

This is the sixth consecutive year that the aircraft fleet has been ahead of the requirement to transition to quieter aircraft. The Airport Noise and Capacity Act of 1990 requires that all airplanes meet quieter Stage 3 noise levels by the year 2000.

Secretary Slater's report to Congress shows that operators surpassed the Dec. 31 interim compliance requirement. Operators either had to reduce noisier Stage 2 airplanes by 50 percent or have 65 percent of the quieter Stage 3 airplanes in their fleets. Just this past year, 225 noisier Stage 2 aircraft have been removed from service while 554 quieter Stage 3 aircraft have entered service in the United States.

FAA Administrator Jane F. Garvey said, ''I applaud the continued commitment of airplane operators and manufacturers. The operators continue to meet or exceed interim compliance dates and manufacturers continue to develop quieter aircraft and engines.''

Stage 2 airplanes include Boeing models 727–200, 737–200 and McDonnell Douglas model DC–9. Stage 3 airplanes include Boeing models 737–300, 757, 777 and McDonnell Douglas models MD–80 and 90.

Some operators are complying with the Stage 2 airplane phaseout by installing FAA certified Stage 3 noise level hushkits to their Stage 2 fleet. Many airline operators have already met the criteria for the next interim compliance date, which is Dec. 31, 1998.

Mr. MCCAIN. Mr. President, we are making progress, a lot of it due to the exhaustive efforts of the Aviation Subcommittee of the Commerce Committee under the leadership of Senator FORD. We are making progress. It is exceeding the goals that everyone agreed were reasonable at the time we passed the act in 1990. I strongly recommend that we do not set up or reestablish another bureaucracy to address a problem which, although is still in existence, clearly is being addressed in a manner which exceeds our expectations.

Again, I have great sympathy for the Senator from New Jersey and the people who live in these air corridors where there is exceedingly high noise levels. My message to them is: Help is not only on the way but it has been on the way for some years now. In fact, for the sixth consecutive year noise levels have been reduced. I know that is of small consolation to some, but over time we will have much quieter communities in New Jersey, as well as Arizona, Kentucky, and every other State in America.

As I said before, Mr. President, I intend to move to table the amendment, either at the expiration of all time or the yielding back of time before the vote. I tell my colleagues, I will let them know as soon as possible, because the two leaders would have to consult on the time of that vote.

Mr. President, I yield the floor.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, if there are no others seeking recognition on this amendment—and the distinguished Senator from Arizona has noted the procedure following the vote—I ask unanimous consent that I be allowed to proceed as in morning business to speak about the issue of impeachment.

Mr. MCCAIN. For how long?

Reserving the right to object, Mr. President, for 1 minute, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. LEAHY. Mr. President, I renew my earlier unanimous-consent request.

Mr. MCCAIN. Reserving the right to object, is that request for a maximum of 20 minutes?

Mr. LEAHY. Yes, an absolute maximum of 20 minutes.

Mr. MCCAIN. As long as that unanimous-consent request includes not longer than 20 minutes.

Mr. LEAHY. I amend it to so state.

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

The Senator from Vermont.

Mr. LEAHY. I thank the Senator from Arizona and the Senator from Kentucky for their usual courtesies.

CONGRESS' RESPONSIBILITY REGARDING THE REFERRAL FROM KENNETH STARR

Mr. LEAHY. Mr. President, I come to the floor today to speak about the responsibility of Congress considering the referral from Kenneth Starr.

I am deeply concerned about how this is unfolding. This process is fast losing credibility. It is enough off track that the national interest, which should be our paramount concern, is suffering. It is enough off track that our institutions of government—the Congress, the Presidency, and the Constitution itself—may suffer damage that will linger long after we are all gone from the scene. The way we handle this responsibility, the character of our own institution is also at stake.

America, look where we are. The President has misused his office. Kenneth Starr is leaving in his wake a body of debris that will bring down the entire independent counsel law. And now that this matter is on our doorstep, we in the Congress increasingly risk, through our actions, undermining the public's faith and trust in our own institution of our own national government.

In these early stages of this inquiry into the actions of the President of the

United States, it is time we ask whether we, ourselves, are on the verge of becoming not part of the solution but, instead, part of the problem, by harming our national interests and further eroding the public's confidence in their government.

Should we be disappointed and offended and angered by the President's conduct? Certainly we should be. As a father, a husband, as an American, and as someone who knows this President and supports the good he has done for the Nation, I am appalled and saddened by this episode.

These are difficult days in Washington and they are difficult days for the Nation. But this is a time when the Congress must rise above partisanship and look beyond short-term political objectives. We must consider what best serves the common good of the American people.

Four tenets must guide Congress' proper handling of the referral from Mr. Starr: We should put the national interests first in all of our considerations. Secondly, proceedings should be structured and enjoined to be as bipartisan as possible. Third, we must be fair. And fourth, we must move toward resolving this controversy as promptly as possible.

Early statements by the House leadership point in the right direction, but these have been overtaken by events and actions. I have noted on many other occasions my respect for HENRY HYDE, chairman of the House Judiciary Committee, and JOHN CONYERS, ranking Democratic member of that committee. These two distinguished leaders have the wisdom and experience to work together for the good of the country and to construct a fair, bipartisan process. It does not augur well for such a process, however, that unilateral decisions and party-line votes already have become the norm, and the House has paid little attention to ensuring fairness in its initial decisions and actions.

The past several weeks have not been reassuring. The other body has yet to determine what rules and procedures should govern their actions, how our traditional notions of due process and fundamental fairness will be guaranteed, and how to prevent this process from degenerating into a partisan exercise. The House only now is beginning to examine the precedence and bipartisan actions of the House Judiciary Committee that considered the impeachment of President Nixon. In effect, they have put the cart before the horse.

Perhaps the meeting yesterday involving the House leadership will yield some progress. It is time for leaders in the House and the Senate, leaders from both parties, people of good will who put the national interests first, to reconsider how this matter is being handled and where it is headed.

A partisan train seems to be rolling out of the House station in a decidedly political direction. Perhaps it is too much to hope that Members, in the midst of reelection efforts, would view this matter through any prism other than their own campaigns or prospects for majority control in the Congress and the presidential election in 2000. The public is wondering whether this Congress can do anything serious now that election season is upon us.

Congress risks undermining the public's trust in our institutions of our national government. We must consider what best serves the common good of the American people and our national interests. This is a time when Congress must rise above partisanship and look beyond short-term political objectives.

Like Dwight Eisenhower before him, my friend and former colleague Senator Dole used his Farewell Address to the Senate in 1996 to warn of an impending danger to the Nation. He chose to speak about a fundamental lesson he learned in his years in Washington: that people of both parties must work together. He reminded Senators that we represent all our constituents—Republicans, Democrats, and independents.

On any consideration of proceedings to inquire into the possible impeachment of the President of the United States, as on matters of such overriding significance as the declaration of war or amending the Constitution, all Members of Congress must be mindful of the Nation's interests and the potential for harm that can be caused by pursuing narrow partisan goals.

We have already seen personal criticism of the President while he was overseas on a trip to Russia and Ireland. On Monday, the videotape of the President's appearance before one of the Starr grand juries was broadcast over the airwaves, even while the President of the United States was making a major address before the United Nations on international terrorism—one of the greatest current threats to our Nation's security and to stability around the world. These rash acts harm the Nation and they harm the international standing of the United States. Such actions may help the political fortunes of some in Congress, but they ignore the precedent of past Congresses where criticisms of the President were put on hold during those periods when he represents the United States in issues with other countries.

The national interest would not be served by a divided House membership proceeding to punt this matter to the Senate while they crossed their fingers and hoped for the Senate to bail them out of an ill-considered finding. The national interest should not be hostage to months of meandering through an undefined partisan process that leads inexorably to impasse. A lengthy, partisan impeachment inquest would serve no national purpose but only lead to a year of balkanized polarization that would poison a generation of relationships across the aisle in Congress and even across the Nation.

A fundamental lesson I learned as a practicing lawyer and that was reinforced when I served as the State's Attorney for Chittenden County, in my work as a U.S. Senator, as a member of the Senate Judiciary Committee and now as its ranking member, is that fairness in a process is critical to the result of that process. The process must be fair for the American people to find it credible. If it is not fair, the American people will not find it credible.

One measure of a prosecutor's fairness is fulfilling the duty to disclose exculpatory evidence. That aspect of fairness has constitutional implication in criminal matters. Now, weeks after the allegations have saturated the public media, we find buried in the thousands of pages of documents, transcripts and appendices that Ms. Lewinsky, the principal witness upon whom Mr. Starr relies for his charges, volunteered at the conclusion of her testimony before the grand jury that ''no one ever asked me to lie and I was never promised a job for my silence.'' Neither Mr. Starr, nor the lawyers working for him, felt any duty of fairness to ask this critical question. It was left to an anonymous juror who felt an obligation to the real issue at the heart of this matter.

One measure of the credibility of the House's proceedings will be whether it achieves the balance and fairness that so far has been lacking in the work of Mr. Starr's office.

An independent counsel does not have the checks and the accountability that enforce judgment and discretion in other prosecutors in this country. Wielding that enormous authority, therefore, it is incumbent upon an independent counsel to discipline himself with discretion and judgment. Unfortunately, in this matter, it is by this juncture quite clear that the report from Mr. Starr is an advocate's brief, intended to persuade, rather than the balanced presentation that should be the hallmark of such a somber exercise.

And, again, this makes it all the more important that the House exercise independent judgment and provide the balance and fairness that is lacking from the work of a zealous band of prosecutors.

I am concerned that the same House that is charged with this awesome responsibility is the body that is being asked to hold the Attorney General of the United States in contempt for having sought to protect the investigative process in connection with the ongoing campaign finance investigation.

I participated in a lengthy meeting with Senator HATCH, Mr. HYDE, Mr. BURTON, Mr. WAXMAN, and the Attorney General on this matter on September 2. The Attorney General extensively consulted with us in a sincere effort to allow congressional oversight without compromising the ongoing investigation. In spite of the efforts she

made to satisfy any legitimate congressional oversight interest, and despite the lack of any basis to charge contemptuous conduct, the House persists in its efforts to pressure and sanction.

This effort and the lack of balance it signals do not bode well for the House's other tasks.

I recall, as well, that it was not too many months ago in this same Congress that Republican leaders in the House were urging that impeachment be used as a device to intimidate federal judges when they rendered decisions that a Republican Member did not like. Impeachment should not be used as a partisan, ideological bludgeon in any context. That is not the proper use of this important constitutional authority. Such comments, at a minimum, complicate the task at hand.

Nor is it reassuring to read accounts of meetings, on the other side of the aisle, in this body, where partisan litmus tests on this matter are being applied to those chairing committees in the Senate.

There are few matters of such possible significance that may come before Congress as the matter of a President's fitness to serve.

The people of the United States elected William Jefferson Clinton to the Presidency in 1992 and reelected him in 1996. He and the Vice President are the only people serving anywhere in the Nation in any office who were elected by the entire country.

Under our Constitution, the Senate is charged with the ultimate responsibility to act as the jury in connection with any charges that the House were to deem worthy of impeachment.

Never in our history as a country has the Senate convicted a President of an impeachable offense. Only in the tumultuous times following the Civil War has the Senate been through the ordeal of a Presidential impeachment trial.

Mr. President, I am honored to have been elected by the people of Vermont to serve as their United States Senator. In our history, only 20 other Vermonters have had the privilege to hold the seat I now have representing our State. I am proud to serve as the ranking Democrat on the Senate Judiciary Committee. I appreciate my limited role in the Senate and in our government. I cannot take lightly being asked to judge whether a President, elected by the people of the United States, ought to be removed from office by an act of the Congress of the United States.

Now, the search for blame is a practiced congressional skill. It always bears fruit—sometimes bitter fruit. But the acceptance of our own solemn responsibility is more difficult. We must discharge our duties by serving the national interest, not by appealing to partisan or even public passions.

Let our actions not compound the Nation's anguish, harm the common good, nor further shake the public's faith in our institutions of self-government. These institutions have served this country well for over 200 years, in accordance with our Constitution, which has been a guidepost for that time. Our Constitution has survived because good men and women have stood up when needed to make sure it survives.

Mr. President, I yield the floor and I yield back the remainder of my time.

WENDELL H. FORD NATIONAL AIR TRANSPORTATION SYSTEM IMPROVEMENT ACT OF 1998

The Senate continued with the consideration of the bill.

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

AMENDMENT NO. 3227

Mr. LAUTENBERG. Mr. President, can you tell me how much time is available?

The PRESIDING OFFICER. Senator TORRICELLI controls 30 minutes as a proponent of his amendment.

Mr. LAUTENBERG. On Senator TORRICELLI's time, I yield myself as much time as I need, which will probably be less than 10 minutes.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. LAUTENBERG. Mr. President, I rise as a cosponsor of the pending amendment, offered by my friend and colleague from New Jersey, Senator TORRICELLI. The amendment, called the Quiet Communities Act, will reestablish the Environmental Protection Agency's appropriate role in noise abatement.

This amendment simply reactivates an office in the EPA—the Office of Noise Abatement and Control—that was unfunded in 1981 at the request of the Reagan administration. The Office of Noise Abatement and Control will coordinate Federal noise abatement activities, develop noise standards, provide technical assistance to local communities, and promote research and education on the impacts of noise pollution.

This office will be a resource to the millions of Americans who are affected by noise pollution, and particularly aircraft noise.

Those of us who are in the New York-New Jersey region know only too well what effect aircraft noise has on our communities. It is a serious problem for populations across our country who are constantly harassed by airplane noise, truck noise, construction noise, and other noise, when they can never find peace in their own homes. In our region, with the several airports we have operating—La Guardia and Kennedy and Newark, and others—it is a constant. We have to find ways to deal with it.

Just like air and water pollution, noise pollution is an environmental health issue. People who are tormented by noise pollution experience a range of health problems, such as hearing loss, stress, high blood pressure, sleep deprivation, distraction, and lost productivity. Aircraft noise is especially detrimental to human health.

Some studies indicate that persistent exposure to high levels of aircraft noise is linked to hypertension, cardiovascular and gastrointestinal problems, among other disorders.

Noise pollution is particularly troublesome in parts of the State of New Jersey.

New Jersey is the most densely populated State in the Nation, and millions of New Jerseyans live close to major transportation centers that generate significant levels of noise in their neighborhoods. For example, aircraft approaching and departing from Newark International Airport are guided along flight paths routed over residential neighborhoods, patterns which disrupt families and disturb the community's quality of life. Communities affected by aircraft noise have been living with the pain for over 10 years and they must find relief.

Unfortunately, the Federal Aviation Administration, which is charged with the responsibility of monitoring aircraft noise, has not adequately addressed the noise problems in New Jersey, and when attempted, its approach toward these problems is often flawed.

For example the FAA's current threshold of 65 decibels Day-Night Level—or DNL—that the FAA indicates is compatible with residential use is often criticized as problematic and, in the opinion of the National Resources Defense Council, significantly underestimates the level at which many people are affected by aircraft noise.

The fact that this fundamental threshold is controversial and the science behind it is disputed points to the fact that more research is needed on these issues.

Mr. President, citizens living near airports have few resources at their disposal to find out more about the effects of air noise on their health and their environment.

The Office of Noise Abatement and Control used to be one resource, and it has been dormant for too long.

Simply put, Mr. President, noise pollution, and particularly aircraft noise, is a serious environmental health issue that deserves attention from the primary Federal agency whose responsibility is environmental protection—the EPA.

Unfortunately, Mr. President, that was not the view in 1981. But now we have an opportunity to correct this mistake by adopting this amendment.

Besides reactivating the Office of Noise Abatement and Control, the bill authorizes funding of $5 million a year for the first 2 years and $8 million a year for the subsequent years to fund Office's activities.

According to the National Institutes of Health, more than 20 million Americans are exposed on a regular basis to

hazardous noise levels that could result in hearing loss and other psychological and physiological damage. In my view, $5 million a year to address a problem affecting over 20 million Americans is a sound investment.

The bill also requires the Office of Noise Abatement and Control to produce a study. The study must examine the FAA's selection of noise measurement methodologies, determine the threshold of noise at which health impacts are felt and determine the effectiveness of noise abatement programs at airports around the United States.

The EPA would then issue recommendations—recommendations, Mr. President, not directives—to the FAA on measures that will mitigate the impact of air noise on affected communities. In my opinion, Mr. President, this study is long overdue, and particularly long overdue for the millions of Americans who live every day with the nuisance of aircraft noise in their lives.

Mr. President, back in 1990, I sponsored a provision in the Airport Noise and Capacity Act, that required all commercial airlines to convert their fleets from Stage II to Stage III noise certification levels, a quieter plane, by the year 2000. I am pleased to say that many of the commercial airlines are ahead of their schedules and we have seen positive benefits.

Research is continuing on even quieter aircraft, and we may soon see fleets that would satisfy Stage IV noise certification levels. However, as air travel increases, communities will experience more aircraft noise. This issue will not go away. Indeed, if nothing is done, it will only get worse.

Mr. President, this amendment simply reactivates a program in EPA that has been dormant for too long, a program that addressed a serious environmental health issue, in the Federal agency that is responsible for mitigating environmental health problems. This amendment makes sense, and will provide some element of relief for the millions of Americans who face debilitating noise pollution, such as aircraft pollution, every day.

Mr. President, we have a chance to do something about this at a fairly modest cost overall, and to say to those people, simply because they live in an area that is crowded, that is a transportation center and so forth, that you shouldn't have to suffer a different way of life, or a less pleasant way of life than other citizens across this country.

We do all kinds of things to mitigate against noise. We build highway noise barriers and have all kinds of systems. We have police rules that say you can't blow your horn unnecessarily—all kinds of programs that would reduce the amount of noise pollution that we endure each and every day.

I strongly support this amendment and urge my colleagues to think through what it means to their communities, to their States, and do the same thing.

I yield the floor.

Mr. MCCAIN. Mr. President, I ask unanimous consent that the time between now and 12:10 p.m. be equally divided in the usual form for debate on the pending Torricelli amendment prior to the motion to table. I further ask that upon the expiration of time Senator MCCAIN be recognized to offer a motion to table the amendment. Finally, I ask that no second-degree amendments be in order prior to the vote.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MCCAIN. Mr. President, I just want to mention that I received information from Senator CHAFEE, chairman of the Environment and Public Works Committee, who feels very strongly that legislation of this nature should—and I agree with him—very appropriately go through the Environment and Public Works Committee. That is another reason why I hope my colleagues will support the motion to table at the appropriate time.

Mr. President, I yield the floor.

Mr. FORD. Mr. President.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, it is always painful to be against an amendment by one of your colleagues, and particularly a friend. But I think under the circumstances it is a little premature to go with this when the Environment Committee has asked that this come through their committee and not be offered on the floor. But attacking noise is a difficult problem that requires a coordinated effort involving research, airport grant money, flight paths, and phaseout of noisy aircraft.

The FAA has been successful in its efforts to reduce airplane noise. In fact, the FAA has spent in the last few years $2 billion for sound insulation and property purchase around our U.S. airports. And duplicating the expertise of the FAA within the EPA and costing the taxpayers some $21 million would be wasteful, in my opinion, of government resources. It would complicate and confuse efforts to deal with and better understand community noise concerns. And it would, Mr. President, create a judicial ambiguity that could have real problems as we reduce aircraft noise worldwide.

Since 1993, the Federal Interagency Committee on Aircraft Noise has worked successfully to advance cooperative noise research among the various Federal agencies with an interest in this area. The participants of this interagency committee on noise includes the National Park Service; EPA is a part of this, FAA, NASA, HUD housing, Department of Defense, National Institutes of Health, and others. And the participating agencies have and continue to address all of the responsibilities envisioned in the Quiet Communities Act through their cooperative research work, and EPA is, has been, and will remain an active participant in this process.

Mr. President, there is no need to change their current structure. I want to reiterate:—There does not appear to be any substantive reason to expend $21 million and add needless jurisdictional confusion to the ongoing efforts to deal effectively with community aircraft noise.

I go back to the struggle we had to eliminate Stage 2 aircraft engines. There were 4.5 million, as my friend from Arizona said, people that were subjected to noise as it relates to aircraft. We have been quite successful. We have reduced that now by 90 percent. We are down to a mere 10 percent. And by January 1, 2000, all aircraft will have to be Stage 3. So the noise is going to be reduced even further.

I understand the problems. But we have been working on it for some time. I hope that our colleagues will leave the authority with FAA and let them continue with all the groups in the Federal Government, such as NASA, Housing, Defense, National Institutes of Health, and EPA that are working together.

I am going to join with my friend in endorsing his motion to table.

I yield the floor.

Mr. President, the proponent of this amendment, Senator TORRICELLI, wanted at least 2 minutes. I don't believe Senator MCCAIN and I have any time left. I will suggest the absence of a quorum and ask that the time be charged equally to both sides up to no more than 2 minutes.

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

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. TORRICELLI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ROBERTS). Without objection, it is so ordered.

The Senator has 2 minutes remaining.

Mr. TORRICELLI. Mr. President, in a few moments, the Senate will vote on an amendment that I have offered with my colleague, Senator LAUTENBERG. The amendment could not be simpler on its face or more modest in its intent. We could have required an environmental impact statement for every time the FAA changes a flight path. We did not do that. We could have given the EPA the power to set standards for noise, for health. Maybe we should have, but we did not do that.

All that we have asked is that, as with each of our other major industrial competitors in the western world, noise be considered as a factor in the operation of this Nation's airports. That is all. And on two bases. First, when the FAA establishes methodology to determine whether or not particular noise involving airplanes is safe for schoolchildren or families or recreation, that methodology be evaluated by the EPA. That is all. They will not establish it. They will not make the decisions. They

will evaluate whether the methodology is sound because scientific studies are indicating our current methodology does not accurately gauge whether or not our children are safe.

Second, that the appropriate levels of what is safe be established. There is also independent scientific evidence, as confirmed by European allies, that current levels may allow a level of noise pollution that does have detrimental health impacts. We would like the EPA's judgment on what the appropriate levels might be. They will not make a decision. They will offer their advice.

Mr. President, it is modest in its intent. It recognizes that noise is a real part of their lives for 40 million Americans every day of this expansion of our air networks. I urge adoption of this amendment.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I am very appreciative of and I believe sympathetic to the concerns of the Senator from New Jersey, Senator TORRICELLI. There are very large noise issues in his State and in States surrounding his. I just think it is important for us to recognize that noise levels have decreased by some 80 percent around America. We are moving to Stage 3 aircraft. We do not need to reestablish another bureaucracy. I am confident in the FAA in that the provisions of the 1990 act, which Senator FORD was responsible for, are being carried out in an accelerated fashion. I pledge to the Senator from New Jersey that if there is not continued progress, I would be more than happy to revisit this issue with him.

Mr. President, I yield the remainder of my time. I move to table the Torricelli amendment.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question occurs on agreeing to the motion to table the amendment, No. 3627, offered by the Senator from New Jersey. The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Ohio (Mr. GLENN), the Senator from South Carolina (Mr. HOLLINGS), and the Senator from Illinois (Ms. MOSELEY-BRAUN) are necessarily absent. I also announce that the Senator from Minnesota (Mr. WELLSTONE) is attending a funeral.

I further announce that, if present and voting, the Senator from Minnesota (Mr. WELLSTONE) would vote ''no.''

The result was announced—yeas 69, nays 27, as follows:

[Rollcall Vote No. 287 Leg.]

YEAS—69

Abraham	Dorgan	Landrieu
Akaka	Enzi	Lott
Allard	Faircloth	Lugar
Ashcroft	Feingold	Mack
Baucus	Ford	McCain
Bennett	Frist	McConnell
Bingaman	Gorton	Murkowski
Bond	Graham	Nickles
Breaux	Gramm	Roberts
Brownback	Grams	Rockefeller
Bryan	Grassley	Roth
Burns	Gregg	Santorum
Campbell	Hagel	Sessions
Chafee	Harkin	Shelby
Cleland	Hatch	Smith (NH)
Coats	Helms	Smith (OR)
Cochran	Hutchinson	Snowe
Collins	Inhofe	Stevens
Conrad	Inouye	Thomas
Coverdell	Kempthorne	Thompson
Craig	Kerrey	Thurmond
Daschle	Kohl	Warner
DeWine	Kyl	Wyden

NAYS—27

Biden	Hutchison	Mikulski
Boxer	Jeffords	Moynihan
Bumpers	Johnson	Murray
Byrd	Kennedy	Reed
D'Amato	Kerry	Reid
Dodd	Lautenberg	Robb
Domenici	Leahy	Sarbanes
Durbin	Levin	Specter
Feinstein	Lieberman	Torricelli

NOT VOTING—4

Glenn	Moseley-Braun
Hollings	Wellstone

The motion to lay on the table the amendment (No. 3627) was agreed to.

Mr. MCCAIN. Mr. President, I see Senator ABRAHAM on the floor. Before I yield, I want to say that I believe we are very close. We have about two or three amendments left, on which I believe we will be able to set times for debate, and we will have votes on those amendments before 6 o'clock this evening, when the Senate will recess for the evening.

I thank all of my colleagues for their assistance in narrowing down what looks like about 30 or 40 amendments to 2 or 3. There are a couple of recalcitrant, obstinate Members who will shortly show up on the floor, but the rest we thank very much.

Mr. FORD. Mr. President, if the Senator will yield, as we go through these amendments that we have worked out, with the Senator's agreement, as amendments on my side come, I will offer those and get them done so we can move on when we come to 6 o'clock tonight and try to get a final vote on this piece of legislation so that we will not be kept here after 6 o'clock.

Mr. MCCAIN. Mr. President, I made a comment in jest, and I want to make sure the Record is clear that it was in jest. The Senator from North Dakota, as well as the Senator from Rhode Island, who are waiting to address these very serious issues. I have discussed, on several occasions, the situation that existed in North Dakota. When there was a Northwest Airlines strike, his State was, for all intents and purposes, shut down. The Senator from North Dakota has been an important member of our committee and a serious student and expert on these aviation issues. I certainly was not in any way making light of his involvement or that of the Senator from Rhode Island in these aviation issues.

I yield the floor.

Mr. ABRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. ABRAHAM. Mr. President, I ask unanimous consent to speak up to 10 minutes as in morning business.

The PRESIDING OFFICER. Is there objection?

Mr. FORD. Reserving the right to object, do we have Senators who want to offer amendments?

Mr. MCCAIN. I ask the Senator from Kentucky if we can let him speak for 10 minutes.

Mr. FORD. That will be fine, since we don't have a Senator on the floor wanting to offer an amendment right now.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Michigan is recognized for 10 minutes.

AMERICAN COMPETITIVENESS

Mr. ABRAHAM. Mr. President, I rise to announce an agreement between the White House and supporters of the American Competitiveness Act which I hope and expect will insure passage and implementation of legislation to safeguard the competitive edge of American business.

Mr. President, the American Competitiveness Act was designed to address a growing shortage of skilled workers for certain high technology positions important to American business.

This shortage threatens all sectors of our economy. Economist Larry Kudlow reports that high technology companies account for about one third of real economic growth. Overall, electronic commerce is expected to grow to $80 billion by the year 2000.

But high technology firms are running into serious worker shortages.

A study conducted by Virginia Tech estimates that right now we have more than 340,000 unfilled positions for highly skilled information technology workers.

And, while Department of Labor figures project our economy will produce more than 1.3 million information technology jobs over the next 10 years, our universities will not produce the graduates needed to fill those positions.

In fact, it is estimated that the shortfall will be very, very substantial. If they are to keep their major operations in America, firms must find workers with the skills needed to fill important positions in their companies. This requires that we do more as a nation to encourage our young people to choose high-technology fields for study and for their careers. In the long term this is the only way we can stay competitive and protect American jobs.

As I said, the shortfalls clearly demonstrate the need for us to grow more talent here at home. In fact, you need

only look at the high-tech companies that are feeling this shortage. When I visit manufacturing companies in my State, they indicate that they are having increasing trouble finding sufficient information technology workers to meet their needs. This is because so many of our industries are now, in one form or another, dependent on technology jobs. For the long term, the solution clearly must rest here at home, with American workers being trained to fill these jobs, with college students being given incentives to study in the areas where the next century's job creation will take place.

However, over the short term, until we are producing more qualified high technology graduates we must do more to fill the gap between high technology needs and high technology skills.

This has required that we allow companies to hire a limited number of highly skilled workers from overseas to fill essential roles. To do this they must go through a fairly onerous process to get one of the 65,000 ''H–1B'' temporary worker visas allotted by the INS.

Mr. President, in the history of this program, that 65,000 limit was never breached until last year when we hit the 65,000 annual limit at the end of August. The limit was hit this year in May. It is projected that if we do not change the limit, it will be hit next year as early as February. What that means, in short, as so many of my colleagues know, is that since May of this year not one American company, regardless of the emergency circumstances and the needs, has been able to bring in a highly skilled foreign worker to fill a job slot. As a consequence of that, we have lost opportunities and economic growth is paying a price.

This is dangerous for our economy. And that is why my American Competitiveness Act, in addition to providing significant incentives for Americans to enter the high technology sector, will add a limited number of additional H–1B visas so companies can find the workers they need to keep facilities and jobs in the United States, and keep our high-tech industry competitive in the global marketplace.

Let me be specific, Mr. President. In the absence of an increase in these numbers, if we can't find the people to fill the jobs here in this country, what is going to happen is American companies are going to shift operations overseas, and that means not only the loss of the particular job which an H–1B worker might fill, but it means the loss of other jobs in the division of the company where the H–1B position is vacant.

Let me just quickly outline the compromise agreement reached by the White House with our office.

First, the bill provides increased access to skilled personnel for American companies and universities. It will do this by increasing the number of H–1B temporary worker visas from 65,000 now to 115,000 in fiscal year 1999, 115,000 in fiscal year 2000, and 107,500 in fiscal year 2001. The visa limit will then return to 65,000 in the year 2002.

In addition, Mr. President, the bill provides new funding for college scholarships and job training for American workers.

10,000 scholarships per year will be provided to low income students in math, engineering and computer science through the National Science Foundation, with training provided through the Jobs Partnership Act.

This program will be funded by a $500 fee per visa petition and a $500 fee for visa renewals, which combined will raise an estimated $75 million each year.

Further, Mr. President, this legislation provides three types of layoff protection for American workers.

Let me add that throughout the process of working on this legislation, we have been very mindful of the concerns people have that somehow these H–1B temporary workers might end up filling a position where an American worker could have filled the slot. Our goal is to make sure that does not happen, and we have built protections into this agreement which we and the administration feel will accomplish that objective.

First, any company with 15% or more of its workforce in the United States on H–1B visas must attest that it will not lay off an American employee in the same job 90 days or less before or after the filing of a petition for an H–1B professional.

Second, an H–1B dependent company acting as a contractor must attest that it also will not place an H–1B professional in another company to fill the same job held by a laid off American 90 days before or after the date of placement.

Third, any employer, whether H–1B dependent or not, will face severe penalties for committing a willful violation of H–1B rules, underpaying an individual on an H–1B visa and replacing an American worker. That company will be debarred for 3 years from all employment immigration programs and fined $35,000 for each violation. Penalties for other violations also will be substantially increased.

In addition, Mr. President, H–1B dependent companies must attest that they recruit according to industry-wide standards and that the H–1B-holding individual was as, or more, qualified than any American job applicant. An American not hired can file a complaint with an arbitration panel, which can fine employers violating this provision.

Penalties and enforcement will be increased from those under current law.

The Department of Labor will be given authority to investigate suspected willful and serious violations of H–1B visas if it receives specific and credible evidence of such violations and receives the personal sign-off of the Secretary of Labor.

The purpose of this authority is to respond to situations of potentially egregious wrongdoing where a complaint had not been filed. This new authority sunsets with the increase in the visas, which will give Congress the opportunity for close scrutiny of whether or not DOL acts responsibly.

Finally, Mr. President, this legislation eliminates any financial incentive for companies to hire under-compensated foreign temporary workers by permanently reforming the prevailing wage attestation that is required prior to the hiring of anyone under the H–1B program.

Under this legislation, employers must offer benefits and the opportunity to earn bonuses to H–1B employees if those benefits and bonuses are available to that company's similarly-employed American workers.

In short, it will not be possible to bring in a foreign worker under the H–1B program to fill a job where that person is not being paid the prevailing wage inclusive of potential benefits and other forms of compensation.

In addition, this legislation provides sanctions for violations of new whistleblower protections and contains provisions against unconscionable contracts and against so-called benching.

I am convinced, Mr. President, that this legislation is crucial to maintaining American economic competitiveness and to protect American jobs.

It will increase the skills and employability of American workers while making certain that no qualified American worker is replaced by any immigrant worker.

It gives our high technology companies the tools they need to compete in world markets without sacrificing in any way the economic opportunities and well-being of American workers. Indeed, by keeping America competitive it will increase economic growth and the ability of all Americans to achieve and maintain economic security and prosperity. And as we move this bill through the final process—first, of course, in the House and then hopefully here soon—I will be urging my colleagues to support the legislation.

In closing, Mr. President, let me just summarize as follows: We have a serious crisis confronting our high-tech industries. We need to have more skilled workers on a longer-term basis. We need the scholarship and job training programs contained in this legislation to achieve the technology worker goals that we have set, but until those programs are adequate to meet the demand, we need to fill the gaps that exist today.

This legislation will increase on a temporary basis the number of temporary workers who can come to this country which will help us meet that challenge. In short, it will allow us to keep the economy going and at the same time prepare us for the future. Most importantly, it will protect American workers so that this program

cannot be exploited in any fashion that would cause somebody to lose a job or lose the chance to be hired for a job because a foreign worker was being selected for that assignment.

So there are safeguards for workers. There are the long-range education and job training components and there is the temporary increase in the number of workers who can come into this country to meet the immediate crisis. It is a balanced approach. It is one that, I think, deserves our support.

In closing, let me say thanks to those in the administration with whom we have been working. But also I would like to thank a number of our colleagues who have worked with me throughout this process, including Senator HATCH, chairman of the Judiciary Committee; Senator GORTON, who has had a special interest in this for a variety of reasons relating to his interest in high-tech companies; the majority leader, who has been very supportive; Senator PHIL GRAMM, who worked with me on a number of the negotiations; Senator LIEBERMAN, who played a very active role throughout the process, both here in the Senate and in the recent deliberations; Senator BOB GRAHAM, who was an early and active supporter of this effort; and especially to the chairman of the Commerce Committee who worked with me as we moved this legislation forward, both here in the Senate and in the intervening timeframes. Senator MCCAIN, whose commitment to this type of an approach of making sure on a variety of fronts that America is ready to enter the digital age and the digital economy, has given the kind of leadership I think we all admire. I thank him especially for his efforts.

Mr. President, I yield the floor.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. MCCAIN. Mr. President, let me say that what the Senator from Michigan, Senator ABRAHAM, has described today is a signal event. I recently visited Silicon Valley, which politicians seem to be doing more and more of nowadays. I was told that there were two major priorities that they felt were critical to the future of their industry. One was this, what we know now as the H–1B visa bill, and the other is the Internet tax freedom bill.

Senator ABRAHAM took an issue, which very few believed we could, and turned it into reality. He worked with both sides of the aisle, with the White House, and with the Silicon Valley folks, as well as labor. I believe that he has come up with a remarkable package, a remarkable product, which will allow us to maintain the incredible high-tech lead we have in the world. Without the ability to have trained, qualified and educated people in this industry, obviously we cannot have as predictable a future as we would like.

A part of this bill, Mr. President, will be the National Science Foundation Scholarship Program for Science and Math. At the appropriate time, I will offer language to name these scholarships the ''Spencer Abraham Scholarship Program.''

Again, I congratulate Senator ABRAHAM, because what he has achieved in this time of labeling the Congress as a ''do-nothing Congress,'' very frankly, is the best example of working on both sides of the aisle and with the administration for the good of the Nation. I hope that many of the rest of us, including this Senator, will follow his example.

I also hope we will be able to take up the Internet Tax Freedom Act so that we can also get that legislation passed before we leave.

I note the presence of Senator DORGAN on the floor. I thank him for his patience. I yield the floor.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The distinguished Senator from North Dakota is recognized.

WENDELL H. FORD NATIONAL AIR TRANSPORTATION SYSTEM IMPROVEMENT ACT OF 1998

The Senate continued with the consideration of the bill.

AMENDMENT NO. 3628

(Purpose: To amend the Internal Revenue Code of 1986 to provide an investment credit to promote the availability of jet aircraft to underserved communities, to reduce the passenger tax rate on rural domestic flight segments, and for other purposes)

Mr. DORGAN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from North Dakota [Mr. DORGAN] proposes an amendment numbered 3628.

Mr. DORGAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

(The amendment is printed in today's RECORD under ''Amendments Submitted.'')

Mr. DORGAN. I have indicated that I will offer two amendments to this piece of legislation. This would be the first. I intend, however, not to seek a vote on this amendment. I intend to ask unanimous consent that it be withdrawn. I am offering it for this reason. This legislation provides tax credits under certain circumstances. I recognize that it would cause a blue slip on this bill because this tax legislation must originate in the House of Representatives. I do not intend or want to cause that kind of problem for this bill, but I believe very strongly that this amendment is part of the solution to a very large problem we have, and I introduce it today for the purpose of describing to my colleagues an approach that I would intend to offer to some future tax legislation that will be considered by the Senate and the House.

Mr. President, the chairman of the subcommittee—excuse me, chairman of the full committee—I have demoted him—the chairman of the full committee, Senator MCCAIN, and the ranking member, Senator FORD, have brought a bill to the floor of the Senate that is very important.

Mr. FORD. Mr. President, will the Senator yield for just one moment.

Mr. DORGAN. I will be happy to yield.

Mr. FORD. We have worked out Senator REED's amendment. I know the Senator does not want to lose his train of thought here, but Senator REED has an important engagement, and I know Senator DORGAN does, too. This one will take about 2 minutes.

I ask unanimous consent that this amendment be set aside and that we recognize Senator REED, and that at the end of Senator REED's amendment we return, then, to Senator DORGAN's amendment.

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

The distinguished Senator from Rhode Island is recognized.

AMENDMENT NO. 3629

(Purpose: To provide for the expenditure of certain unobligated funds for noise abatement discretionary grants)

Mr. REED. I thank the Chair.

First, let me thank Senator DORGAN for his graciousness in allowing me to present my amendment and also thank Senator MCCAIN and Senator FORD for their understanding and cooperation.

I have an amendment at the desk which I call up now.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Rhode Island [Mr. REED] proposes an amendment numbered 3629.

Mr. REED. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place in title II, insert the following:

SEC. 2 . DISCRETIONARY GRANTS.

Notwithstanding any limitation on the amount of funds that may be expended for grants for noise abatement, if any funds made available under section 48103 of title 49, United States Code, remain available at the end of the fiscal year for which those funds were made available, and are not allocated under section 47115 of that title, or under any other provision relating to the awarding of discretionary grants from unobligated funds made available under section 48103 of that title, the Secretary of Transportation may use those funds to make discretionary grants for noise abatement activities.

Mr. REED. I thank the Chair.

Mr. President, my amendment is a very straightforward attempt to find additional resources to help neighborhoods that surround airports and are confronting the problem of airport noise. My State of Rhode Island is home to one of the fastest growing airports in the country, T.F. Green Airport. Indeed, over the past two years,

T.F. Green has seen roughly an annual increase of 55 percent in passenger traffic. This is compared to a national average increase of 4 percent a year. So you can well appreciate that the impact of additional flights coming in has caused severe noise problems around the airport.

This has been a source of great strength, the growth of T.F. Green, in terms of our economy; it has brought visitors; it has become a gateway to New England. It has created jobs. All of these are extremely positive. But it has also generated increased noise with increased numbers of flights. The Rhode Island Airport Corporation, the city of Warwick, and community groups are working together. We have been successful in securing grants from the FAA for noise abatement. But I think we have to do much more to ensure that all the homes that need soundproofing with all of the techniques that we can use to mitigate and minimize noise are effectively employed to assist the people of Rhode Island.

I am very pleased with what has already been done in this legislation. Both Senator MCCAIN and Senator FORD have taken a very strong, positive step to ensure that we are sensitive to the noise problem at airports. This legislation includes a set-aside for noise abatement of approximately 35 percent rather than the 31 percent in the bill that has been passed by the other body. This is a very, very positive development, but I think we can do more. I would also be very supportive of Senator MCCAIN and Senator FORD's efforts to maintain that 35 percent set-aside.

What my amendment does is simply lift the existing cap on the total amount of funds that the FAA may spend on noise abatement when the FAA distributes unexpended funds at the end of a fiscal year. This, we hope, would allow for additional resources to be devoted towards noise abatement. It would be consistent with and within the confines and framework of the existing appropriations bills. It is a modest, but I think very important step forward to help address the problem of noise around airports.

I, indeed, am very pleased that Senator MCCAIN and Senator FORD have taken such a strong step in this bill to protect airport neighborhoods from the increased level of noise.

With this, I urge passage of the amendment.

Mr. MCCAIN. Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER (Mr. KYL). If there is no further debate, without objection, the amendment is agreed to.

The Amendment (No. 3629) was agreed to.

Mr. MCCAIN. Mr. President, I move to reconsider the vote.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. FORD. I thank the Senator, and I particularly thank Senator DORGAN for allowing us to move this amendment along.

AMENDMENT NO. 3628

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, as I was saying, the amendment that I have offered to the FAA bill is an amendment that is very important to the country and especially to my region of the country. Just before I yielded the floor, I was talking about the leadership of Senator MCCAIN and Senator FORD. I think they have both done a wonderful job with this piece of legislation. It is an important piece of legislation for the country's sake, and it now appears that we will get this through the Senate and probably be completed with the legislation today, and that will be in no small measure due to their tenacity and their skill at crafting and moving this piece of legislation.

Let me describe what I intend to do with this amendment, and I will not talk about the second amendment which I intend to offer later today and hope that that will be approved by the Senate.

In late August, Northwest Airlines had a pilot strike and therefore a shutdown of their airline service. That might not have meant much to some. In some airports, I assume Northwest was one of a number of carriers that was serving certain airports and serving passengers. But in North Dakota, the State which I represent, Northwest Airlines was the only airline providing jet service to my State. That is a very different picture than the last time we had an airline strike, which was over 25 years ago.

Nearly a quarter of a century ago when Northwest had another strike and a shutdown prior to deregulation of the airlines, we had five different airline companies flying jets into the State of North Dakota—five different jet carriers in North Dakota. And then we had folks in Congress saying, you know what we really need to do to foster competition? We need to deregulate the airline industry. And so we deregulated the airline industry. I wasn't here at the time. But we deregulated them and we went from five jet carriers in North Dakota to one.

So I am thinking to myself, all those folks who are choking on the word ''competition,'' we need to deregulate so we stimulate more competition, where are they now so they can really choke on the word ''competition''? We have much less competition in airlines today, much less competition with a couple of exceptions.

If you live in Chicago and you are flying to New York or Los Angeles, God bless you, because you are going to have a lot of carriers to choose from and you are going to find very inexpensive ticket prices, and you can make a choice of carriers and ticket prices that are very attractive to you. You live in a city with millions and millions of people and you want to fly to another city with millions and millions of people. Guess what. This is not an awfully big deal for you; more choices and low fares. But you get beyond those cities and ask how has this airline deregulation affected other Americans, and what you will find is less selection, fewer choices, and higher prices.

North Dakota is just one example, but the most striking example—one airline with jet service. And on that night at midnight, when the strike was called and the airline shut down, just like that, an entire State lost all of its jet service.

What does that mean to a State? It begins to choke the economy very quickly. People can't move in and out. North Dakota is a sparsely populated State, 640,000 people. Up in the northern tier, we are 10 times the size of Massachusetts in land mass—big State, 640,000 people, and one airline serving with jets.

Now, I happen to think Northwest is a good carrier. I believe the same about all the major carriers. Most of them are well-run, good companies; they went through tough times, now are doing better, and I admire them.

What I do not admire is what they have done—retreating into regional monopolies in this country, retreating into hub and spoke so that they control the hub.

You go to any big area in this country and take a look at what they do. The major carriers have retreated so that they now, one company, will control 60 or 70 or 80 percent of all the gates at that airport. They control that hub. Do you think anybody is going to come in and take them on, anybody is going to come in and compete aggressively and say, ''Boy, this is a free market; we are going to go into your hub and we are going to compete against you?'' This is not happening. They cut the pie, created the slices, retreated into their little slices, and there is no competition. We now have regional monopolies without any regulation.

What sense does that make, to have monopolies without regulation? The minute I say ''regulation,'' we have people here having apoplectic seizures on the floor of the Senate. Oh, Lord, we should talk about regulation? I am not standing here today talking about regulation because I want to reregulate the airlines. All I want to do is see if we can provide some sort of industrial-strength vitamin B–12 shot right in the rump of those airlines to see if we cannot get them competing again. How do we do that? We do it by creating the conditions that require competition. This amendment is one.

Let us assume there is somebody out there who says, ''You know what I would like to do, I would like to run an airline. I have the money, I have the energy, I have the time, I have the skill. I want to create a regional airline, and I want to fly in an area where

nobody else is flying a jet, and I want to haul people to a major hub.''

They create their airline and fly to a major hub and they drop somebody off. And guess what. That somebody in most cases is going beyond that hub.

Let me give an example, of Bismarck going to Denver, which is a major hub. For 35 years, we had jet service with Frontier Airlines and then Continental, from Bismarck, ND, to Denver, a major hub. Now we do not. So a new company comes in and says, ''I will connect Bismarck to Denver, a major hub.'' But about 70 percent of the people leaving Bismarck are not going to just Denver, they are going beyond, to Los Angeles, San Francisco, Phoenix—you name it.

So this airline carrier starts up and hauls the Bismarck passengers to Denver and opens the door of the airplane, and they disembark on a sunny Denver day and discover they cannot go anywhere else, because if they walk over to United or another carrier, they don't have the opportunity to get a joint fare ticket. They charge them an arm and a leg. In fact, they even have trouble getting their baggage moved from one airline to another, because the big airlines do not want competition. They have their hub, they don't want anybody messing with it, and they certainly do not want these upstart regional airlines springing up, hauling people into their hub.

So what you have is a circumstance where there is deregulation of the airlines, and the major carriers have merged. There has been all this romance going on; they decided they like each other a lot. Pretty soon they are going to get married. They merge up, two airlines become one, and now we have five or six large airlines in this country because they like each other so much, and they have retreated into these regional monopolies because they don't want to compete with each other. They create their own hub and they create their own spokes and they say to those who want to start up, ''We are sorry but we are not interested.''

Having said all that, and that is a mouthful, and having said I admire the majors—most of them are good carriers and they have good management and they do what they do in their interest—there is their interest and then there is a parallel and sometimes not parallel public interest. In some cases it is not a parallel public interest, as the case where we have areas that used to be served and are now not served but could be served by a new carrier if only the majors would cooperate with those new carriers.

In order to encourage new startup regional jet service, I am proposing a 10 percent investment tax credit for regional jet purchases. That is, those startup companies that want to begin regional jet service to fly these new regional jets between certain cities and hubs that are not now served with regional jet service, we would say to them that we will help with a 10 percent investment tax credit on the purchase or lease of those regional jets. We will help because we want to provide incentives for the establishment of regional jet service once again in our country.

My legislation would require that they serve those markets for a minimum of 5 years. We have defined exactly what those underserved markets are. It is targeted, it makes good sense, and will stimulate investment in an activity that this country very much needs and an activity that the so-called free market now does not accommodate, because the free market is clogged. There is kind of an airline cholesterol here that clogs up the arteries, and they say, ''This is the way we work, these are our hubs, these are our spokes, and you cannot mess with them.''

My legislation simply says we would like to encourage areas that no longer have jet service but could support it. We would like to encourage companies that decide they want to come in and serve there to be able to purchase the regional jets and be able to initiate that kind of service.

My legislation has a second provision which reduces the airline ticket tax for certain qualified flights in rural America. This proposal also has a revenue offset so it would not be a net loser for the Federal budget.

Having described all that, the second amendment I am going to offer also addresses this in a different way. My hope is we could work to get that accepted. We have been working hard with a number of Members of the Senate to see if we cannot get that accepted.

I just want to make two more points.

We are not in a situation in rural areas of this country where we can just sit back and say what is going to happen to us is going to happen to us and there is nothing we can do about it. There are some, I suppose, who sit around and wring their hands and gnash their teeth and fret and sweat and say, ''I really cannot alter things very much, this is the way it is.''

The way it is is not satisfactory to the people of my State. It is not satisfactory to have only one jet carrier serving our entire State. Our State's transportation services and airline service, especially jet airline service, is an essential transportation service. It ought not be held hostage by labor problems or other problems of one jet carrier. We must have competition. If all of those in this Chamber who mean what they say when they talk about competition will weigh in here and say, ''Let's stand for competition, let's stand for the free market, let's try to help new starts, let's breed opportunities for broader based economic ownership and more competition in the airline industry,'' then I think we will have done something important and useful and good for States like mine and for many other rural States in this country.

Mr. President, as I indicated when I started, I will offer my second amendment later this afternoon, which I hope will be accepted, because the amendment I have just described and offered has a blue slip attached to it in the sense it would be objected to, because a revenue measure must begin in the Ways and Means Committee of the House of Representatives—and I used to serve in the House and used to serve on the Ways and Means Committee, and we were fierce in our determination to make certain that committee always had original jurisdiction on those issues. I am willing to say I understand that. But I wanted my colleagues to be able to review this amendment in the RECORD, because if and when there is a piece of legislation dealing with tax issues later this year, it is my intention to see that this becomes part of that discussion.

With that, I ask unanimous consent my amendment be withdrawn.

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

The amendment (No. 3628) was withdrawn.

Mr. DORGAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. DORGAN. I ask unanimous consent to speak for 10 minutes as in morning business.

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

THE FAMILY FARM CRISIS

Mr. DORGAN. Mr. President, we are going to conference, I think, this afternoon or tomorrow on the agriculture appropriations bill. I want to make some comments so that those in this Chamber who believe what some are proposing to go to conference with is adequate will understand it is not adequate at all.

We have a farm crisis in our country that is as significant a crisis as we have had since perhaps the 1930s. As you know, farm prices have collapsed. The price of wheat has dropped nearly 60 percent. We have farmers facing a serious, serious problem, many of whom will not be able to continue farming next year.

That means that yard light someplace out in the country is going out, that family farm is losing their money, their farm, their hope, their dreams. This Congress has the capability to do something about it or it has the capability to ignore it.

We have had two votes here in the Senate to increase price supports to give family farmers some hope. Twice we have been turned back. We are going to have a third vote. I am not sure when that is going to happen. As soon as we have the opportunity to

offer the emergency plan sent down by the President on Monday of this week, we are going to have another vote. We have only lost by a handful of votes.

The future of a lot of farm families will depend on that next vote. Some have offered an alternative plan in recent days. I am told they intend to put that in the agriculture appropriations conference in the next day or so. I would say to them, it is not going to work. It is not enough. It is offering a 4-foot rope to somebody drowning in 10 feet of water. ''Well, thanks for the rope, but it doesn't help.''

This Congress has to decide that it is going to help family farmers when prices collapse. If it does not build a bridge over price valleys, we will not have family farmers left.

I have a letter from a young boy named Wyatt that I mentioned the other day on the floor of the Senate. Wyatt is 15-years old, a sophomore at Stanley High School in Stanley, ND. He comes from a family farm. Wyatt said, after a long description of the problems his family is having, ''My dad is a family farmer. And my dad can feed 180 people, but he can't feed his family.'' It just breaks your heart to get letters like Wyatt's, and so many others, who write to us talking about what happens to them when prices collapse.

Our farmers in North Dakota lost 98 percent of their net farm income in 1 year. Washed away was 98 percent of their income—gone. Just have any neighborhood, any block, any community, any group of people think to themselves, ''Where would I be if I lost 98 percent of my income?'' I know where I would be. I bet I know where you would be. That is what farmers are facing right now in my State and all up and down the farm belt.

People seem to think, ''You know, things will be just fine. Food comes from the store. Butter comes from a carton. Milk comes from a bottle.'' Things will not be just fine if this country loses its family farms and America's farmers to big agrifactories from California to Maine. I will tell you what will happen to food costs.

The way you get good, wholesome, safe food—the best in the world, at the best possible price—is to have a network of family farmers farming this country and putting food on our tables, at a price that gives them a decent opportunity to earn a living.

We have had this kind of economic circumstance in our country recently where I guess the farm belt is viewed as one giant economic cow. Nobody is willing to feed it, but everybody wants to milk it from every single direction. Well, the cow is about out of milk. The question for this Congress is: Are you going to step up, when you pass a farm bill that says, ''Let's have farmers operate in the free market,'' but then in every direction the farmer turns, there is no free market?

Want to market some cows? Guess what? Eighty-five percent of the cattle slaughtered in this country is done by four firms—four. They will tell a family farmer what they are going to pay them. If they do not like it, tough luck.

Want to ship your wheat on a train? Well, there is one train that comes through our State to haul that wheat. They will tell the farmer what they are going to charge them. If the farmer does not like it, tough luck.

Let me give you a little example about what farmers face on transportation. Ship a carload of wheat from Bismarck, ND, to Minneapolis; the railroad says that is $2,300—that is what it is going to cost you to ship that wheat to Minneapolis. Ship the same wheat from Minneapolis to Chicago—about the same distance—the railroad says that is $1,000. So you ask the railroad, ''Why do you double-charge North Dakota farmers?'' The answer is because there is competition between Minneapolis and Chicago and there is none in North Dakota. So the railroad says, ''We're able to double-charge farmers in North Dakota.''

So send a cow to market; you face a monopoly. Take your grain to the railroad; you face a monopoly and get double-charged. Send a hog to market; the same thing. Send your grain to a flour mill; the same thing. And 50, 60, 70 percent of the milling, the slaughter, the transportation—all controlled by a couple big corporations that then tell family farmers, ''Yeah, you worked hard, you plowed this soil in the spring, you planted the seed, you nurtured it, you put some chemicals on it to keep the bugs away and the weeds out, put some nitrogen in to make it grow, and then you harvested it—and, by the way, when you are done, we're going to pay you half of what it's worth and half of what it cost you to produce. And if you don't like it, tough luck.'' Well, that does not work for this country. That is not the way this country's economy should be allowed to work. It is not a free market.

So let's assume a farmer would be able to find a benevolent railroad—that is, of course, an oxymoron. Let's assume the farmer was able to market up through a cattle market that was not controlled by monopolies. Let's assume all of that worked—it does not—but let's assume it all did. The only thing left that farmer would face is a series of other countries, like Europe. The farmer then finds half of his grain, or her grain, goes overseas to a foreign market where they compete with other governments that subsidize the sale of their grain into northern African markets and other places to the tune of 10 times the United States.

People here say to farmers, ''Well, go compete in the free market.'' Yes, the farmer should compete against the big grain companies, against the big chemical companies, against the big railroads, against the big packing plants, and against European countries, and against the Canadians. And if all of that were settled—if all of that were settled—those farmers would still be told, ''Just compete in the free market. And here's one more piece of the free market. We've signed you up for some competition with a trade agreement that we've negotiated with Canada.'' And my colleagues have heard me speak about this many times. That trade agreement says to the Canadians, ''You just flood us with your grain and your cattle and your hogs. You just run them over, just bring them right on down. And we can't get our grain up, but you just keep bringing your grain down here, undercut our price.'' That is the kind of trade agreement we negotiated. We send incompetent negotiators to negotiate bad agreements, and then we do not even enforce them.

We had farmers gather at the Canadian border the other day. The Canadians are good neighbors of ours, have been for a long while, but the trade agreement with Canada is unfair and taking money right out of the pockets of our farmers. And we have trade officials who do not seem to want to do much about it.

So every direction you turn, we have these problems that press in on our family farmers. We face the prospect of up to 20 percent of our family farmers in North Dakota not being able to plant in the next spring or the spring thereafter. You fly over my State and look out at night from a small plane, look out that window and look at those yard lights that shine down on a family trying to make a living out on the land; and then see them turn off, one by one, because public policy says to them, ''You don't matter anymore. This country doesn't need you anymore.'' Ask yourself whether this country is going to be a better or a weaker country when family farmers are gone.

They are talking about bringing the endangered species bill to the floor of the Senate soon. I am thinking of enlisting family farmers. I know it will list birds and butterflies, frogs, and flowers. I am the first one to say I like birds, I like butterflies, and sign me up for frogs and flowers, as well. I think they are good for our environment and good to have around.

However, another endangered species in this country is Wyatt. He is a young boy that comes from a family that will lose their farm, and there won't be another family like Wyatt's out there. There is only one family like Wyatt's. Does it matter if Wyatt and his folks and tens of thousands of others are told, ''You are too small an operator, you don't matter.''

I think this country will make a huge mistake. The reason I wanted to speak for a moment now is we are fixing—I think tomorrow—to take a pathetic little plan that has been offered that will maybe pole-vault some farmers between now and December, just over the next election, but won't do nearly enough to get those family farmers into the field next spring and give them some hope that they can get a harvest next fall. It is a pathetic little plan. It will be offered, perhaps, in

the agriculture appropriations conference tomorrow, and then people will wash their hands and say, ''We sure took care of that.''

No, they won't have taken care of anything. All they will have done is nudged enough resources out of the scarce pot of money to get them from here to December, to be able to say to farmers here is a little, but it is not enough. We understand you won't make it.

There are some of us in this Chamber who are not willing to stand for that and are not willing to let that be the last word on the fight for the family farmers' future in the 105th Congress. I don't mean to sound challenging—yes, I do, now that I think about it. Of course I do. It is unforgivable in my judgment when we have people coming to the floor of the Senate and the House and there are hundreds of millions of dollars here and billions of dollars there and they have appetites for everything and everything is important, for us to go home and decide it is not important to save family farmers. I do want to challenge that.

In my judgment, that is a goofy set of priorities for this country. Thomas Jefferson said 200 years ago that those who live on that land and produce that food are the best Americans, the first Americans. He wasn't necessarily saying that nobody else is any good, I am sure. Thomas Jefferson believed in everyone's worth and he believed in broad-based economic ownership. Part of what makes this country so strong is the opportunities for people around the country to engage in broad-based ownership of America's economy and resources. No one represents that more than families living on the farm trying to make a decent living.

I hope in the next 2 weeks we will have the opportunity to convince the leadership of this Congress that family farmers matter and the submission on Monday by President Clinton of an emergency plan to respond to this farm crisis is the right step for this Congress to take. If Congress does not stand for family farmers, if it fails to take the step the President has requested, if it decides that this doesn't matter somehow, then we will have made a very fatal error.

The Senator from Kentucky stood on this floor month after month this year in very tough circumstances when we were debating the tobacco bill. He said he understood the public policy issues of tobacco, but he said I want the Congress to understand the public policy issues of family farmers out there raising tobacco, as well. Their interests need to be heard. I know he did that and I watched the passion with which he did that. He feels very strongly about the interests of those family farmers. I feel as strongly about his farmers as I do about mine and all of the farmers up and down that farm belt.

I just want to say to those who think they will shortcut this issue and they will ram some pathetic plan home tomorrow, take a deep breath, because you are in for a heck of a fight in the coming weeks if you think that is how you will solve the problem.

I yield the floor.

Mr. FORD. Mr. President, let me compliment and thank my friend from North Dakota. No one has worked harder or spoken more eloquently in support of the small family farm than the Senator from North Dakota. How well I understand what he is going through.

We heard on this floor yesterday afternoon that we are getting ready to spend money for ''emergencies,'' but we ought to give a tax break. What is an emergency? Farmers, the Senator said. We should have known there would be a drought or there would be too much water. We ought to have put money in the budget for it.

''Emergency'' is something that is on occasion. We cannot anticipate an emergency. We can't do that. But a tax break is in perpetuity. It goes on forever. Emergency is one time.

So we try to cover up by accelerating the payments under Freedom to Farm. I voted against the North American Free Trade Agreement, one of seven in this body. It is awfully hard to get a Senator with something on his mind, with a philosophy that never looks in the future. The future is now at hand on that vote on the North American Free Trade Agreement when we are being flooded not only with farm products but wool and everything else relating to our people trying to make suits, pants and so forth in the textile business. It is driving our people out of this country.

The Senator is absolutely correct, we need that safety net for our farmers.

I have sat on too many front porches of farm families. I have been in the kitchen with the farmer and his wife and family. I understand what they are going through. They can't compete.

One of the finest men I know was in my office yesterday taking a load of hogs to the slaughter house. He got $3,500 for hogs that a year ago would have brought $7,000. What did he get? Nothing. We don't have any compassion for him; we don't have any reason to try to help him keep that farm. He put everything into that load of hogs. What does he get back? He couldn't even pay for the feed.

So we say ''compete.'' Competition is like dialing a new bank at home. The tape says if you want so and so, push 1; if you want so and so, push 2; if you want so and so, push 3. You keep on pushing the phone and finally people throw the phone out the door. They want to talk to a human being, but we call another State to talk about local loan problems or financial problems.

We are getting into an intolerable situation. I hope the Senator never lets his vote die as it relates to the family farm. I compliment the Senator for what he is trying to do.

I understand we have been debating the aviation bill, but he has an amendment that talks sense. The commodity we have so little of here is common sense. Common sense, I think, if it prevails, the Senator might win a couple of amendments in the not-too-distant future.

I yield the floor.

Mr. WYDEN. Mr. President, I ask unanimous consent to speak for up to 10 minutes as in morning business.

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

LETHAL DRUG ABUSE PREVENTION ACT

Mr. WYDEN. Mr. President, today I informed the minority leader that I will object to any unanimous consent requests to proceed to S. 2151 or any similar legislation containing provisions that would override Oregon's assisted suicide law. Should S. 2151, the Lethal Drug Abuse Prevention Act come to the floor, I intend to insist that this body clearly hear the arguments against this legislation before voting on it, even if I must filibuster to assure that this occurs.

Let me state, as I have done before on this floor, that I have personal reservations about the assisted suicide concept. I voted twice against assisted suicide in my home State, and I joined our colleagues in voting against Federal funding of assisted suicide.

I personally believe that nowhere near enough has been done to promote hospice care, pain management, comfort care, and other approaches to deal with the end of life.

The people of my State entered into an honest, direct, and exhausting discussion on the issue of assisted suicide—not once, but twice—through our public referenda process. I am not going to let that vote be set aside without an extended debate on the floor of the U.S. Senate.

S. 2151 attempts to override the popular will of the citizens of my State who have made a judgment about what is acceptable medical practice. Medical practice is a matter that has been traditionally left to the States to regulate. However, in overriding the will of the Oregon voters, S. 2151 strikes at the people across this country who are terminally ill and the millions of individuals who suffer in great pain daily.

Almost all of our States have laws in effect, or about to go into effect, with respect to physician-assisted suicide. All of our States have laws that regulate medical practice, including the use of controlled substances. The underlying message of S. 2151 is that the U.S. Congress knows better than voters in Coos Bay, Bend, and La Grande, OR. Does this Congress, meeting here in Washington, DC, believe it is better equipped than the citizens of my State to make moral decisions about acceptable medical practice in Oregon?

This Senator is not going to sit by while there is an abbreviated debate that cuts off the rights of Oregonians. I want the Senate to understand that today.

S. 2151 would amend the Controlled Substances Act to allow the Drug Enforcement Agency to deny DEA registration of providers determined to have assisted in causing or participating in a physician-assisted suicide. The advocates of this legislation say that good physicians would have no problem with this legislation.

The record shows otherwise. The record shows that more than 50 medical groups, including physicians, nurses, pharmacists, and hospice programs—a variety of medical groups—believe this legislation would have a chilling effect on pain management programs, on hospice care services, and on comfort care. I want my colleagues to understand that. More than 50 medical groups in our country believe this legislation will have a chilling effect on our ability to make sure that our citizens can get good pain management services, hospice programs and comfort care.

What is especially striking is that even Americans who are opposed to Oregon's law and are opposed to assisted suicide do not want to see the U.S. Congress overturn this law. Pain management, palliative care, and hospice services are still evolving fields. Not enough has been done to comfort patients in these tragic situations, and Americans know that in the current regulatory environment there can be a chilling effect on the pain management services by laws such as the one proposed in S. 2151. This legislation also runs counter to the recent Supreme Court decision on physician-assisted suicide that encourages the States to continue to debate this question.

Mr. President, this bill is not going to stop assisted suicide. What it is going to do is set up new roadblocks to ensuring that there are good pain management programs in our country. This bill is going to harm pain management for millions of Americans, turn the resources of the Drug Enforcement Agency from looking at drug diversion and drug trafficking to reviewing the intent of physicians and pharmacists as they try to alleviate the pain of their patients. That is not what the DEA was set up to do. It was not set up to deal with overseeing hospice programs, and the like.

If Congress tramples on the twice-expressed popular will of the people of Oregon, it is going to feed the fires of cynicism and frustration about Government across our land.

Mr. President, I will conclude with this. We all know that so often in coffee shops, churches, grange halls and senior centers, we hear Americans say: You know, our vote doesn't matter. After we vote, those politicians are going to say we really don't get it, the citizens don't understand. So we will just vote again; we will just vote, vote and vote until we set aside what their judgment has been.

I am here to say that I don't think the U.S. Congress knows better than those voters in Coos Bay and Bend and La Grande. I don't think the U.S. Congress, meeting here in Washington, DC, is better equipped than the citizens of my State to make a moral decision about what is acceptable medical practice in Oregon. This Congress should not try to settle this issue in a hasty debate in the last hours of the U.S. Congress.

I have informed the minority leader that I will have a hold on this legislation. Senator GRASSLEY and I have, for some time, been encouraging Senators to announce publicly their intentions with respect to holds. I have done that in a letter to Senator DASCHLE. I will make that letter a part of the RECORD. I am going to insist on my rights as a Senator, representing thousands and thousands of Oregonians who have weighed in on this issue, that this Senate is going to have a real debate on this legislation before there is a vote on it. I am going to assure that there is such a debate, even if I must filibuster to assure that this occurs.

I ask unanimous consent that my letter to Senator DASCHLE be printed in the RECORD.

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

U.S. SENATE,
Washington, DC, September 23, 1998.

Hon. TOM DASCHLE,
Minority Leader,
U.S. Capitol, Washington, DC.

DEAR SENATOR DASCHLE: I previously wrote you requesting I be consulted should S. 2151 or any other legislation concerning physician assisted suicide come to the Senate floor for consideration.

I am now writing to clearly state that I will object to any motion to proceed should S. 2151 or any legislation containing provisions over-riding Oregon's physician assisted suicide law come to the Senate floor.

Should you have any questions, please feel free to contact Stephanie Kennan of my staff at 4–6070.

Sincerely,

RON WYDEN.

Mr. GRAMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. GRAMS. I ask unanimous consent to speak as in morning business for up to 5 minutes.

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

(The remarks of Mr. GRAMS pertaining to the introduction of S. 2517 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

WENDELL H. FORD NATIONAL AIR TRANSPORTATION SYSTEM IMPROVEMENT OF 1998

The Senate continued with the consideration of the bill.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, for the benefit of our colleagues, we are rapidly reaching the point where we only have a couple more amendments which will require debate and votes.

I urge those who have amendments to come to the floor so that we can get moving on those.

We will be able, I think, to conclude the amending process before 6 o'clock this evening.

In the meantime, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GRAMS). Without objection, it is so ordered.

PATIENTS' BILL OF RIGHTS

Mr. KENNEDY. Mr. President, I want to point out once again to the Senate that we have been in a quorum call for about a half hour, and we are waiting to conclude the FAA legislation. As I understand, it has been tentatively agreed to be concluded later in the afternoon sometime—5 or 6 o'clock this evening—and we can anticipate perhaps one or two more votes.

But I want to bring to the attention of the Senate again that we could be using this time to debate the Patients' Bill of Rights. We have by now seen the majority leader's priorities—the FAA bill, which is important to a number of communities, including my own State of Massachusetts is not a matter of insignificance—but we have had the salting legislation, we have had other pieces of legislation that have been advanced, and still the Republican leadership refuses to call up or permit our debate here on issues relating to the quality of health of some 140 million Americans, those Americans that are covered in various HMOs.

In my own State of Massachusetts, we have some of the very best in terms of HMOs. The HMO program really took off, expanded, and we now find many high-quality HMOs. But in my State, and across the country, HMOs too often are making judgments and decisions based upon what insurance company accountants say, not what members of the medical profession recommend.

I heard the President of the United States speak eloquently about his strong support for the Patients' Bill of Rights just a few days ago. And he made a point which I think is worth underlining here in the U.S. Senate this afternoon. He said that no one in these HMOs ever loses their job when they deny a procedure that a patient's doctor requests, because these HMOs are organized so that there are several different levels of approval required to receive medical care.

The deep concern that many of us have is that these decisions be made at the ground level—by doctors and other trained medical professionals—so that American families receive the care that they need.

And if decisions are going to be made that are in the interests of the profit of the HMO and not the health of the patient, and as a result of those decisions that that individual is killed or permanently disabled, there ought to be some form of remedy. That is a key part in our Patients' Bill of Rights.

Why should we say that there is only going to be one industry in America that is going to be free from accountability to the American citizens? Why should they be the only one? They are, today, effectively the only one.

Under existing law, the health insurance industry is the only industry in America where, if there is negligence resulting in the loss of life or serious bodily injury, they are essentially free of accountability. That is wrong. Most Americans believe that is wrong, and it is wrong.

Accountability is an essential part of our Patients' Bill of Rights. Medical decisions should be made by medical professionals and not by accountants. And if a negligent decision was made, there should be accountability. Or what will happen to the family of the patient who died because an HMO refused to pay for a medical test? What will happen to the education of the children of the patient who is permanently disabled because she could not receive care at the closest emergency room?

Our Republican friends say that is too bad, we don't want to change that provision. Why can't we debate that? Why are we taking time in a quorum, or the time used yesterday waiting for amendments to the FAA bill? We understand that there is no long list of speakers to come to the floor even this afternoon. Why aren't we debating managed care reform here on the floor this afternoon? Why aren't we able to make some decision that affects millions of families today, across this country, on the issues of accountability?

It isn't just accountability. Another very important provision in our Patients' Bill of Rights would require HMOs to pay for routine medical costs associated with clinical trials for their patients. We know—I know from personal experience—the importance of clinical trials. These trials don't, in fact, add any substantial additional cost to the HMO, because most of the patient's expenses are covered by the trial protocol—the grant for that particular trial. There are very small additional expenses—very, very small additional expenses.

And clinical trials are enormously important. They are enormously important for children who have cancer and other serious and dread diseases. My own son was involved in an NIH clinical trial when he had osteosarcoma. Only 22 children had been in that clinical trial prior to my son. He lost his leg to cancer. But his chances of surviving were 15–18 percent before he entered that clinical trial. And he survived, as about 85 percent of the children who got into that clinical trial did. Now the treatment used in that trial is a generally accepted procedure for children who have osteosarcoma, bone sarcoma.

The idea of denying children the opportunity to enter clinical trials is outrageous. What are we supposed to say to a parent? ''Yes, we know your child has osteosarcoma. We know there is a clinical trial that could save his life. But we are not going to permit you to enlist your child in that clinical trial''?

That is happening in the United States today in HMOs. These families say, ''My goodness, what will I do?'' They appeal the decision, they wait, they go to desperate lengths requiring tremendous courage, and finally they get in the clinical trial weeks or months later. But it is too late; that tumor that was a fraction of a centimeter has enlarged. There can be no treatment now.

Denying our citizens an opportunity to participate in the greatest advances that are taking place in the medical profession is effectively a death sentence.

We have made great advances in the war on cancer, especially in children's diseases. And I don't know what we would have done if we didn't have clinical trials for these children, and for patients with other diseases. We now have some very important opportunities for treatments of breast cancer, colon cancer, ovarian cancer, cancer of the stomach, and colorectal cancer.

Diseases like breast cancer are becoming more and more of a challenge. Yet we are experiencing these breakthrough therapies that can make an enormous difference in saving the lives of our fellow citizens.

I seriously believe that the next millennium will be the millennium of the life sciences, breakthroughs in terms of medicine. It will offer enormous opportunities. The opportunities of mapping the human genome alone—which our good friend, the Senator from Iowa, Senator HARKIN, has been such a leader on here in the U.S. Senate—are just mind boggling.

But we also have the opportunity now to make a difference in people's lives—to make sure that, when medical professionals recommend that patients enroll in clinical trials, these decisions are not overruled by insurance company accountants. That decision effectively denies them the opportunity to save their lives or to get the best in terms of medicine.

Every single day we have examples of this type of situation. I will mention one, Diane Bergin. I have Diane Bergin's testimony from a forum that was held on the Patients' Bill of Rights. We talk about the Patients' Bill of Rights as a piece of legislation, but it is really an issue of lifesaving protections. That is what the legislation is really about, lifesaving protections, and we do it in a number of different ways.

Mr. President, this is Diane Bergin's comment:

My name is Diane Bergin and I was diagnosed with ovarian cancer two years ago. I had always been very healthy—so the news was particularly devastating. The only time I had been in the hospital was when I had my three children. My primary care physician referred me to a specialist at Georgetown, where I eventually had my surgery and received standard chemotherapy treatment. For three months, everything looked good. At my next checkup, however, the cancer had come back.

My physician recommended that I consider getting a bone marrow transplant. Before I could get treated, however, I had to go through a round of medical testing to see if I was a good candidate for a transplant. All through the testing I kept hoping that I would qualify. I worked hard to keep my spirits up and be optimistic. But in addition to worrying about whether I would qualify for a transplant, I also had to worry over whether my insurance would cover the procedure. It felt like the insurance company held the balance of my life in their hands. I had no guarantee that if I qualified, I would be covered.

My husband and family couldn't have been any more supportive. They told me to count on getting the transplant and that they would somehow find a way to pay for it. In my heart I couldn't accept that I would impoverish my family to have a chance at prolonging my life.

Fortunately we weren't asked to make that decision. My insurer finally sent me a letter approving my treatment.

Again I improved immediately after the transplant, but six weeks later I was not so lucky. I was sent to another specialist in Philadelphia who put me on tamoxifen. This was the only drug I could tolerate because my condition was so fragile after the transplant and there was some hope it would help me. Unfortunately I didn't improve.

It was then that my physician suggested that I enroll in a clinical trial for a new treatment at the Lombardi Cancer Center. Even though I had been on an emotional roller coaster waiting for my insurer to approve other treatments, I never thought my insurer wouldn't pay now.

But on the Friday before I was to start my treatment, I was called and told that my request had been rejected. I was devastated and didn't know how I could get through the weekend with my husband and son out of town. It struck me how arbitrary the insurance system was. They were acting as judge and jury on what medical care I could receive even though my doctors recommended this care. The denial felt like a death sentence—that I wouldn't have any more chances to fight for my very survival.

I refused to accept that I couldn't get this treatment that I so desperately needed. I objected and started my appeal. When my family returned, they joined in the fight. Fortunately, my son works at the Cancer Center and is very involved in the clinical trial program there. With all our efforts, and the aggressive appeal by my clinical team at Lombardi, my insurer finally agreed to pay the routine costs of my care. I'm in the midst of that trial right now.

I don't know if this trial will help me. And I don't know what will happen if I should need to seek treatment through another clinical trial. I anticipate another fight, only next time I may not be so lucky.

I wanted to come today to tell my story because I believe that no one facing a serous illness should be denied access to care because that treatment is being provided through a clinical trial. Sometimes, it is the only hope we have. And the benefit to me, whether short or long term, will surely help those women who come after me, seeking a

cure—a chance to prolong their life for just a little while, just so that they can attend a graduation, or a wedding, or the birth of a grandchild.

I strongly support, and my family is right there with me, requiring insurers to pay for the routine costs of care that are part of an approved clinical trial. I think the cures of the future depend on it.

Mr. President, letters signed by scores of groups supporting the right to get into clinical trials, and we have letters signed by scores of groups regarding access to specialists, such as pediatric oncologists.

In our legislation, we also have provisions for guaranteeing that a child can see a specialist if that child has a serious illness. That is not in the Republican program. We in the Senate ought to be able to debate the merits of this provision.

But the bottom line, at the end of the day, is what the additional costs are going to be. We ought to be able to debate these, as well. You will find out that the cost of our protections is approximately $2 per worker per month. I think most workers would be glad to pay that additional $2 a month for the kind of protections we are talking about here in terms of clinical trials and specialists for members of their family. Why not give us an opportunity to debate that? Why not call the roll on those particular provisions?

We need to have a debate on the situation we see taking place around this country, where if you are a member of an HMO, your ambulance will drive by the nearest hospital and go to another hospital on the other side of town just because they are a member of that HMO. They will drive right by it. If a family goes to the closer hospital, the HMO will charge the family for the emergency care, which perhaps saved their child's life. We ought to be able to debate that. Why are we being shut out and denied? Why are we continuing in these quorum calls that last the course of the afternoon? Why didn't we take time yesterday and why aren't we taking time this afternoon to move ahead on this kind of legislation?

Mr. President, many of the guarantees that have been included in the Patients' Bill of Rights are guarantees that were unanimously recommended by the bipartisan President's Commission on Quality Care. In fairness, I will say that the Commission didn't recommend that these recommendations necessarily be put in legislation. But if all of the HMOs had just accepted those requirements, then we would not be needing this legislation. The problem is that the good ones have it, but the others don't.

So we are saying that we want to make sure that the protections are going to be across the board. If all of the HMOs complied with the legislation, we would not need it.

But these are very sensible and responsible recommendations. Half of them have been recommended by the President's Commission, half of them by the American Association of Health Plans. We have more than half of them that are already in existence included in form of Medicare, and 32 million Americans get those protections. So they are working in the Medicare, but they are not available for other Americans. Other protections in our bill were recommended by the National Association of Insurance Commissions—again, a bipartisan group of insurance commissioners representing the States who have a pretty good understanding and awareness of what is needed.

There is not one of our recommendations—not one of them—that has not been recommended by one of those four organizations or groups. Not one.

Mr. President, what I am saying is that these protections have been well thought out. They are reasonable, they are sensible, they are responsible, and they will make a significant difference in terms of protecting the health care of the American people. Now, Mr. President, it is time to give us an opportunity to debate those and act on them.

I will wind up with these final comments. We have every professional medical organization, every nursing organization, every consumer group in the country supporting our Patients' Bill of Rights. Not one is supporting the Republican proposal. Not one. No matter how many staffers go out and search, they can't find one.

The doctors and the medical profession understand the importance of this, as well as the parents. Every children's group, every disability group, every women's group, every one of those groups support this because this is the way to protect children, the disabled, women, and families.

With all respect to the importance of the legislation that we are currently considering, we have few days left to debate the Patients' Bill of Rights. We continue to implore the Republican leadership to bring up this legislation and permit the Senate to work its will so that we can do something to protect the American consumer in health care.

Mr. President, I see my friend and colleague from Arizona on the floor. I yield the floor.

Mr. MCCAIN. Mr. President, I thank the Senator from Massachusetts for shortening, somewhat, his statement today. I appreciate it, because I know the obvious passion with which he addresses the issue.

WENDELL H. FORD NATIONAL AIR TRANSPORTATION SYSTEM IMPROVEMENT ACT OF 1998

The Senate continued with the consideration of the bill.

AMENDMENT NO. 3631

(Purpose: To express the sense of the Senate that the Secretary of Transportation should ensure the enforcement of the rights of the United States under the air service agreement between the United States and the United Kingdom known as the ''Bermuda II Agreement'')

Mr. MCCAIN. Mr. President, I have an amendment at the desk for Mr. FAIRCLOTH, Mr. HOLLINGS and Mr. HELMS.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona (Mr. MCCAIN), for Mr. FAIRCLOTH, for himself, Mr. HOLLINGS, and Mr. HELMS, proposes an amendment numbered 3631.

Mr. MCCAIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

(The text of the amendment is printed in today's RECORD under ''Amendments Submitted.'')

Mr. FAIRCLOTH. Mr. President, this Sense of the Senate resolution puts the Senate on record about a transportation issue in the largest city in my State.

The failure of this Administration to stand up for American carriers under our air services agreements with foreign governments is a serious issue. The unwillingness of this Administration to stand up for American interests undercuts our international position in critical negotiations and promotes intransigence amongst other parties to these negotiations.

Specifically, Mr. President, this Administration has not fought to enforce the rights of American citizens, American communities, and American air carriers.

Under the existing air services agreement between the United States and the United Kingdom, the so-called Bermuda II agreement, the United States has the right to designate a U.S. flag carrier to serve the Charlotte-London route.

On February 20, 1998, the U.S. Department of Transportation awarded this route to US Airways. US Airways announced its plans to launch nonstop service on May 7, 1998 and to compete with British Airways' monopoly on this route.

With its network at Charlotte, US Airways was prepared to offer convenient one-stop service to the United Kingdom from dozens of cities in North Carolina, South Carolina, and the surrounding area.

However, the government of the United Kingdom failed to provide US Airways with commercially viable landing and take-off rights at Gatwick Airport, London's secondary airport.

The Bermuda II agreement prohibits US Airways from serving Heathrow Airport at all. Only two U.S. carriers are allowed to serve Heathrow. I want to remind my colleagues that the British are blocking access not to the primary airport, Heathrow, but even to the secondary airport, Gatwick.

Yes, Mr. President, the British Government refused to facilitate access to its secondary airport for a competitor to the British Airways monopoly on the Charlotte-London route.

US Airways tried to obtain landing and take-off rights at Gatwick airport. The British refuse to budge. As a result, US Airways was forced to cancel its Charlotte-London service for the

high-peak summer of 1998 and for the winter of 1998–1999 as well.

The outrage is that not only was British Airways' monopoly at Charlotte preserved, but the Department of Transportation granted British Airways yet another monopoly route—between London and Denver.

That's right, while the British refused to comply with their Bermuda II obligations, our Department of Transportation gave them another monopoly route.

While the US Airways Charlotte flight remains grounded, and while the British thumb their noses at us, British Airways now has a monopoly on ten routes between the U.S. and the U.K.

This Sense of the Senate urges the U.S. Government, especially the U.S. Secretary of Transportation, to act to enforce U.S. rights under the Bermuda II agreement.

Our government seems willing to grant foreign carriers the right to serve our airports on a monopoly basis but unwilling to take a firm stand with foreign governments.

We need the Administration to ensure that our carriers have the right to serve our citizens and enforce their rights under international law.

We hear a lot of talk from the Administration these days about ''Open Skies'' with the U.K. We understand that negotiations are about to begin to achieve a more competitive marketplace.

It is critical, however, that the Secretary of Transportation first ensure that existing rights are enforced for the benefit of U.S. citizens.

The people of the Southeast have been denied the benefits of competitive service by a U.S. flag carrier to the U.K.

Surely, an Administration that refuses to enforce existing rights cannot possibly negotiate an agreement that is less than a full surrender to the British. We didn't surrender in 1776 and we will not surrender now.

Mr. HOLLINGS. Mr. President, I want to thank the Chairman and Senator FORD for their support on this issue. This is a simple matter of fairness and equity. The unreasonable and anticompetitive conduct of the United Kingdom has gone on far too long and exacted an unacceptable toll on the Carolinas.

Mr. President, the Secretary awarded the Charlotte-London (Gatwick) route to US Airways on September 12, 1997. On May 7, 1998, US Airways announced plans to launch nonstop service in competition with British Airways, providing a convenient one-stop service from dozens of cities in North and South Carolina. Unfortunately, US Airways was forced to cancel this service because of the UK refusal to provide commercially viable access to Gatwick.

It is now time for the Secretary to assert our rights and enforce the Bermuda II Agreement.

Mr. President, before the Secretary enters into negotiations on a new broad bilateral agreement, equity dictates that the Secretary must resolve this issue.

Mr. MCCAIN. Mr. President, this sense-of-the-Senate amendment is agreeable on both sides. I urge its adoption.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 3631) was agreed to.

Mr. MCCAIN. Mr. President, I move to reconsider the vote.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3632

(Purpose: To express the sense of the Senate that the Secretary of Transportation should ensure the enforcement of the rights of the United States under the air service agreement between the United States and the United Kingdom known as the ''Bermuda II Agreement'')

Mr. MCCAIN. Mr. President, I send an amendment on behalf of Mr. DEWINE to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona (Mr. MCCAIN), for Mr. DEWINE proposes an amendment numbered 3632.

Mr. MCCAIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

(The text of the amendment is printed in today's RECORD under ''Amendments Submitted.'')

Mr. MCCAIN. Mr. President, this amendment has been examined on both sides. I don't believe there is further debate.

I yield the floor.

Mr. FORD. Mr. President, I have no objection on this side. This side has no objection. We are perfectly willing to let the amendment go forward.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 3632) was agreed to.

Mr. MCCAIN. Mr. President, I move to reconsider the vote.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3633

(Purpose: To provide for criminal penalties for pilots operating in air transportation without an airman's certificate)

Mr. MCCAIN. Mr. President, I send an amendment to the desk on behalf of Mr. THOMPSON and myself.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona (Mr. MCCAIN), for Mr. THOMPSON, proposes an amendment numbered 3633.

Mr. MCCAIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place in title III, insert the following:

SEC. 3 . CRIMINAL PENALTY FOR PILOTS OPERATING IN AIR TRANSPORTATION WITHOUT AN AIRMAN'S CERTIFICATE.

(a) IN GENERAL.—Chapter 463 of title 49, United States Code, is amended by adding at the end the following:

''§ 46317. Criminal penalty for pilots operating in air transportation without an airman's certificate

''(a) APPLICATION.—This section applies only to aircraft used to provide air transportation.

''(b) GENERAL CRIMINAL PENALTY.—An individual shall be fined under title 18, imprisoned for not more than 3 years, or both, if that individual—

''(1) knowingly and willfully serves or attempts to serve in any capacity as an airman without an airman's certificate authorizing the individual to serve in that capacity; or

''(2) knowingly and willfully employs for service or uses in any capacity as an airman an individual who does not have an airman's certificate authorizing the individual to serve in that capacity.

''(c) CONTROLLED SUBSTANCE CRIMINAL PENALTY.—(1) In this subsection, the term 'controlled substance' has the same meaning given that term in section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802).

''(2) An individual violating subsection (b) shall be fined under title 18, imprisoned for not more than 5 years, or both, if the violation is related to transporting a controlled substance by aircraft or aiding or facilitating a controlled substance violation and that transporting, aiding, or facilitating—

''(A) is punishable by death or imprisonment of more than 1 year under a Federal or State law; or

''(B) is related to an act punishable by death or imprisonment for more than 1 year under a Federal or State law related to a controlled substance (except a law related to simple possession (as that term is used in section 46306(c)) of a controlled substance).

''(3) A term of imprisonment imposed under paragraph (2) shall be served in addition to, and not concurrently with, any other term of imprisonment imposed on the individual subject to the imprisonment.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 463 of title 49, United States Code, is amended by adding at the end the following:

''46317. Criminal penalty for pilots operating in air transportation without an airman's certificate.''.

Mr. MCCAIN. Mr. President, this amendment has been cleared on both sides of the aisle. I don't believe there is any further debate. I yield the floor.

Mr. FORD. Mr. President, this side has no objection to this amendment. It is long overdue. It is directed at enforcement of certificates for pilots. We think it is needed; therefore, this side approves it.

The PRESIDING OFFICER. If there is no objection, the amendment is agreed to.

The amendment (No. 3633) was agreed to.

Mr. MCCAIN. Mr. President, I move to reconsider the vote.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MCCAIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. ROBB. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

AMENDMENT NO. 3634

(Purpose: To ensure consumers benefit from any changes to the slot rule and perimeter rule at Ronald Reagan Washington National Airport)

Mr. ROBB. Mr. President, I have an amendment, and I send it to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Virginia (Mr. ROBB), for himself, Ms. SNOWE, Ms. COLLINS and Mr. GREGG, proposes an amendment numbered 3634.

Mr. ROBB. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 41, line 22, strike the ''and''.

On page 41, line 23, strike the period and insert '';''.

On page 41, line 24 insert the following:

''(3) not reduce travel options for communities served by small hub airports and medium hub airports within the perimeter described in section 49109 of title 49, United States Code; and

''(4) not result in meaningfully increased travel delays.''

Mr. ROBB. Mr. President, I understand that a number of Senators could conceivably benefit from the additional flights at National. Current language in the bill directs the Secretary of Transportation to award new flights for service outside the perimeter if those flights will provide ''network benefits beyond the perimeter'' and ''increase competition in multiple markets.''

I believe this proposed test tilts the Secretary's decision in favor of consumers flying beyond the perimeter and away from considering the benefits to all consumers using this region's airports. For that reason, I am proposing an amendment to provide a more balanced approach. Consumers using the airports are not just worried about the availability of long-haul service, they are also worried about timely service and the availability of service to smaller airports.

The amendment I am offering would simply require the Secretary to consider those factors in awarding any new slots at National. Senators GREGG, SMITH of New Hampshire, GRAHAM of Florida, SNOWE, and COLLINS have agreed to cosponsor this amendment.

Mr. President, I ask unanimous consent that Senator SMITH of New Hampshire and Senator GRAHAM of Florida be added as cosponsors to the amendment.

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

Mr. ROBB. Again, Mr. President, I believe very strongly—and will have more to say later this afternoon—that it is wrong for the Congress to retreat from its promise to the citizens of this region, and I believe the changes in this bill will be harmful to the capital area's economy as well as its quality of life. If we are going to meddle in the rules governing service at National, however, we should do so in a way that is fair to all consumers.

I understand that this amendment has been accepted by the managers on both sides, and I thank the managers for their assistance. I am prepared to move it or set it aside, whichever would be the preference of either manager at this time.

Mr. SESSIONS. I must say it is not cleared on this side at this time. We would be glad to continue to evaluate that, but I am not at liberty to accept it at this point.

Mr. ROBB. I understand. With that, I ask unanimous consent that it be temporarily laid aside.

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

Mr. ROBB. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBB. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. GRAHAM. Mr. President, I rise in support of the amendment proposed by Mr. ROBB of which I am proud to be a cosponsor.

This amendment addresses an issue of great importance to the State of Florida. Specifically, concern has been expressed about the weakening of the ''Perimeter Rule,'' and the availability of nonstop flights between smaller airports and Reagan National Airport. I have been in touch with representatives from Jacksonville, Ft. Meyers, West Palm Beach, and Fort Lauderdale. They are convinced that a substantial portion of the direct flights to National that operate out of these airports would eventually be eliminated because the airlines would choose the higher revenue options. A study done by the Washington Airports Task Force supports this opinion.

The study shows that if the perimeter rule was essentially eliminated or weakened by allowing exemptions, economics will drive the airlines to take that airport's capacity away from markets within the perimeter and re-apply it to the higher value markets outside of the perimeter. That means that as many as 25 cities within the perimeter would be vulnerable to loss of some or all of their nonstop service to National. The study also shows that as many as 1.6 million air travelers in 93 congressional districts could be affected.

This amendment assures that, for those communities that are served by small and medium hub airports that fall within the perimeter, travel options will not be reduced and consumers will not be subjected to increased travel delays. In addition, this legislation protects the level of service and choices for consumers in the State of Florida and throughout the country.

I hope that you can support our efforts to ensure that the aviation service in our States are not threatened.

Mr. ROBB. Mr. President, I understand that the managers are now prepared to weigh in on this particular amendment. I yield to the managers of the amendment for any comments they might like to make.

Mr. SESSIONS. Mr. President, we are prepared to accept this amendment. I know of no objection.

Mr. BRYAN. No objection on this side of the aisle.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 3634) was agreed to.

Mr. ROBB. I move to reconsider the vote.

Mr. BRYAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SESSIONS. I suggest the absence of a quorum.

Mr. MOYNIHAN. Mr. President, I ask the distinguished manager to withhold the request.

Mr. SESSIONS. I withdraw that request, Mr. President.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

AMENDMENT NO. 3635

(Purpose: To provide for reporting of certain amounts contributed to the Airport and Airway Trust Fund and funding of States for airport improvement)

Mr. MOYNIHAN. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from New York (Mr. MOYNIHAN) proposes an amendment numbered 3635.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place in title V, insert the following:

SEC. 5 . ALLOCATION OF TRUST FUND FUNDING.

(a) DEFINITIONS.—In this section:

(1) AIRPORT AND AIRWAY TRUST FUND.—The term ''Airport and Airway Trust Fund'' means the trust fund established under section 9502 of the Internal Revenue Code of 1986.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of Transportation.

(3) STATE.—The term ''State'' means each of the States, the District of Columbia, and the Commonwealth of Puerto Rico.

(4) STATE DOLLAR CONTRIBUTION TO THE AIRPORT AND AIRWAY TRUST FUND.—The term ''State dollar contribution to the Airport and Airway Trust Fund'', with respect to a State and fiscal year, means the amount of funds equal to the amounts transferred to the Airport and Airway Trust Fund under section 9502 of the Internal Revenue Code of 1986 that are equivalent to the taxes described in section 9502(b) of the Internal Revenue Code of 1986 that are collected in that State.

(b) REPORTING.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, and annually thereafter, the Secretary of the Treasury shall report to the Secretary the amount equal to the amount of taxes collected in each State during the preceding fiscal year that were transferred to the Airport and Airway Trust Fund.

(2) REPORT BY SECRETARY.—Not later than 90 days after the date of enactment of this Act, and annually thereafter, the Secretary shall prepare and submit to Congress a report that provides, for each State, for the preceding fiscal year—

(A) the State dollar contribution to the Airport and Airway Trust Fund; and

(B) the amount of funds (from funds made available under section 48103 of title 49, United States Code) that were made available to the State (including any political subdivision thereof) under chapter 471 of title 49, United States Code.

Mr. MOYNIHAN. Mr. President, this is a simple proposal to obtain numbers about a Federal program as regards the respective States. As a member of the Committee on Environment and Public Works for the last 22 years, I served as chairman, at one point, and handled a number of highway bills, as we call them, transportation bills, and have been involved with negotiations with the House in these matters.

One of the subjects that comes forward continuously is the payments by respective State residents, or persons passing through a State, into the highway trust fund. This was established in 1956 by President Eisenhower, under his administration, on the recommendation of a commission headed by General Clay, with the previous Speaker, Mr. Wright of Texas, as one of the persons animating the effort in the Congress. There was a source of funding for the Interstate and Defense Highway Program. Indeed, there was, and we have very successfully finished that program and we continue to fund transportation projects across the Nation with those revenues as they come in.

Now, in 1986 we established the airport and airway trust fund. It is a ticket tax and other taxes. It brings considerable revenue, as anyone who has recently ridden on the Washington-New York shuttle can attest. In fiscal year 1998, we estimate that $4.5 billion was collected in ticket taxes.

However, we have no State-by-State analysis of the dollar contributions. Inevitably and properly, the moneys are used by the Federal Aviation Administration to provide airport projects around the Nation, but with no accounting for the relative contributions of the different States with the thought that there be some proportionality as to the return to the States. I say ''some''—nothing precise, nothing is proposed in this amendment to make such a proportionality requirement. Indeed, it is not desired.

Public policy on transportation should follow the needs of transportation, and yet it is reasonable to assume that Senators and Representatives will expect some relationship between what their State provides and what it receives. That may now take place; it may not take place. The answer is we don't know.

The most normal function of government when it collects a tax is to record the origins and the specifics of the revenue stream. There will be some difficulty doing this. It is tricky. A good number of airline tickets are now purchased on the Internet as opposed to travel agents or at the airport. These are methodological problems which the Treasury is entirely capable of dealing with through sampling and other devices. This amendment quite specifically says, ''as soon as practicable after the date of enactment of this act and annually thereafter,'' that the Secretary of the Treasury will report to the Secretary of Transportation.

The term ''as soon as practicable'' gives the Treasury the leeway it requires to get these numbers and break them down. It is routine government. It is good government. It is an opportunity to avoid a great deal of misunderstanding and discord in the committees involved and on the floor as we ask how appropriate, and in a general sense, how fair the use of these funds is—the allocation of these funds once they have been obligated through taxation.

Accordingly, I hope the Senate can approve this amendment.

Mr. President, I respectfully inquire of the managers whether this straightforward measure could be accepted and spare the Senate the time.

Mr. BRYAN. If I might respond to the inquiry from my friend, the distinguished Senator from New York, I am informed at this point we are not able to accept the amendment. The floor leader is absent from the floor temporarily and will return shortly. Perhaps the Senator may be able to engage in a conversation with him and the distinguished Senator on the other side of the aisle as to working out this point. I am not able to give the distinguished Senator the assurance that he needs that we can approve it.

Mr. MOYNIHAN. My friend from Alabama?

Mr. SESSIONS. I thank the distinguished Senator.

This amendment has just been presented and is now being seen by the managers. I think both sides of the aisle have expressed some concerns, so we will have to study it some more.

Mr. MOYNIHAN. In that regard, Mr. President, I wonder if I could, with the understanding of the managers, ask for the yeas and nays with the understanding that if the managers, after consideration of this very simple proposal, decide that it is acceptable, when that moment comes when this amendment comes up after 5 o'clock, that the yeas and nays be vitiated and the amendment be accepted; if not, we will have a vote.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. MOYNIHAN. Once again, if on further consideration the managers would like to accept the amendment, we will vitiate the vote when the time comes.

I thank the Chair, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRAMM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GORTON). Without objection, it is so ordered.

Mr. GRAMM. Mr. President, I ask unanimous consent to speak as in morning business for 25 minutes.

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

THE HEALTH CARE SYSTEM

Mr. GRAMM. Mr. President, about an hour ago, our dear friend, Senator KENNEDY from Massachusetts, came on the floor to talk about health care and, like Goliath of old, challenged us to respond to his cry to allow him to dramatically change our health care system. Since it appears that there is a break in the legislative action,—-I see no one standing around waiting to speak or amend—I thought I would make Senator KENNEDY's day, so-to-speak, by coming over and responding to him.

Mr. President, there are several points I want to make and I will try not to belabor any of them. First of all, there is something to be said about having an institutional memory. I would like to take our colleagues, at least those who are now eager to remake our health care system in their ideal image, down memory lane, and remind them that it was only in 1993 that President Clinton and Senator KENNEDY told us in a debate, which lasted for 18 months in the Senate, that they knew how to solve our health care problem.

Our health care problem, in 1993, according to President Clinton and Senator KENNEDY, was an access problem, that 40 million Americans did not have health insurance, and their solution was to have the Government take over and run the health care system and create one giant HMO that I think they called a ''health care purchasing collective.'' All Americans were going to be forced into one giant Government-run HMO, and the benefit we were going to get from it was that everyone

would be covered. The cost of it, obviously, was that we would lose our right to choose.

Now, in that program, no one had the right to sue the Government based on poor medical treatment. They had the right that you have under current law to sue an HMO if they violate their contract. But we were told in 1993 that the problem was access to health care, and that the right to choose your own doctor, the right to choose your own hospital, and the right to sue was not important. What was important—in the words of Senator KENNEDY and the President, which still ring in our ears—was ''access.''

Now, here we are 5 years later and we are now being told that the problem is not access, the problem is not that 40 million Americans are having trouble paying for health insurance, and that in fact we should take action to make millions more unable to pay for their health insurance; we are now being told that the problem is that HMOs limit choice.

Now, Mr. President, I can't help but be struck by the fact that the same people who, 5 years ago, said the problem is access and we should sacrifice choice by putting everybody into one giant Government-run HMO called a ''health care collective,'' and that we should limit the ability of people to sue in the name of access—those same people are now saying that the problem is that HMOs limit choice. Specifically, they are saying the problem is that, under current law, you can't sue an HMO.

The only point I want to make—and I think it is a very important point—is that, 5 years ago, the President and Senator KENNEDY loved HMOs. They loved them so much they wanted to put every American into one, regardless of their circumstances, and not allow anyone, under punishment of law, to buy health care outside the system. They wanted to have everyone in one giant Government health care HMO called a ''health care collective.''

Now, they don't love HMOs anymore. Then they cared about people having health insurance, and now they don't care about people having health insurance. In fact, under their bill, even under the most conservative estimates, hundreds of thousands, millions of families will lose health insurance. Suddenly, they don't like HMOs, and they want to protect people from the very same health care system that they wanted to impose on the Nation on a mandatory basis just 5 years ago.

Now, what is their real objective? We all know their real objective because, one thing about them—and they are not trying to hide it—is that they really believe the Government ought to run the health care system. We know what their ideal plan looked like; we had it 5 years ago. By the way, it looked very menacing. We had about 70 Members of the Senate who were cosponsoring these Government-run health care collectives. It looked like a 20-foot tall giant until, finally, a few Members of the Senate went up and stuck a pin in its big belly and it deflated. People realized that when their mama got sick, she was going to have to talk to a bureaucrat instead of a doctor, so we killed the Kennedy–Clinton health care plan.

Well, they are back. Since we are not going to let them run the health care system, they have decided they are going to tell the private sector how to run it.

Let me address the problems with HMOs. Let me say that, unlike the President and Senator KENNEDY, I never was in love with their idea of an HMO. I was opposed to forcing people, on a mandatory basis, to go to a Government-run HMO. I want people to have choices. Now, Senator KENNEDY says these HMOs are bad, but he doesn't want to give people the power to fire them, which I want to do. He wants to give people the ability to sue them.

I want to give people the ability to have real choices. That is what our bill is about.

Let me try to define the problem. I want to define it generically, and then I want to talk about the problem as people see it. Then I want to talk about Senator KENNEDY's solution and then about the Republican solution.

Here is the real problem. HMOs have grown like wildfire because of exploding medical costs. Under our old medical system, which we all loved and which was wonderful, except for one thing—nobody could afford it—with fee-for-service medicine and low-deductible health insurance policies, we all bought health care where somebody else paid for it.

Under our old health care system, if you went to the hospital, somebody else paid 95 percent of your bill. Sometimes that was private health insurance; sometimes it was Medicare; sometimes it was Medicaid; sometimes it was indigent care. But the bottom line was, under our old fee-for-service health care system where Americans with Medicaid, Medicare, and private health insurance had a third party paying, when you went to the hospital somebody else paid 95 percent of your costs.

Can you imagine if we had grocery insurance, so that when we went to the grocery store 95 percent of everything we put in our basket was paid for by our grocery insurance? We would all eat differently, and so would our dogs. Grocery stores as we know them wouldn't exist. They would have 20 times as many people working at the supermarket as they have now. They would have all kinds of luxury foods and prepared foods. And we would all love the grocery store, and we would all hate our grocery insurance bills.

That is the situation we were in. Government, as usual, did nothing about it. In fact, Government policy made all those problems worse. Then the private sector started to move to solve the problem. And one of the innovations was the development of the HMO. People have gone into HMOs, through their jobs, by the millions because they are cheaper, because they exercise more judgment in spending and because they make health care more affordable.

But there is a problem. The problem is that the way the HMOs control cost is by exerting influence over the health care you consume. Here is the problem with our national psyche. The problem is, we all want the benefits of cost control, but we don't want to bear the burden of having the cost control imposed on us and our family. We want the lower rates of the HMOs. We want to make the HMOs give us whatever we want, but we don't want them to charge us more to pay for it.

In other words, as usual, we want a free lunch. We want something for nothing. But that can never be, because one of the things God decided a long time ago is, you can't get something for nothing. If you drive up costs, you have to pay for it ultimately.

Here is Senator KENNEDY's definition of the problem, and here is his solution.

His definition of the problem, which millions of Americans identify with—and so do I—is when you go to see your doctor and you are a member of an HMO, when you go into the examining room, the HMO has its gatekeeper in the examining room, in essence, making decisions with your doctor as to what you need.

We don't want somebody else in our examining room. When we go into the examining room with the doctor, we want to be alone with the doctor. The problem is, with HMOs, one of the prices we pay for lower cost is having a gatekeeper involved in our health care, which almost literally means having a third person in the examining room.

What do Americans want, and what does Senator KENNEDY want?

Americans want to get the gatekeeper out of the examining room. They want to be alone with their doctors. What Senator KENNEDY says is, ''OK, you do not like having a gatekeeper in your examining room. So what we will do is this.''

If you will adopt Senator KENNEDY's bill, he will bring into the examining room a Government bureaucrat, whom he will choose, who will be there to regulate the gatekeeper and your doctor. And then you will get to hire with your money a lawyer, who can be there to watch the doctor and the gatekeeper and to be there to sue them on your behalf.

I thought it would be instructive to take a simple medical device, the stethoscope, invented by the ancient Greeks and used to this day to listen to people's hearts, and demonstrate graphically what Kennedy–Care looks like. What Kennedy–Care looks like is this stethoscope.

When you go into the examining room, under Senator KENNEDY's program, you are at this end—this part

right here where they put that right up against your heart. So that is where you are. Then your doctor has one set of earpieces so that he can listen to your heart and determine if something is wrong with you.

Then the problem everybody is concerned about is, the HMO has a gatekeeper there with his stethoscope next to your heart listening to your beat, second-guessing your doctor.

What you would like to do is cut this part of the stethoscope off. That is what every American who is a member of an HMO would like. But what does Senator KENNEDY do? He adds another stethoscope for the Government bureaucrat that he is going to choose. So the Government bureaucrat is going to be listening to your heartbeat, second-guessing the HMO, and second-guessing your doctor, and trying to tell them both what to do.

In addition, Senator KENNEDY lets you hire a lawyer to come, and gives him another stethoscope.

So here you are. What you wanted was to be alone with your doctor. But now, under the Kennedy plan, you are in the examining room not only with your doctor and the HMO gatekeeper, but also with a bureaucrat chosen by Senator KENNEDY, and a lawyer, whom you pay for. So there you are, and there are four people in the examining room with you, three of whom you don't want.

It is Senator KENNEDY's solution to the problem.

You wanted to get rid of the gatekeeper. But he keeps the gatekeeper, because he doesn't give you the ability to fire the HMO, but he sends his bureaucrats in and then takes your money to hire you a lawyer. Suddenly, you have four people in the examining room with you and you are three times as unhappy as you were before.

That is not the solution that most Americans have in mind.

What is the solution they have in mind? The solution they have in mind is what I call ''medical savings account care.'' Under our program, which is embodied in the Republican alternative, this is what the stethoscope looks like—again, exactly like the Greeks designed it.

Here you are. The doctor is listening to your heart. Here is the doctor. But you have gotten rid of the HMO gatekeeper. You didn't have to hire Senator KENNEDY's bureaucrat. You didn't have to hire Senator KENNEDY's lawyer. What you have is simply you and your doctor.

That is what people want.

How do we do it?

I conducted an interesting experiment the other day and I want to show you a chart and share the results with you today. I took a page of medical providers out of the Yellow Pages. I called up, and asked them if they were part of the largest HMO in Washington, Kaiser HMO. Then I asked if they were part of the largest preferred provider organization. That is Blue Cross, PPO. Then I asked them about the Republican solution, which is based on medical savings accounts, and I will explain more about them in a minute.

The Republican bill—I want to congratulate our leader, DON NICKLES, and the members of our task force who put together an excellent bill that deals with the legitimate concerns that Americans have about HMOs. But we do more on that to try to deal with HMO abuses, because we give people the power to fire their HMO—something Senator KENNEDY does not do. He gives you the power to have a Government bureaucrat oversee your HMO, gives you the power to have a lawyer to sue them, but he doesn't give you the power to fire them.

Now, in addition to dealing with the legitimate concerns about HMOs, we did something so much better, and that is we brought freedom into the Patients' Bill of Rights. What are the Bill of Rights about if they are not about the right to choose. So we create real medical savings accounts, and here is how they work. Let's say I have two children, which I do, and I have a wife. And I am grateful for the children and my wife. I buy the standard option Blue Cross/Blue Shield, and it costs my employer about $4,000 a year. Now, I could buy that same coverage, if it had a $3,000 high deductible, for just $2,000 a year. That is because the first $2,000 of medical costs are prepaid medical expenses rather than insurance.

So under our bill, people would have the right—no one would make you do it, but you would have the right to choose a medical savings account. What it would mean, especially for young couples with a moderate income, is that you could at a low cost buy a high-deductible policy to protect your family in case something really bad happened and yet you could still afford it.

The way it would work is your company, which is currently buying you a $4,000 Blue Cross/Blue Shield standard option, low-deductible policy, would instead buy for $2,000 the high-deductible plan and then deposit the $2,000 it saves into your medical savings account. With that $2,000, and the $1,000 you would normally spend on both health premiums and out of pocket medical expenses, your medical savings account would have $3,000 to pay for all your health care expenses up to $3,000. Any further medical expenses above $3,000 in a year would be covered by your high-deductible insurance.

Now, there are two reasons why this is important. One, at the end of the year, if you had not spent that $3,000 in your medical savings account on medicine, it is your money. If you go to the doctor and you say, I have a terrible headache, and the doctor looks at you, examines you, and he says, look, you probably have a headache and you have two options: One, I can give you two aspirins and it will probably go away, or I can give you a brain scan that will cost $1,000. If you take the two aspirins and it doesn't go away, you can come back tomorrow and I can give you the brain scan. With the medical savings account, since you get to keep that $1,000 if you don't spend it on a brain scan, you will see more rational economic decisions. You will probably ask the doctor what he really thinks, and in all probability, you re going to take the two aspirins and come back tomorrow if the headache is not gone.

On the other hand, under Senator KENNEDY's plan, if you have low-deductible insurance, you will say, well, does this brain scan hurt? And they will say, no, it doesn't hurt at all. In fact, it is very interesting. You can actually watch it. You might say, great, let's have the brain scan.

The point is, if I am spending my money I behave differently than if I am spending someone else's money. But under the medical savings account, at the end of the year, if all I had was a headache, I am $1,000 better off in my pocket—to send my children to Texas A&M or to go on a vacation or buy a refrigerator—if I went with the two aspirins and I didn't need the brain scan. But the most important thing about our medical savings accounts is I get to choose.

Now, let me get back to my experiment. I took a page out of the Yellow Pages. In my Yellow Pages test on the Kennedy health care plan and the Republican health care plan, I decided to give him the benefit of the doubt and assumed that everyone was in the biggest HMO in Washington. Many people won't be. Or let's say everyone went with the most popular preferred provider organization, the Blue Cross/Blue Shield PPO. So what we did was, starting with Ginsberg, Susan M. Ginsberg, M.D., at 106 Irving Street, NW, 723–4015, we went through and called each of these physicians and we asked them three questions: One, Do you participate in the Kaiser HMO?

Ten of them did. So if I were a member of the Kaiser HMO, I could see one of their doctors. If I could get to see somebody under the Kennedy plan, I would even have a Government bureaucrat in the examining room with me sharing my intimate experiences, along with a gatekeeper at Kaiser, but only 10 doctors of the 28 on this list would see me under the Kaiser HMO plan.

Now, if I had the Blue Cross PPO, 17 physicians that are listed on page 1017 of the Yellow Pages, 17 of the 28 physicians would take Blue Cross/Blue Shield. But then we asked them another question. We asked these physicians if they would take a check from a medical savings account. Golden Rule is a just one company that offers these MSA checking accounts. When you go to the doctor, you simply pay with your MSA check.

Then you have, through Mellon Bank with MasterCard, a MasterCard medical savings account. The way it works is you don't call up any gatekeeper. You don't say, do you take my preferred provider? Or, do you participate

in this HMO? You simply call up and say, do you take MasterCard? And through the medical savings account at Mellon Bank you can get a MasterCard for participating in the program. And then there is Health Value, which has a medical savings account through Visa.

I performed an additional experiment. After we had asked them, Do you take Kaiser HMO, and 10 of the 28 did; Do you take Blue Cross preferred provider, and 17 of the 28 did. Then we said, Do you take Visa? Every one of the 28 took Visa. Do you take MasterCard? Every one of them took MasterCard. If I have identification, do you take a check? Every one of them took a check.

Now, there is the power of real freedom of choice. The freedom of choice is you do not have to go to an HMO. You do not have to go to some preferred provider. You do not have to appeal to an outside appeals board. You do not have to file a lawsuit. You do not have to have a Government bureaucrat. All you have to do is pick up the phone and call the doctor or the specialist you want and say, ''Dr. Goldbaum, do you take MasterCard?'' If he takes MasterCard, you don't care whether he is on somebody's preferred provider list or whether he is a referral specialist. He is your primary care physician, if he takes MasterCard.

What our proposal does is set people free to choose. Senator KENNEDY and the President hate medical savings accounts. They respond to medical savings accounts the way vampires react to a cross. And the reason is simply this: They understand that medical savings accounts empower people. And once somebody has a medical savings account, they do not want a Government bureaucrat. They do not need a lawyer. And if they need one, they can go into court and hire the lawyer. They do not have to fool around with gatekeepers. They just simply pick up the phone and dial William D. Goldman, Pediatrics-Adolescent Medicine. He could be a referral doctor for Kaiser or Blue Cross/Blue Shield. But they call up Dr. Goldman, and they have one simple question for Dr. Goldman: ''Dr. Goldman, do you take Visa?'' If Dr. Goldman takes Visa, they are in. We set them free to choose.

Now, Senator KENNEDY and the President understand that if we ever have medical savings accounts that will work, their idea of having the Government taking over and running the health care system of America is dead. It will never be brought back to life. So they do not like this provision in our bill. But the wonderful thing about it is we do not make people buy medical savings accounts. Many people love HMOs. My mother-in-law participates in an HMO and loves it, and she ought to have the right to choose it. Many people love preferred providers. All we do is make it possible for people to have real choice so if their baby is sick and they want to get in to see a specialist, if they want to see William D. Goldman, pediatrics and adolescent medicine, they don't go to a gatekeeper; they just pick up the phone and say do you take MasterCard? He does? They are in.

Senator KENNEDY tells us that he wants to vote on health care. I find it very interesting that we have offered him the ability to present to the Senate his plan, change it any way he wants to change it—put two Federal bureaucrats in every examining room, hire five lawyers, whatever works for him—develop the best system he can develop for America, we will not try to change it. We will not try to be mischievous and offer an amendment to it. He tells us how to fix the health care system. And then the Republican Task Force, of which I am a proud member, will present our alternative and what will happen is we will let people choose.

Senator KENNEDY, knowing we are in session for 10 more days—I ask unanimous consent for 5 additional minutes.

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

Mr. GRAMM. Senator KENNEDY, knowing we are in session for only 10 more days, wants to do all these amendments. He wants to amend our proposal. We do not want to amend his proposal. All we want to do is give people a choice. We think we have a better way. He, obviously, thinks highly of his plan. It is much closer to the world as he sees it.

What we are saying is, if he really wants to vote on his plan, we can have a vote this afternoon. But what we want to do, instead of getting into all these games with only 10 days left where we try to amend each other's plan and mess it up and end up with something nobody in the world wants, what we have offered, and very generously offered as the majority—I don't ever remember it happening when we were the minority on a major bill—we have offered to Senator KENNEDY, you take your health care plan and you write it exactly as you want it and you offer it and we will vote on it. And if you get 50 votes, you can get the Vice President to come over, break the tie, and you are in. You can put a Government bureaucrat in every examining room, you can have people hire lawyers, you can do it however you want to do it. But we think we have a better way.

What we would like to say to Senator KENNEDY is, we will give you a vote on your plan, and then you give us a vote on our plan. If we win and you do not, then we go forward with our bill. If you win and we don't, we go forward with your bill. But I am afraid there is a growing suspicion—I would never say this because I try to never be suspicious of people's motives—but there are some people who believe all of this discussion about health care is political. There are some people who believe that Senator KENNEDY does not really want his bill voted on because he knows it is not going to pass. Some suspect he knows some of the Democrats are not going to vote for it. And I believe he suspects our proposal would pass.

But the point is, if we really want to vote on health care with just 10 days left, let's stop all the games; let's let the Democrats sit down in a room and write the best plan they can write and we will not try to amend it. We will not try to stall it. We will let them bring it forward, tell us why it is the right idea, and we will vote up or down. Then we would like to have the same right on our plan, and if we are successful then we can go to the House very quickly, work out our differences, and let the bill go to the President. If we really want to do something about health care, that is what we need to do.

Finally, before my time runs out, I want to simply say that I believe that a lot of work has gone into this issue. I will congratulate Senator KENNEDY and others for raising the issue. I think we have a better way, as Republicans. I think our bill is better. I think it gives more choice. I congratulate Doug Badger, who has been the staff director who, through some 25 meetings, has helped us put together, with Senator NICKLES' leadership, what I believe is an excellent program. I would be happy for our program to become law.

But we have 10 legislative days left. If we want to have any opportunity to do something about health care, there is only one way: the Democrats put together their best bill. If that is Senator KENNEDY's bill, that is fine. If they want to change his bill, we are not going to interfere because we are not trying to make mischief. But we have a better way which we think will improve health care in America. We think it will make HMOs more responsive. We think it deals with legitimate concerns without denying millions of people access to health care because they will not be able to afford it, and it gives people the freedom to choose.

Remember the Yellow Pages test. On the Yellow Pages test, if the Republican plan passes and you want a medical savings account—you can have one, but nobody makes you get one. You can do a HMO, you can do Blue Cross/Blue Shield, you can do whatever you want to do. But if you want to choose for your family, we put you in a position so when you call up Seth Goldberg—who is ear, nose, throat, facial plastic reconstructive surgery—you don't have to go through a gatekeeper, on the Republican plan. You just call up Dr. Goldberg and say, ''Dr. Goldberg, I wanted to come see you but I had to ask you a question.''

So Dr. Goldberg gets out his big file and he figures we are about to ask him do you participate in the Joe B. Brown HMO, and he is going to look it up and see if he does. We just simply say, ''Dr. Goldberg, will you take a check?''

He is going to say, ''Yes.'' And when he says yes, if your baby has a throat problem, you are going to get to see a specialist and you are not going to have to go through a gatekeeper.

Senator KENNEDY will let you sue if the gatekeeper says no, and he will have a Government bureaucrat there, with your child, if you ever get in to see the ear, nose and throat specialist. But the point is, if your baby is sick and your baby has a 104-degree fever, you don't care about suing. You want to go to see Dr. Goldberg.

Our plan gets you in the door. Our plan gets your baby medical attention because it empowers you. Hallelujah.

The PRESIDING OFFICER. The time of the Senator has expired. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I ask consent to speak in morning business for 3 minutes.

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

Mr. DORGAN. Mr. President, I will shortly offer an amendment to the FAA bill on the floor. But I could not help but listen to my colleague from Texas. I should not frame it that way, I ''could not help but listen to him.'' I was here and listened to him, and I couldn't help but have a desire, an urgency to respond to some of it. I shall not do that now, but reserve the time later.

I notice he talked about the KENNEDY plan. He is probably talking about the plan that is embraced by hundreds of organizations in this country, by the President, by the American Medical Association, and others who believe that health care ought to be practiced in a doctor's office or in a hospital room, not by some insurance accountant 500 miles away, and who understand the stories we have told on the floor of the Senate about a little boy had cerebral palsy whose HMO says this boy only has a 50 percent chance of being able to walk by age 5, and that is insignificant, and therefore we will not give this young boy the kind of therapy he needs. That decision was not made by a doctor. The doctor of that boy recommended therapy. That decision was made by an accountant, and had everything to do with an HMO's bottom line, not health care. That is the issue.

The issue is, do patients have a set of rights here? Do patients, when sick, and who present themselves to a doctor and hospital, have a right to know all of their medical options? Or do they have a right to know only the cheapest medical option?

Does a patient have a right to be taken to an emergency room when they have just broken their neck? I will give you an example of somebody who broke their neck, went to the emergency room, unconscious, and the HMO said, ''We can't pay for that because you didn't get prior clearance.'' That is health care? That is a decision a doctor would make? I do not think so.

That is why doctors across this country, health care professionals across this country, and increasing numbers of people who have been herded into these shoots called ''managed care,'' 160 million of them are now saying, there needs to be some changes here.

Health care ought to be practiced in the doctor's office, in a hospital room. I understand there is great passion about this issue. I hope this Congress will address this issue. The Senator from Texas proposes a way to address it. ''We have a bill; they have a bill. We have a vote; they have a vote.''

What about regular order? Why does the Senator from Texas propose that we not have regular order? Bring your bill to the floor—we have amendments, they have amendments—vote on the amendments one by one. How do you propose to deal with emergency care? What about the choice of specialists when you need it? What about the ability to know all of your medical options? What about the issue of bringing managed care to the floor of the Senate, a Patients' Bill of Rights—any version—and then having votes, amendment after amendment after amendment?

WENDELL H. FORD NATIONAL AIR TRANSPORTATION SYSTEM IMPROVEMENT ACT OF 1998

The Senate continued with the consideration of the bill.

Mr. DORGAN. Mr. President, I ask to be recognized to offer an amendment to the underlying bill.

The PRESIDING OFFICER. The Senator is recognized.

The pending business is the Moynihan amendment.

Mr. DORGAN. I ask unanimous consent to set aside the current amendment.

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

AMENDMENT NO. 3636

(Purpose: To facilitate air service to underserved communities and encourage airline competition through non-discriminatory interconnection requirements between air carriers)

Mr. DORGAN. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from North Dakota [Mr. DORGAN], for himself, Ms. SNOWE and Mr. WELLSTONE, proposes an amendment numbered 3636.

Mr. DORGAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place insert the following new section—

SEC. . NON-DISCRIMINATORY INTERLINE INTERCONNECTION REQUIREMENTS

(a) IN GENERAL.—Subchapter I of chapter 417 of title 49, United States Code, is amended by adding at the end thereof the following:

''(a) NON-DISCRIMINATORY REQUIREMENTS.—If a major air carrier that provides air service to an essential airport facility has any agreement involving ticketing, baggage and ground handling, and terminal and gate access with another carrier, it shall provide the same services to any requesting air carrier that offers service to a community selected for participation in the program under section 41743 under similar terms and conditions and on a non-discriminatory basis within 30 days after receiving the request, as long as the requesting air carrier meets such safety, service, financial, and maintenance requirements, if any, as the Secretary may by regulation establish consistent with public convenience and necessity. The Secretary must review any proposed agreement to determine if the requesting carrier meets operational requirements consistent with the rules, procedures, and policies of the major carrier. This agreement may be terminated by either party in the event of failure to meet the standards and conditions outlined in the agreement.

(b) DEFINITIONS.—In this section:

''(1) ESSENTIAL AIRPORT FACILITY.—The term 'essential airport facility' means a large hub airport (as defined in section 41731(a)(3)) in the contiguous 48 states in which one carrier has more than 50 percent of such airport's total annual enplanements.''

(c) CLERICAL AMENDMENT.—The chapter analysis for chapter 417 of title 49, United States Code, is amended by inserting after the item relating to section 41715 the following:

''41716. Interline agreements for domestic transportation.''.

Between lines 13 and 14 on page 151, insert the following—

''(d) ADDITIONAL ACTION.—Under the pilot program established pursuant to subsection (a), the Secretary shall work with air carriers providing service to participating communities and major air carriers serving large hub airports (as defined in section 41731(a)(3)) to facilitate joint fare arrangements consistent with normal industry practice.''

Mr. DORGAN. Mr. President, as I indicated when I spoke previously on this bill, I think Senator MCCAIN and Senator FORD have done a remarkably good job on this piece of legislation, and I appreciate their work so much. And I think many involved in airline issues in this country, such as safety and so many other related issues, feel the same way. This is an important piece of legislation, and we very much appreciate their good work. I think both of them will be on the floor shortly, but I did want to offer the amendment and begin a discussion of it.

Let me first describe why I felt a requirement to offer an amendment of this type. I offered an amendment similar to this in the Commerce Committee and lost by a vote of 11–9. It is interesting to me. I always remember the exact vote when I lose—11–9—and somehow that sticks with me, because I understand why I lost: there are people who view these issues differently.

My concern here is about competition in the airline industry. I know about competition. I come from a town of 300 people. I grew up in that town. I was in a high school class of nine. We had one blacksmith. We had one doctor. We had one barber. We had one of almost everything. Actually, we had a couple of bars. I guess that is probably typical of a lot of small towns. But we had one of most things. I understand that.

The fact is, most of the people who had their exclusive services that they

offered in my hometown always priced their service in a very reasonable way. Go to the barber and the haircut was just very little cost. Same was true with the blacksmith. But then, as I left my small hometown in southwestern North Dakota and started studying economics and lived in some big cities and went off to graduate school and so on, I began to understand that is not always true in our economy. When you have one entity providing a service or a commodity, it is not always true that they will always price that service in the public interest. Sometimes they will price it in their interest.

I began to understand what monopolies were. I studied economics. Actually, I taught economics for a couple years in college. And I have told people I was able to overcome that experience, nonetheless. But I understood about economic concentration, market dominance.

Then I watched what has happened in the airline industry in the last 20 to 30 years. I understood some of the things that I had studied and learned and understood something in the field of economics relates to what we are experiencing in this country in the airline industry.

In 1938, when the Federal Government began to regulate air transportation, there were 16 carriers—16 carriers—who accounted for virtually all of the air traffic in our country. It was a pretty primitive system back then. If you looked at those airplanes now down at the Smithsonian Institution you would say, ''Gee, I'm not sure I would want to ride very far in those airplanes,'' but people did. Sixteen air carriers accounted for the total traffic in our U.S. domestic market.

By 1978, 40 years later, the year that Congress passed something called deregulation of the airlines, those same 16 carriers had reduced to 11. They were merged. A couple went out of business. So you had 11 carriers. Those 11 carriers accounted for 94 percent of all the airline business in the country.

Today, those 11 carriers have been reduced to seven airline carriers because of mergers, a couple bankruptcies—a lot of mergers. Those seven now account for over 80 percent of all the total traffic. American Airlines, Continental Airlines, Delta, Northwest, United and USAir—they account for 95 percent of the total air traffic in the domestic U.S., with their cochair partners.

Since deregulation, 1978, it was estimated that we have had about 120 new airlines appear. And then about 200 different airlines have disappeared, appeared, disappeared, merged, been purchased. But we do not have more competition after deregulation; we actually have less competition.

Between 1979 and 1988, there were 51 airline mergers and acquisitions. Twenty of those were approved by the Department of Transportation after 1985 when it assumed all the jurisdiction over mergers and acquisition requests. In fact, the Department of Transportation approved every airline merger that was sent to it. You do not need a human being to do that. You do not need somebody that breathes and lives and eats breakfast; all you need is a big rubber stamp. If we are going to have a Department of Transportation that will say, ''Gee, no merger is too big. No merger's consequence is too significant for market dominance. We'll just stamp 'approve' with a big, big ink pad and a big stamp,'' we don't need to pay anybody any significant amount to do that kind of Government work. Every airline merger submitted to it was approved.

The 15 independent airlines operating at the beginning of 1986 had been merged into six megacarriers by the end of 1987.

The father of deregulation, Alfred Kahn, testified recently at one of our hearings. He said that he had great disappointment in the industry concentration because he said it perverted the purpose of deregulation. And he pinned most of the blame on mergers and the Department of Transportation's approval of all of these mergers.

What has happened is that these megacarriers—I will probably describe in a moment ''megacarriers''—have created competition-free zones in effect, securing dominant market shares at regional hubs.

Let me describe a couple of these.

Atlanta: Atlanta is a big, old city. If you go down to Atlanta, Atlanta is bustling. It has an economy that is vibrant, a huge city, big airport, a lot of folks coming and going, a lot of traffic. One airline has 82 percent of all traffic in and out of the airport in Atlanta.

Why would that be the case? A city that big, that vibrant, an economy that strong, one airline virtually dominates the hub? Why? Because that is the way the airline companies have sliced up the pie.

Charlotte: One airline, 92 percent in and out of Charlotte.

Cincinnati: One airline, 94 percent.

Dallas-Fort Worth, a big city: One airline, 72 percent.

Denver: One airline, 74 percent,

Detroit: One airline, 82 percent.

Well, I do not need to go through all of them, but you get the picture. This is not exactly the picture of a robust American economy in which there thrives aggressive, interesting competition, one company competing with another for the consumers' business, deciding ''I'll offer a better product. I'll offer a lower price.'' That is what competition is about.

Most businesses understand competition. The airlines have constructed a series of regional hubs which have dominance for major carriers, and then they retreat from the kind of competition you would have expected.

That is my way of describing my criticism of where we find ourselves. I would like to infuse some competition here.

I would like to see if we can find ways to say to the major carriers, ''We need more competition.'' The consumer deserves more competition, the consumer deserves more choices, and the consumer deserves lower prices with respect to airlines.

We have had plenty of studies about this issue. I come from a sparsely populated State, and deregulation has affected us in a much more detrimental way than in other parts of the country. Here are some studies—just a few—that describe deregulation and its impact on small States and rural economies: Airline Competition, Industry Operating and Marketing Practices Limit Market Entry; Trends and Air Fares at Airports in Small- and Medium-sized Communities; Fares and Competition at Small City Airports; Effects of Air Competition and Barriers to Entry. The list goes on and on, study after study.

We don't need to study this. We know what is happening. We know what has happened. Most of us know what should happen. We should do something to help provide competition, certainly in areas that are underserved. For areas that used to have service but don't now have jet service, we ought to find some way to allow that service to exist. I have produced a piece of legislation that I think will do that.

I mentioned that we had an airline shutdown as a result of a labor strike recently. That shutdown was very inconvenient to a lot of people, but it was much more inconvenient to my State. Just prior to deregulation, we had five airline companies flying jets in and out of my State. Now we have one. That one happened to shut down as a result of a labor strike. At 12:01 a.m. on August 30, there were no more jet flights in and out of our State. It was devastating to North Dakota, to the passengers, and to the economy.

That kind of dominance by a carrier I admire. I think the carrier that serves our State is a wonderful carrier. It has some labor problems and other issues, but the fact is, they fly good planes and they have been serving North Dakota for many, many decades. I hope they will continue to serve many decades. I have told their president that one day there will be another carrier and some competition. Although I hope to get them some competition, I want them to stay there because they are a good airline carrier.

But I also want to plug some holes in service that does not now exist, that should exist, and used to exist. For example, a State like North Dakota, for 35 years, had jet service connecting North Dakota to a hub in Denver, CO. After 35 years, that jet service was gone. We no longer have jet service to Denver, CO. The only way a jet service can exist between North Dakota and Denver, CO, is if you have a regional jet service that starts up and can cooperate with and have interline and other agreements with the major carrier that dominates in Denver. We had

a company that started and tried to do that, but, of course, the major carrier in Denver said, ''We want nothing to do with you; we don't want to do interline agreements with you.''

So the only passengers they could haul were the passengers going from North Dakota to Denver. In fact, 70 percent of our people were going beyond Denver. They were flying North Dakota to Denver to Phoenix, to Tulsa, to Tucson, to Los Angeles, to San Francisco. That airline pulled out because they couldn't make it. The large carriers will coshare with each other, they will do all kinds of interline agreements with each other, but they don't want regional jet service to start up and flourish in these regions.

I don't understand that. It seems to me it would benefit them to have regional jet service startups.

However, I proposed something I hope will address this issue in the Commerce Committee that lost 11–9, as I mentioned before. I have modified that substantially now. But even with those modifications, it embodies the principles I am trying to establish: the opportunity for new regional jet service carriers to compete in a regional market by encouraging agreements between new regional jet carriers and large airlines with respect to a number of items—gates, baggage, and other issues.

I will not read the amendment, but let me say that the current Presiding Officer, the Senator from the State of Washington, Senator GORTON, is someone who has spent a great deal of time on airline issues. I will be careful not to mischaracterize any of his views. I hope it is accurate to say that he has been someone who has felt very strongly that he does not want to move in the direction of reregulating air service. While we might disagree on some issues, I very much respect his views, and he has been very strong in asserting his views on a range of these issues.

I have worked with Senator GORTON and others in the last few days to see if we could find agreement on a set of principles in this amendment that will accomplish the purposes and the goals that I want for my region of the country and other regions without abridging the principles that he has with respect to the consistency, deregulation, and other areas. I think we have done that.

The amendment I have sent to the desk, I believe, is an amendment that is approved by Senator GORTON, who is the chairman of the subcommittee on the Commerce Committee that deals with these issues. I want to say to the Senator I very much appreciate his willingness to work with me to address this issue. It is more urgent than it has been in the past, because everyone understands the dilemma that we faced with this shutdown. It could happen again. We have other circumstances out there that could very well result in it happening again. I just want the Congress to send a signal that we are going to provide some workable solutions to allow regional carriers to serve areas not now served, in a way that can give them a viable opportunity to make it. That is the purpose of this amendment.

I think I have described the amendment without spending time on a great deal of detail about the amendment itself. I have worked with Senator MCCAIN, his staff, and Senator FORD. I recognize that doing anything in this area causes some heartburn for some people. There are some who are still not pleased because they would prefer the existing order—leave things as they are. Honestly, we can't leave things as they are. We must make some thoughtful changes here. That is what I propose to do with my amendment.

Since the chairman of the subcommittee and Senator FORD were not here, let me again say I thank them very much for their cooperation. I am pleased we were able to work out this amendment. I hope very much they will be able to help me prevail in conference with the House on this very important amendment.

I yield the floor.

Mr. FORD. Mr. President, let me say to my friend from North Dakota, no one has worked any harder or had a deeper interest in trying to accommodate his constituency. He has been typical Henry Clay in this operation; he has been willing to compromise. As Henry Clay said, compromise is negotiated hurt. So he has given up something that hurt, and others have, too.

I am very pleased we have gotten to this point. If I have any ability to help the Senator in conference, I promise him I certainly will.

The PRESIDING OFFICER (Mr. MCCAIN). The Senator from Washington.

Mr. GORTON. Mr. President, I want to express my agreement with this amendment and also express my admiration for both the dedication and the persistence of the Senator from North Dakota. It is a quality in him I greatly admire.

We did start from very, very different points of view on this subject. Mine emphasized to the greatest extent free market principles and a lack of interference, whenever possible, with business organizations; his, a deep concern, and an appropriate concern, for smaller cities in which the kind of competitive advantage that my major city, Seattle, clearly has are simply not present.

From the beginning, I have thought that his goal was an appropriate one, to try to see to it that better service was provided his constituents, was proper public policy, and at the same time feared the constrictions that some elements of his amendment imposed.

I think at this point we have something with which we can live temporarily. It is not all that the Senator from North Dakota wants. I don't know everything about this field myself.

One element of this amendment will try to get us the most objective possible information about the nature of the problem and perhaps the best solutions. We will be back—even if this bill passes in its present form—we will be back with another FAA bill in 2 years, all of us with much more knowledge.

So my tribute to the Senator from North Dakota for his dedication to a cause that is significant. I hope we have done it in a way that will not damage the competition among major airlines or minor airlines, and in a way that will be of some real benefit to his constituents and to many other people in cities across the country in similar areas.

I approve of the amendment.

The PRESIDING OFFICER. Is there further debate?

Without objection, the amendment is agreed to.

The amendment (No. 3636) was agreed to.

Mr. FORD. Mr. President, I move to reconsider the vote.

Mr. GORTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER (Mr. GORTON). The Senator from Arizona.

Mr. MCCAIN. Mr. President, I also want to add my words of appreciation to the Senator from North Dakota. It seems that he and I are destined to spend a lot of time together, especially since we are going to take up the Internet Tax Freedom Act here soon. He and I will be having a vigorous discussion on that.

I want to point out something again that I pointed out three times. Deregulation of the airlines is a wonderful and marvelous thing and has done great things for America. But when we have a situation where the State of the Senator from North Dakota is shut down because of one airline going on strike, obviously, we have to look at this whole environment of competition. Mr. President, it is not right; it is not right when an entire region of the country is dependent upon one airline. That is true, perhaps to a lesser degree, for other regions in the country. The concerns of the Senator from North Dakota, not only affecting his own State but the entire Nation, include the dramatic disparity, according to GAO, of airfares and where there is hub concentration and competition, which is clearly something that is indisputable.

So it seems to me that the Senator from Washington, chairman of the Aviation Subcommittee, and I, and others should devote a lot of attention to this issue, as to whether there is true competition and whether people in rural areas and in smaller markets in America are being deprived as a penalty because of where they live. So I want to tell the Senator from North Dakota again, I want to work with him and with the distinguished Senator from Washington, and other members

of the committee, next year as we address this issue.

I am afraid, Mr. President, that concentration is increasing rather than decreasing. That trend can only be reversed when we get new entrants into the airline business. I am very disappointed at some of the information—much of it anecdotal—that I hear of the major airlines basically preventing that competition from beginning, or even existing, for a long period of time.

I thank the Senator from North Dakota and I look forward to more work with him on this issue and other issues, such as Internet tax freedom.

I yield to the Senator from North Dakota.

Mr. DORGAN. Mr. President, I was thinking as the Senator from Arizona talked about fares, the ultimate objective of more competition is more kinds of service and lower fares. I pointed out on the Commerce Committee—and I thought maybe I should for my colleagues on the floor—the disparity in fares. I pointed out in the Commerce Committee that we may fly from Washington, DC, to Los Angeles to go to Disneyland and see Mickey Mouse, which is all the way across the country. Or, instead, we could choose to fly to Bismarck, ND, which is half the trip, and see the world's largest cow sitting on a hill outside New Salem. If you wanted to see Salem Sue, the largest cow in the world, you would pay twice as much to go half as far than if you were to go see Mickey Mouse.

Mr. MCCAIN. Is that cow alive?

Mr. DORGAN. No; the cow is dead. Because you might be interested in going there, I will tell you that it is a big metal cow that sits on a hill.

My point is that we have a fare structure that says you can go twice as far and pay half as much. Or, if you choose, if you want to go half as far, you get to pay twice as much. People talk about bureaucrats, and the discussion here a while ago was about bureaucrats and the HMO issue. I can't think of many Americans who could sit down and develop a rate structure that says, ''You know, we are going to tell people that if they will just go farther, we will cut their ticket in half, but if they don't go as far, we will double their price,'' and think that marketing strategy has any relevance at all. That has everything to do with competition. Where there isn't competition, they will price at whatever they want to price. Where there is competition, of course, prices must come down because that is the regulator in the competitive system.

Mr. MCCAIN. I thank the Senator. I want to say that I am going to urge all of my colleagues to go view that cow.

Mr. FORD. At twice the price.

Mr. MCCAIN. At twice the price.

Mr. SARBANES. I wonder if that cow gives milk.

Mr. DORGAN. No.

Mr. FORD. You could prime it.

Mr. MCCAIN. Mr. President, I also want to say again to the Senator from North Dakota, I was in Iowa, strangely enough, and I found out—to validate the point of the Senator from North Dakota—that it costs more to fly from Des Moines, IA, to Chicago, IL, than it does from Chicago, IL, to Tokyo. Now, these distortions have to be fixed because we are penalizing Americans who don't have access to major hubs. That is not fair to the American citizens. I know that the Senator from North Dakota will not give up on this particular issue.

Mr. D'AMATO. Mr. President, I would like to raise an important issue with chairman of the Commerce Committee.

I strongly support vigorous competition in the aviation industry. Competition provides greater travel opportunities at lower prices for the people of New York. As the Chairman knows, when discussing increased activities at major airports we must be very mindful of the impact that aircraft noise has on surrounding communities.

A new start-up airline intends to provide new low-fare jet service out of JFK International Airport and is willing to purchase a number of new Stage III aircraft to place into service in New York. These aircraft will be the quietest aircraft manufactured, even quieter than aircraft that are retro-fitted with Stage III technology known as ''hush kits.'' In selecting airlines to receive slot exemptions to enhance competition at JFK, the Secretary should give preference to the quietest aircraft willing to fill such slots, which, as I said, would be newly manufactured Stage III jets.

Mr. MOYNIHAN. I would like to amplify the comments of my colleague from New York on aircraft noise. I strongly endorse increasing travel opportunities and lower air fares for the traveling public, especially in upstate New York where we have some of the highest air fares in the country.

Mr. MCCAIN. I would strongly agree with the Senators from New York. Noise is an important issue and all considerations held equal the Secretary should give preference to the quietest aircraft in the awarding of slot exemptions at JFK.

AMENDMENT NO. 3635

The PRESIDING OFFICER. The pending question is the Moynihan amendment.

Mr. FORD. Mr. President, I understand that this is acceptable on both sides.

Mr. MOYNIHAN. Mr. President, I ask that Senators CHAFEE, KENNEDY, and D'AMATO be added as cosponsors.

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

Mr. MOYNIHAN. Mr. President, I understand that the amendment is acceptable to our distinguished managers. I earlier indicated if that would be the case, I would ask that the yeas and nays be vitiated, and I do that now.

The PRESIDING OFFICER. Is there objection to vitiating the yeas and nays?

Without objection, it is so ordered.

Mr. MOYNIHAN. I ask that the amendment be adopted.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 3635) was agreed to.

Mr. FORD. Mr. President, I move to reconsider the vote.

Mr. MCCAIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MOYNIHAN. Mr. President, I thank the managers.

If I might just add a little tale, the manager remarked about Chicago and Hong Kong. In the city of Rochester, a major city in our State, and in the Nation, the flight to Chicago and the flight to Hong Kong cost exactly the same. And the Kodak company, as I understand it, has taken to having their employees who do business in Chicago drive there. There is something deeply mistaken about all of this. Thank heaven, we have you here.

I yield the floor.

Mr. MCCAIN. I thank the Senator from New York. I thank him for his abiding concern about Rochester, Ithaca, a number of small- and medium-sized markets in his State that, frankly, have great difficulty getting to New York City, at great expense. I believe his amendment will be helpful in that direction.

I yield the floor.

Mr. SARBANES addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, I am concerned about the provisions in sections 606 and 607 of this legislation which would increase the number of flights and grant exemptions to the 1,250-mile nonstop perimeter rule at Reagan Washington National Airport. These changes would alter longstanding Federal policies and agreements governing the operations of the three Washington area airports—Reagan National, Dulles, and BWI—and could result in unacceptable noise impacts for tens of thousands of citizens living in the flight path of Reagan National along the Potomac.

I recognize that the chairman and other Members are concerned about potential barriers to entry of new carriers at Reagan Washington National. While recognizing this, I think we must seek a careful balance between the benefits of increased competition and legitimate concerns of our citizens about aircraft noise. Anyone who lives in the flight path of Reagan Washington National Airport knows what a serious problem aircraft noise poses for human health, and even for performing daily activities.

Despite having restrictive nighttime noise rules, aircraft noise remains a major concern for many of our citizens who live in Reagan Washington National's flight path.

The Citizens for the Abatement of Aircraft Noise, a coalition of citizens

and civic associations which has been working for more than a decade to reduce aircraft noise in the Washington metropolitan area, has analyzed data from a recent Metropolitan Washington Airports Authority report which shows that approximately 1/3 of the 32 noise-monitoring stations in the region have a day-night average sound level which is higher than the 65-decibel level that has been established by the EPA and the American National Standards Institute as a threshold above which residential living is considered compatible.

Addressing existing noise impacts and the impacts of noise from further flights into Reagan Washington National Airport must, therefore, be a top priority.

Senators MIKULSKI, ROBB, and WARNER have joined with me in framing some amendments to the pending bill to address the potential impact that would arise from increasing the slots and changing the perimeter at National Airport. These amendments seek to provide a noise safety net to mitigate adverse environmental noise consequences of exemptions to the existing operating rules.

Ms. MIKULSKI, Mr. President, today, I rise to offer three amendments with my colleague, Senator SARBANES to address the needs of my constituents in regard to this legislation.

I also note that I am a proud co-sponsor of two amendments offered by Senator WARNER of Virginia that further addresses our citizens concerns.

Mr. President, I want to make it very clear that I am opposed to any changes in the perimeter rule and slot rules at Ronald Reagan National Airport.

I believe the present balance among the three regional airports serves the public well. The present slot rules governing Reagan National work well and should be maintained.

However, I recognize that this legislation has overwhelming support in the Senate and will pass with a majority vote.

As a result, Senator SARBANES and I have crafted two amendments to minimize any potential impact from changes to the slot and perimeter rules.

The first amendment creates a mandatory set-aside of federal funds to mitigate any noise impacts that arise from changes to the perimeter and slot rules.

The amendment requires the Metropolitan Washington Airports Authority to set aside no less than ten percent of their federal funds to prevent noise pollution in areas affected by noise from National and Dulles International Airports.

For my constituents, this means that they will be eligible for financial assistance to soundproof their homes and schools. This amendment will ensure that residents in Montgomery and Prince Georges Counties will finally get some relief from noise that impacts their communities.

Currently, the Metropolitan Washington Airports Authority does not utilize federal funds for noise mitigation activities.

This amendment will ensure that federal funds are used for noise mitigation. For the first time, federal funds will be dedicated to reducing noise in the Washington area.

The second amendment requires that any new slots be distributed evenly during the day to avoid the possibility of stacking new flights early in the morning or in the evening.

I want to make sure that my constituents do not suffer additional noise during the time they are at home in the morning or the evening. When families are together, they should not have to endure additional aircraft noise when enjoying their breakfast or dinner.

The third amendment gives the Washington Airports Authority and the State of Maryland priority consideration for airport improvement grants.

Because Maryland is affected by changes to the perimeter and slot rules, this area should receive priority consideration.

In addition, to the amendments sponsored by myself and Senator SARBANES, we have worked closely with Senator WARNER on two other amendments to further address the needs of our constituents.

One amendment requires a formal environmental review and public hearing before new slot exemptions are granted at Reagan National.

I believe this is fair and necessary to ensure that our constituents have a role in this process and have their voices heard.

A second amendment seeks to guarantee that the pending nominations to the Metropolitan Washington Airports Authority Board are confirmed in an expeditious manner.

A fully functioning board is necessary to proceed with the modernization of Reagan National and Dulles and I support the pending nominations.

Mr. President, I could not stop this bill, so Senator SARBANES and I decided to change it.

For the first time, we succeeded in providing funds for noise mitigation for our constituents.

While I would have preferred no changes to the slot and perimeter rules, I believe our amendments will go a long way to reducing noise impact for our constituents.

AMENDMENT NO. 3637

(Purpose: To ensure that certain funds made available to the Metropolitan Washington Airports Authority are used for noise compatibility planning and programs)

Mr. SARBANES. Mr. President, I send the first of these amendments to the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Maryland (Mr. SARBANES), for himself, Ms. MIKULSKI, Mr. ROBB, and Mr. WARNER, proposes an amendment numbered 3637.

Mr. SARBANES. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

Strike section 607(c), as included in the manager's amendment, and insert the following:

(c) MWAA NOISE-RELATED GRANT ASSURANCES.—

(1) IN GENERAL.—In addition to any condition for approval of an airport development project that is the subject of a grant application submitted to the Secretary of Transportation under chapter 471 of title 49, United States Code, by the Metropolitan Washington Airports Authority, the Authority shall be required to submit a written assurance that, for each such grant made to the Authority for fiscal year 1999 or any subsequent fiscal year—

(A) the Authority will make available for that fiscal year funds for noise compatibility planning and programs that are eligible to receive funding under chapter 471 of title 49, United States Code, in an amount not less than 10 percent of the aggregate annual amount of financial assistance provided to the Authority by the Secretary as grants under chapter 471 of title 49, United States Code; and

(B) the Authority will not divert funds from a high priority safety project in order to make funds available for noise compatibility planning and programs.

(2) WAIVER.—The Secretary of Transportation may waive the requirements of paragraph (1) for any fiscal year for which the Secretary determines that the Metropolitan Washington Airports Authority is in full compliance with applicable airport noise compatibility planning and program requirements under part 150 of title 14, Code of Federal Regulations.

(3) SUNSET.—This subsection shall cease to be in effect 5 years after the date of enactment of this Act, if on that date the Secretary of Transportation certifies that the Metropolitan Washington Airports Authority has achieved full compliance with applicable noise compatibility planning and program requirements under part 150 of title 14, Code of Federal Regulations.

Mr. SARBANES. Mr. President, this amendment is intended to assure that the Metropolitan Washington Airports Authority provide funding for noise abatement activities such as soundproofing of homes and schools, buying homes that are affected by noise, and improving land use planning. It provides that the Metropolitan Washington Airports Authority will expend at least 10 percent of its FAA grant money on noise compatibility planning and programming.

Let me note in submitting this amendment that MWAA is currently spending hundreds of millions of dollars of capital improvement at Reagan National, yet it is not spending a dime on the noise abatement activities. By comparison, Chicago O'Hare is currently spending $205 million of its passenger facility charges on noise abatement and mitigation activities.

In my own State of Maryland, BWI is spending a substantial portion of its AIP fund for noise mitigation efforts. In fact, since enactment of the AIP program, the Maryland Aviation Administration has received 46 AIP

grants for BWI, totaling approximately $119 million. Seventeen of these grants, totaling more than $52 million, were for noise mitigation. In other words, 44 percent of all AIP grants for BWI have been for noise mitigation activities.

In direct contrast, since 1991, when Reagan Washington National Airport first became eligible for AIP funds, the Metropolitan Washington Airports Authority has received $106 million in AIP discretionary entitlement funds and none of those funds for financing of the airport's passenger facilities charges has been used for noise abatement activity.

I understand that the rationale that MWAA has given for not spending any funds for noise abatement was that it cannot have a 150 noise compatibility plan approved by FAA. Now that it has such an approved plan, it is time that AIP funds be spent to provide some relief for noise-impacted communities.

This amendment seeks to have the Federal Government address the need for greater balance between airport expansion and associated environmental impact. I know this is an issue that the chairman has taken an interest in. I know he raised it in confirmation hearings with respect to members of the MWAA. We very much welcome his interest. We have tried to work with the committee as we deal with these amendments.

It is my understanding that the amendment is acceptable to the committee. I urge its adoption.

Mr. MCCAIN. Mr. President, I want to congratulate both Senators from Maryland who have been steadfast and tenacious in their efforts to further not only improve BWI but also Washington National and Dulles Airports.

Senator SARBANES I think has a very important amendment. Noise abatement is a very serious issue. I am glad to say that at least partially due to his efforts, BWI has made significant improvements. Unfortunately, that has not been the case with Reagan National Airport, which is interesting. That is one of the things that Senator SARBANES is trying to do with this amendment, and is doing at all airports in the Washington metropolitan area under the Metropolitan Washington Airports Authority's work on noise compatibility, planning, and programs.

I think this is an excellent amendment. I thank the Senator for the amendment. We obviously support it. But I know the Senator has other amendments.

I want to additionally state that I understand how difficult some of these issues are for the Senators from Maryland, especially Senator SARBANES who has been involved with these airports for many, many years. I think Senator SARBANES was involved with these airports when Dulles was viewed as a white elephant, and now certainly it is a very busy airport.

I was pleased—and I know Senator SARBANES was—the other day to see an article in the Washington Post that says business at BWI is at an all-time high. It has turned into an outstanding facility.

I thank Senator SARBANES not only for his amendment but the following amendments in his efforts to help the Metropolitan Airports Authority, the districts, and his willingness to work with us on what is a very contentious issue amongst his constituents. I thank him for it.

Mr. President, I believe there is no more debate on this amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

Hearing none, the amendment is agreed to.

The amendment (No. 3637) was agreed to.

Mr. MCCAIN. Mr. President, I move to reconsider the vote.

Mr. SARBANES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3638

(Purpose: To mitigate adverse environmental noise consequences of exemptions of additional air carrier slots added to Ronald Reagan Washington National Airport as a result of exemption)

Mr. SARBANES. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Maryland (Mr. SARBANES), for himself, Ms. MIKULSKI, Mr. WARNER, and Mr. ROBB, proposes an amendment numbered 3638.

Mr. SARBANES. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

In section 607(a)(2), as included the manager's amendment, in section 41716(c) of title 49, United States Code, as added by that section, strike paragraph (2) and insert the following:

''(2) GENERAL EXEMPTIONS.—The exemptions granted under subsections (a) and (b) may not increase the number of operations at Ronald Reagan Washington National Airport in any 1-hour period during the hours between 7:00 a.m. and 9:59 p.m. by more than 2 operations.''.

Mr. SARBANES. Mr. President, this amendment seeks to mitigate the environmental noise consequences of new air carrier slots added to the Ronald Reagan National Airport inventory. By precluding air carrier slot clustering during the operational day, it would prohibit more than two new operations per hour during the period between 7 a.m. and 9:59 p.m.

It seeks to achieve a more appropriate balance between the commercial interests of air carriers, the demands of the traveling and shipping public, and the concerns of residents living under the flight pattern. We understand the addition of the slots. This is primarily an effort to spread them out over the course of the operational day and to prevent heavy clustering, particularly in the early morning or late evening hours. I understand the committee feels that this is compatible with the objectives we are trying to seek.

I urge adoption of the amendment.

Mr. MCCAIN. Mr. President, I support the amendment. I think it is important. I know both sides support it. I believe there is no further debate on the amendment.

The PRESIDING OFFICER. If there is no further debate on the amendment, the amendment is agreed to.

The amendment (No. 3638) was agreed to.

Mr. MCCAIN. Mr. President, I move to reconsider the vote.

Mr. SARBANES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3639

(Purpose: To mitigate adverse environmental noise consequences of exemptions for Ronald Reagan Washington National Airport flight operations by making available financial assistance for noise compatibility planning and programs)

Mr. SARBANES. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Maryland (Mr. SARBANES), for himself, Ms. MIKULSKI, Mr. WARNER, and Mr. ROBB, proposes an amendment numbered 3639.

Mr. SARBANES. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

Strike the first subsection designated as subsection (d) in section 607, as included in the manager's amendment, and insert the following:

(d) NOISE COMPATIBILITY PLANNING AND PROGRAMS.—Section 47117(e) is amended by adding at the end the following:

''(3) Subject to section 47114(c), to promote the timely development of the forecast of cumulative noise exposure and to ensure a coordinated approach to noise monitoring and mitigation in the region of Washington, D.C., and Baltimore, Maryland, the Secretary shall give priority to any grant application made by the Metropolitan Washington Airports Authority or the State of Maryland for financial assistance from funds made available for noise compatibility planning and programs.''.

Mr. SARBANES. Mr. President, this amendment seeks to mitigate adverse consequences of the exemptions from the rules governing Ronald Reagan Washington National Airport flight operations by requiring the Secretary of Transportation to make both the Metropolitan Washington Airports Authority and the State of Maryland eligible for priority consideration when the FAA distributes noise discretionary funds under the Airport Improvement Program. With increases in the amount of flights at Reagan National—and these other two airports are interrelated, of course, Dulles and BWI—the problem of noise pollution is likely to grow, and it is vital that we make prudent investments in noise abatement activities.

Therefore, we seek this priority status in order to be able to ensure that we are doing everything we can to soundproof homes and schools and take other steps to address the noise pollution problem for those living in the flight paths.

I understand, Mr. President, that the committee has, as it were, a refinement of this amendment, and this is certainly acceptable to us.

I, again, express my appreciation to the chairman and the ranking member for working with us in such a positive and constructive way on this issue.

AMENDMENT NO. 3640 TO AMENDMENT NO. 3639

Mr. MCCAIN. Mr. President, I have a second-degree amendment at the desk, and I ask for its immediate consideration.

The PRESIDING OFFICER (Mr. COATS). The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Arizona [Mr. MCCAIN] proposes an amendment numbered 3640 to amendment No. 3639.

Mr. MCCAIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 7, strike through line 10 and insert the following:

''(3) The Secretary shall give priority in making grants under paragraph (1)(A) to applications for airport noise compatibility planning and programs at and around airports where operations increase under title VI of the Wendell H. Ford National Air Transportation System Improvement Act of 1998 and amendments made by that title.''.

Mr. MCCAIN. Mr. President, in consultation with Senator SARBANES, this amendment basically ensures that neighborhoods around high-density airports are eligible for priority consideration for noise mitigation funding. It is an acceptable amendment.

I believe the Senator from Maryland accepts it and believes it is of some improvement to his amendment. I know of no further debate on the amendment.

Mr. SARBANES. Mr. President, as I understand it, this reference to the high-density airport encompasses what I was specifically directing toward, but it gives it a more general statement, and it is certainly acceptable to us in light of that.

The PRESIDING OFFICER. Is there further discussion on the amendment?

If there is no objection, the amendment is agreed to.

The amendment (No. 3640) was agreed to.

Mr. MCCAIN. Mr. President, I move to reconsider the vote.

Mr. SARBANES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SARBANES. Mr. President, again I thank Senator MCCAIN and ranking member FORD for their cooperation throughout this effort. As the chairman has recognized, this is a very sensitive problem, and we recognize what the chairman and others are seeking to accomplish here in terms of increased competition in further flights, but we felt it necessary, obviously, to press the case for the noise mitigation problem. I must say both the chairman and ranking member have recognized that problem. We think what we have proposed here will help solve that.

I thank the Senator.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, again, I thank the Senator from Maryland. I believe we have taken significant measures to mitigate any additional noise problems that may result upon passage of this legislation.

AMENDMENT NO. 3641

(Purpose: To require the Administrator of the Federal Aviation Administration to conduct a demonstration project to require aircraft to maintain a minimum altitude over Taos Pueblo and the Blue Lake Wilderness Area of Taos Pueblo, New Mexico, and for other purposes)

Mr. MCCAIN. Mr. President, I send an amendment to the desk on behalf of Senator BINGAMAN and Senator DOMENICI and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Arizona [Mr. MCCAIN], for Mr. BINGAMAN, for himself and Mr. DOMENICI, proposes an amendment numbered 3641.

Mr. MCCAIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place in title V, insert the following:

SEC. 5 . TAOS PUEBLO AND BLUE LAKES WILDERNESS AREA DEMONSTRATION PROJECT.

(a) IN GENERAL.—Within 18 months after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall work with the Taos Pueblo to study the feasibility of conducting a demonstration project to require all aircraft that fly over Taos Pueblo and the Blue Lake Wilderness Area of Taos Pueblo, New Mexico, to maintain a mandatory minimum altitude of at least 5,000 feet above ground level.

Mr. MCCAIN. Mr. President, this amendment by Senator BINGAMAN and Senator DOMENICI has been discussed on both sides. It is acceptable.

Mr. FORD. Mr. President, we are agreeable with this amendment on this side.

The PRESIDING OFFICER. If there is no objection, the amendment is agreed to.

The amendment (No. 3641) was agreed to.

Mr. MCCAIN. Mr. President, I move to reconsider the vote.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3642

(Purpose: To require the Secretary of Transportation to promulgate regulations to improve notification to consumers of air transportation from an air carrier of the corporate identity of the transporting air carrier)

Mr. MCCAIN. Mr. President, on behalf of Senator REED, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

Mr. MCCAIN. Senator REED of Rhode Island.

The bill clerk read as follows:

The Senator from Arizona [Mr. MCCAIN], for Mr. REED, proposes an amendment numbered 3642.

Mr. MCCAIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place in title V, insert the following:

SEC. 5. . AIRLINE MARKETING DISCLOSURE.

(a) DEFINITIONS.—In this section:

(1) AIR CARRIER.—The term ''air carrier'' has the meaning given that term in section 40102 of title 49, United States Code.

(2) AIR TRANSPORTATION.—The term ''air transportation'' has the meaning given that term in section 40102 of title 49, United States Code.

(b) FINAL REGULATIONS.—Not later than 90 days after the date of enactment of this Act, the Secretary of Transportation shall promulgate final regulations to provide for improved oral and written disclosure to each consumer of air transportation concerning the corporate name of the air carrier that provides the air transportation purchased by that consumer. In issuing the regulations issued under this subsection the Secretary shall take into account the proposed regulations issued by the Secretary on January 17, 1995, published at 60 Fed. Reg. 3359.

Mr. REED. Mr. President, I rise today to speak on an issue which affects many of our nation's air travelers. I am pleased to offer an amendment to the Senate's Federal Aviation Administration (FAA) reauthorization bill which requires the Secretary of Transportation to implement regulations that ensure airline passengers are more aware of the true corporate identity of the airline on which they are flying.

I am pleased that the managers of the FAA reauthorization legislation have agreed to accept my amendment to their bill. I believe this amendment will go a long way to ensure that airline passengers are better informed.

As you know, Mr. President, following the deregulation of the airline industry in the late 1970's, major airlines began to enter into cooperative agreements with smaller airlines to offer air transportation service to smaller, underserved areas. Common in such agreements is the practice of ''code-sharing,'' where the smaller independent airlines use the name and identification code of the larger airline. For example, for a two-leg ''code-shared'' flight, where a large air carrier operates one leg and a smaller commuter

carrier operates the other, air service for both flight segments is listed under the same identification code. As such, consumers purchasing ''code-shared'' air service are frequently unaware of the actual corporate identity of the smaller commuter airline on which they are flying.

Mr. President, this lack of disclosure can cause consumers to be completely unaware of the true identity of their transporting air carrier, and therefore, lessen a consumer's ability to make the most informed transportation decision.

Mr. President, under current law, U.S. air carrier ticket agents are required to verbally indicate to consumers the corporate identity of the airline they are flying on, when a ticket is purchased.

However, in practice, Mr. President, these verbal disclosure rules are difficult to enforce. Furthermore, the rules are not applied universally because they do not cover travel agents, who sell a majority of the airline tickets issued in the United States.

As a result, Mr. President, consumers are often surprised to discover that a segment of their flight, although listed under the ''code'' or name of a large air carrier, could be serviced by a different airline.

Now, Mr. President, I do not mean to suggest that smaller commuter airlines are not safe, nor, do I mean to diminish the valuable service ''code-sharing'' arrangements bring to many smaller and rural areas in the nation. Rather, I want to help ensure that consumers are aware of the true identity of the airline they are scheduled to fly on.

For these reasons, I offered this amendment to require stronger airline ticketing disclosure rules, an issue the Department of Transportation recently considered.

Indeed, in 1994, the Department of Transportation proposed a rule to require that at the time of sale, travel or airline ticket agents provide consumers with written notification of each airline's corporate name that participate in ''code-sharing'' agreements. The Department asserted such steps would help to ensure that a consumer had a complete understanding of the transportation they were purchasing. However, to date, the Department has not issued a final rule on this matter.

Mr. President, the Department of Transportation was on the right track, and we need to encourage the DOT to follow through and implement better ticketing disclosure regulations to help better inform consumers. My amendment is simple and straightforward, and does just that. It requires the DOT to implement regulations 90 days after enactment of this bill requiring improved written and oral notification of the corporate name of ''code-sharing'' airlines. Such requirements would inform consumers of the identity of the air transportation carrier actually providing service, and thereby allow consumers to make more informed purchasing decisions. My amendment also grants the DOT flexibility in this process, and allows the Department to choose the method it deems most appropriate to achieve this goal.

Mr. President, the basis for my amendment is also straightforward: Just four years ago, a constituent of mine, Ms. Pauline Josefson, of Warwick, Rhode Island died in a commuter airline crash. The airline she flew on was listed under a major carrier's identification code.

Ms. Josefson had every reason to assume that the air service she had purchased was that of the major carrier, as her airline tickets indicated. However, she was flying on a plane piloted by an individual who had been repeatedly criticized by other airlines for poor performance and flying ability. If the little known airline's actual corporate name had been disclosed when the ticket was purchased, Ms. Josefson would have had an opportunity to make a fully informed travel decision.

I share the concerns of the Josefson family and others that airline consumers deserve greater disclosure. That is why I have offered this amendment today, Mr. President, which is supported by the Aviation Consumer Action Project, a non-profit organization dedicated to the safety and protection of the flying public, and I ask unanimous consent that a letter of support for this amendment be printed in the RECORD.

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

AVIATION CONSUMER
ACTION PROJECT,
September 24, 1998.

Re: legislation requiring airline disclosure of code sharing arrangements to consumers.

Senator JACK REED,
U.S. Senate,
Washington, DC.

DEAR SENATOR REED: In response to your request for our comments concerning your draft legislation on code sharing disclosure, the Aviation Consumer Action Project supports such a measure as necessary to curb a common deceptive marketing practice by airlines which is not permitted in other industries.

General Motors cannot sell you a Cadillac then deliver a Toyota or even a Mercedes without first informing the customer. Only the airlines are except from state and local consumer protection and deceptive advertising laws and even most federal labeling laws. The U.S. DOT is the exclusive agency protecting aviation consumers since the enactment of the Airline Deregulation Act of 1978.

Airlines, using techniques known as ''code sharing'' and ''wet leases'', are now allowed to sell consumers tickets on other airlines as though they were their own. So for example, someone booking a flight on a U.S. carrier to Warsaw, Poland may actually be flying from New York to London on an American carrier and then to Poland on Lod Airlines (the Polish national carrier) at both a higher cost than if tickets were separately booked and with what most would regard as a lower level of safety and service. Similarly, many airlines use prop commuter airplanes that they do not own or operate with a U.S. carrier brand name like ''Delta Connection''. After the recent crash of Swissair 111 which killed all on board, it was disclosed that 53 of the passengers were actually Delta passengers, flying under an apparently undisclosed code sharing agreement. Such marketing arrangements are inherently deceptive and should be prohibited, unless disclosed in advance to the airline passenger. The consumer can then decide whether to purchase the ticket or call another airline.

The consumer notice should be in the form as proposed by the U.S. DOT in 1995 which was never acted upon, i.e. ''IMPORTANT NOTICE: Service between XYZ City and ABC City will be operated by Jane Doe Airlines'', and in advertising airlines should be required to identify the carrier(s) that will actually provide the service by corporate name.

Should you wish further comments, please do not hesitate to contact the undersigned. ACAP is a non-profit corporation dedicated to assisting and speaking out for the flying public on issues of safety, cost and convenience. The organization was founded by Ralph Nader in 1971. It receives no funding from the aviation industry or the Federal Government.

Sincerely,

PAUL HUDSON,
Executive Director.

Mr. REED, I thank the managers of this legislation for accepting this amendment, and for joining me in support of improved airline ticketing disclosure rules to better protect our nation's air travelers.

Mr. MCCAIN. Again, this amendment has been discussed on both sides. We think it is a good amendment by the Senator from Rhode Island. By the way, we are appreciative of his involvement in this issue. I do not believe there is any further debate on the amendment.

Mr. FORD. Mr. President, we have no objections on this side and look forward to passing the amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 3642) was agreed to.

Mr. MCCAIN. Mr. President, I move to reconsider the vote.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MCCAIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. THOMAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. THOMAS. Mr. President, I would like to talk just a few minutes on this bill, particularly with respect to rural air service and some of the problems that we face in areas with small towns and small populations.

First, let me say that I certainly support what the Senator from Arizona and the Senator from Kentucky are doing here. I think this is a valuable bill, and I think we should move forward with it quickly.

I do want to emphasize, however, the difficulty that we have in rural America with regard to air transportation. I

must confess that it is not a new problem. As we deregulate various industries—and I happen to be for deregulation and letting competition work—we find ourselves with some problems in rural areas, whether it be telephones, or the deregulation of electricity, or air transportation. The obvious effect of deregulation is that capital and facilities, in this case airplanes, move to where there is the greatest usage, where there is the highest density.

So we have made some arrangements, for instance, in telephones with universal service to ensure that despite the fact that the real advantages of competition go to where the heavy volume is, we do continue to provide service to rural areas.

My State of Wyoming is struggling to maintain dependable, scheduled, available air service to airline hubs like Denver and Salt Lake City. We are in the process of seeking to strengthen our economy there, to recruit businesses to move to Wyoming. Travel and tourism is one of the three major economic activities in Wyoming, and so transportation is a vital component of our future. But we are having some problems.

Last year, for example, Mesa Airlines, which operated as United Express, pulled service from five towns in Wyoming that they had been servicing in years past. I worked with Senator ENZI, my associate here, Congresswoman CUBIN, the Governor, and others, and we finally were able to keep service to these towns. In fact, we had to go all the way to the chairman of the board of United Airlines to make this happen. Unfortunately, in most of these towns, we were only able to keep Essential Air Service (EAS). This provides just a bare minimum of service and I am glad we have it, but it does not provide the kind of service that is necessary if you are really going to have economic growth and development. In addition, in other Wyoming communities we continue to face cutbacks in the number of seats that are available every day as well as the loss of jet service to some of these towns.

Those of you who are familiar with Jackson Hole, WY, know that it is a travel town. That is where a great number of people come and go. It is just devastating to the local economy when there are not enough seats to service demand.

As I mentioned, Mr. President, I am in favor of deregulation. I think that makes for healthy competition. But I am concerned that sometimes we have to try another approach. As I mentioned, the investment in dollars nationally—and I understand it—go to where the yield is. They go to where the traffic is. That, I do think we have to understand. But we met with Delta Airlines which serves Salt Lake City and Jackson Hole, WY, and talked a little bit about the fact that there is a need for service, and frankly if we do not have service in some of these places I think you are going to see a continued interest in going back to some re-regulation in air service. I hope it doesn't come to that.

Part of the problem, as I understand it, is the so-called code-share agreements between the big carriers and the commuters airlines. If you go to Denver from Casper, WY, a part of that fare subsidizes the cost of the trip that takes you from Denver to Washington. That does not seem right. That isn't the way it ought to be.

These airlines are basically moving toward a monopolistic situation in the large ''hub'' airports, served almost entirely by one carrier, which makes serving rural America very difficult because then those airlines can dictate everything—fares, schedules, you name it.

This is kind of unusual for me. I am a marketplace guy. I am one who wants competition. But I also firmly believe that when it comes to these vital services, there has to be a way to ensure that all of America will be served.

I have been involved, because of my chairmanship of the Subcommittee on East Asia, in the rights to go overseas—''beyond rights.'' I have to think, myself, why are we spending a lot of time and energy talking about expanding air service to somewhere in China when you can't go to Cody, WY?

So that's the situation we find ourselves in today. I don't have all the answers. But I do know that we will continue to work at this issue in Congress. The Essential Air Service (EAS) program works well. But we need to do more. Dependable and safe air travel is an economic lifeline for our State, as it is whether you are in Boston or whether you are in San Francisco. We depend on tourism and small businesses to drive our economy in Wyoming.

We need to come up with a long-term solution to this problem. Hopefully, it will be done in the marketplace so it will be something that is not forced upon the airlines. However, it is hard for me, as I said earlier, to get excited about working on ''beyond rights,'' when we can't get to our own towns.

I am glad we are considering this bill. We need to get this done so our airports can be financed. I am very involved in what is going on with Wyoming's air service. I happen to be a private pilot and have flown quite often into these airports. I know how important it is for us to have that air service.

I commend the Senators who have worked on this bill. I suggest we always need to keep in mind those rural areas to which we find it difficult to provide service.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

AMENDMENT NO. 3643

Mr. WARNER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Virginia [Mr. WARNER], for himself, Mr. SARBANES, Ms. MIKULSKI and Mr. ROBB, proposes an amendment numbered 3643.

Mr. WARNER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 47 of the manager's amendment, between lines 6 and 7, insert the following:

SEC. 607. (g) PROHIBITION.—Notwithstanding any other provisions of this Act, including the amendments made by this Act, unless all of the members of the Board of the Metropolitan Washington Airports Authority established under section 49106 of title 49, United States Code, have been appointed to the Board under subsection (c) of that section and this is no vacancy on the Board, the Secretary may not grant exemptions provided under section 41716 of title 49, United States Code.

Mr. WARNER. Mr. President, I urge the adoption of the amendment.

The PRESIDING OFFICER. Without objection, the amendment offered by the Senator from Virginia is adopted.

The amendment (No. 3643) was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WARNER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. MCCONNELL. I ask unanimous consent to proceed for 10 minutes as in morning business.

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

CATASTROPHE IN KOSOVO

Mr. MCCONNELL. Mr. President, I rise today to draw attention to the foreign policy catastrophe unraveling in Kosovo. Yogi Berra immortalized the phrase ''this is deja vu all over again''—and that is just what we are seeing in Kosovo—Bosnia, all over again. Today, just like yesterday and the day before, men, women, and children in Kosovo are living and dying witnesses to a rerun of the tragic experience suffered by Bosnia for three brutal years. Hundreds of thousands of civilians are, once again, the victims of our false promises and a deeply flawed policy.

Take a minute to review the events as they have unfolded on the ground to establish exactly what I think Belgrade has learned about United States policy. What Milosevic and his mafia have figured out is—we bluster and threaten,

we issue ultimatums and condemnations, but the policy is hollow, the threats are empty, the show is a charade.

A recent Congressional Research Service chronology provides stark evidence of this sad pattern of Western threats and demands, always swiftly challenged by vicious Serbian violence and assaults against Kosovo's civilians. And, the response to these attacks? Concessions and inaction.

The United States has not failed alone. We are joined in this collective dishonor by the G–7 nations, the OSCE, the European Union, the Contact Group, and even the United Nations which have individually and collectively reneged on commitments made to take action to stop the bloodshed, to produce a cease-fire, to prompt a withdrawal of Serb troops, and to protect the rapidly mounting numbers of refugees and displaced people.

The CRS report tell us:

On January 8, the six nations of the Contact Group declared Kosovo a matter of priority urging a peaceful dialogue to begin between parties. This message was reinforced by Special Envoy Gelbard in meetings with Milosevic in Belgrade. The response, within days, was attacks by the Serbian police on a small village leaving ethnic Albanians dead and more wounded. While this was a relatively small assault, the beginning of the coming trend was marked by 20,000 people turning out for the funeral in protest of that action.

On February 23, Gelbard announced some minor concessions to the Serbs including restoring landing rights for their airlines. At the same time the Contact Group foreign ministers issued a statement expressing concern about the lack of progress in dialogue. In an attempt at balance and fairness they even condemned terrorist acts by the Kosovo Liberation Army and reiterated their lack of support for Kosovo independence.

What did the Serbs do in response to these generous gestures? Within three days, Serbian forces launched major attacks on villages in central Kosovo. CRS reports the attacks were ''spearheaded by thousands of Serbian police and Interior Ministry troops and resulted in 20 to 30 deaths mostly of ethnic Albanians.''

On March 2, the United Stats and the European Union joined voices in condemning violence by Serb forces. On March 5, Serb police and special antiterrorist units ''began their second largest offensive in central Kosovo. KLA strongholds were attacked with armored vehicles and helicopter gun ships * * * the assault continued for 2 days and claimed the lives of 6 police officers and over 50 Kosovar Albanians.''

On March 4, Mr. Gelbard said, ''I guarantee you we simply won't brook any renewal of violence,'' followed on March 7, by Secretary Albright who issued her now famous ultimatum. She said, Milosevic ''will have to pay a price. The international community will not stand by and watch the Serbian authorities do in Kosovo what they can no longer get away with doing in Bosnia.'' Her statement was backed up by a Contact Group declaration demanding Milosevic take specific steps within ten days including withdrawing paramilitary troops and allowing Red Cross access conflict zones.

As the Contact Group was issuing its statement, in a gruesome public spectacle, Serb troops dumped 51 bodies at a warehouse, each one an ethnic Albanian, 25 of them were women and children. Before international forensics experts could complete autopsies, the Serbs bulldozed the bodies into a mass grave.

This pattern of challenge and brutal response continued weekly through the spring and summer. Threats of western actions have been dismissed by Serb attacks, after attack, after attack.

Villages are shelled, burned and looted. Crops and fields are burned. The death toll and refugee population swells. Yesterday a Kosovo journalist told me that the Serbs have now destroyed 400 of the 700 villages in Kosovo.

And, the world watches. Deja vu all over again.

I thought we had reached an all time low in June when 84 NATO planes carried out a six nation exercise in Albania and Macedonia intended as a show of strength and force. The Washington Post summed up the events saying, ''Yugoslavia's reply to threats of NATO air strikes could be heard for miles around in the nightly bombardment of border villages.''

Mr. President, the tragedy continues. Winter's cold curtain now falls upon the weakened shoulders of tens of thousands of families expelled from their homes, in hiding in the mountains and forests of Kosovo. Soon, we will begin to see the heart-rending, pitiful images of ailing, elderly women, clutching babies and toddlers, every possession they could salvage strapped to their backs, stagger out of hiding, hoping to cross borders into safe haven, but more likely, stumbling into harm's way.

And, this time, Mr. President, the consequences of inertia are deadly serious. I agree with Ambassador Holbrooke's assessment that Kosovo is ''the most explosive tinderbox in the region.'' Unlike Bosnia, the long-standing frictions involving Kosovars, Albanian, Serbs, and Macedonians have consequences in Greece and Turkey—precarious NATO partners in the best of times.

The conditions in Kosovo have demanded action for months. Instead we have been a state of policy stall. Now, as much in recognition of the weather, the Administration has turned a lethal pattern of appeasement into a dangerous policy of collaboration and containment.

Let me point to two examples of the current approach which seeks a partnership with Belgrade rather than protection of innocent refugees. As conditions worsen, the Administration seems seized with a containment strategy, which balances on improving delivery of relief while controlling what they view as potentially messy regional spillover problem.

There are two prongs to this misguided effort. First, let me describe what the Administration is considering on the relief front. Earlier this month, administration officials announced plans to work in Kosovo through twelve centers established by Serb security forces to distribute emergency food and supplies to the victims of this savage war. I am not sure what surprised me more—the fact that we would work with the very forces which carried out the atrocities creating hundreds of thousands of victims, or the fact that we decided to encourage this cooperation by actually making food available to Serb troops. The new chief of the Bureau for Humanitarian Affairs offered and has provided thousands of food rations to Serb troops fresh from bloody killing fields. He even asked NGO representatives to cooperate with this plan and work through these twelve centers. As one representative described it to me, the NGOs were the bait, intended to lure refugees into Serb centers. AID claims that this plan was agreed to by the major non-government organizations carrying out humanitarian relief in Kosovo, but I can't find one that thinks collaborating with Belgrade makes any sense.

This effort to control and contain the problem also has a military component—but the wrong military component. Last week, the foreign Operations Subcommittee was briefed on Administration plans to provide $7.3 million in security assistance loans to Macedonia. This train an equip initiative will provide night vision goggles, surveillance radar, ammunition, body armor, howitzers and trucks to 3,000 Macedonian soldiers—troops with longstanding ties to Serbian security forces. Coincidentally, Macedonia also has an ethnic Albanian community which suffer what many describe as apartheid-like conditions.

Arming the Macedonians is the wrong substitute for the current policy failure in Kosovo. Having failed to talk Milosevic into submission, this program strikes me as a complete retreat in which the United States is supplying an effort to establish a cordon sanitaire isolating Kosovo. Strengthening Macedonian troops may have a defense purpose but it also clearly serves an offensive one—to curb the flow of people and supplies into and out of Kosovo.

I hope we all learned at least one lesson in Bosnia—we pay a huge price for imposing an unfair and imbalanced embargo against only one party in a conflict. In good conscience, I for one, cannot support an initiative designed intentionally or otherwise to surround and choke off Kosovo. I have made

clear to the Secretaries of State and Defense that I will not release the funds for this reprogramming unless and until appropriate action is taken to produce results in Kosovo.

Secretary Albright has repeatedly stated that the only kind of pressure Milosevic and his mafia understand is the kind which exacts a real price for his unacceptable conduct. His campaign to burn Kosovo to the ground was launched as the Administration pushed Kosovars to the negotiating table and continues as we speak today. it is well past the time for threats of sanctions and NATO flyovers. The Administration must move decisively, offering the necessary leadership to back up our ultimatums with the effective use of air strikes and force in order to secure our common goals: a cease fire, the withdrawal of Serb forces, and the protection of refugees, displaced people and relief efforts.

Balkan history provides substantial evidence that Belgrade's abuse of force demands a commensurate response. Without this fundamental guarantee, diplomacy will most certainly fail and we will bear witness to yet another of Milosevic's genocidal slaughters. His victims will not only be those who suffer, lose their life possessions, and die on Kosovo's fields. He will also destroy American honor and credibility—taking along with that what shred of hope there is for us to lead this troubled world onto a peaceful path into the next century.

Mr. President, I yield the floor.

WENDELL H. FORD NATIONAL AIR TRANSPORTATION SYSTEM IMPROVEMENT ACT OF 1998

The Senate continued with the consideration of the bill.

Ms. MOSELEY-BRAUN. Mr. President, I want to take this opportunity to thank the chairman of the Senate Commerce Committee, Senator MCCAIN, and the ranking member, Senator HOLLINGS, as well as Senators FORD and GORTON for their patience and help in working with me to reach an acceptable agreement regarding O'Hare Airport.

I do not think I need to remind them how upset I was when I learned they had added a provision to the FAA reauthorization bill adding 100 additional flights per day at Chicago's O'Hare International Airport. The provision was added to the original legislation without consulting the local officials who manage the airport, without input from the mayor of Chicago who is responsible for the airport, without input from the local communities surrounding the airport who will be most affected by additional noise and air pollution, and without consulting either of the senators from Illinois.

This provision immediately raised a firestorm of criticism in the Chicago area. I have an inch-thick stack of newspaper clips from about a 10 day period after this provision appeared in the FAA reauthorization bill, which attests to the deep level of interest Chicago-area residents have in this matter.

O'Hare is already the busiest airport in the world. There are at least 400,000 people whose daily lives are affected by the noise and air pollution generated by the airport. The quality of life of these suburban residents must be taken into account before changes are made affecting the number of operations at O'Hare Airport.

While I was displeased that the new-flights provision was added to the FAA bill without consulting me, the chairman and ranking member have since been gracious and accommodating and have worked with me to reach an agreement on this issue. I want to thank the chairman for his patience, and for his willingness to work with me on a compromise that I believe accommodates his needs, as well as the needs of Chicago-area residents.

The agreement we reached reduces from 100 to 30 to the number of additional flights per day at O'Hare. The agreement provides that 18 of the 30 slot exemptions will be reserved for ''under-served'' markets, and no less than six of the 18 will be ''commuter'' slot exemptions reserved for planes with less than 60 seats.

Before any of these slot exemptions are made available, the Secretary must: certify that the additional flights will cause no significant noise increase; certify that the additional flights will have no adverse safety effects; consult with local officials on the environmental and noise effects of the additional flights; and perform an environmental review to determine what, if any, effect the additional flights will have on the environment.

In addition, only ''Stage 3'' aircraft, the quietest type of aircraft recognized by the FAA, will be eligible to use the new take-off and landing slots.

Finally, after three years the Secretary of Transportation will study and report to Congress as to whether the additional flights resulting from the new slot exemptions have had any effects on: the environment, safety, airport noise, competition at O'Hare, or access to under-served markets from O'Hare.

The Secretary will also study and report on noise levels in the areas surrounding the four ''high-density'' airports (Chicago O'Hare, Washington National, New York LaGuardia, and New York JFK) once the national 100 percent Stage 3 requirement is fully implemented in the year 2000.

I believe this agreement goes a long way toward addressing the concerns of the local officials and residents of the cities surrounding O'Hare. I want to again thank Senators MCCAIN, HOLLINGS, FORD, and GORTON for their attentiveness and understanding. The people of Illinois spoke out in response to the O'Hare provision they inserted in the FAA reauthorization bill, and these Senators listened.

I am particularly pleased that the agreement we reached on this issue, that was reflected in the managers' amendment adopted yesterday, allows this important FAA reauthorization legislation to advance in the Senate. This bill must become law before the end of the year in order to ensure that important airport improvement projects are not delayed or disrupted.

The legislation also includes several important provisions designed to increase air service to small and underserved communities. In Illinois, some of the most serious complaints regarding air service come from our small and medium-sized communities that want air service to O'Hare and other major airports in order to attract global businesses. I am delighted I was recently able to help restore air service between Decatur, Illinois and O'Hare. The restoration of this service will help the city of Decatur, which promotes itself as ''America's Agribusiness Center,'' grow in today's global economy. There are a number of communities across my state demanding flights to Chicago and New York, and the provisions of this legislation should help them get more air service.

I want to again thank the chairman for his understanding.

Mr. ROBB addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. ROBB. Mr. President, while we are waiting for what I hope will be a final resolution of one remaining matter on this bill, I would like to speak to the bill itself, with the understanding of my friend and colleague from Arizona, who knows that I am going to be critical of a portion of the bill. I would like to also thank my colleagues from the capital area, the distinguished senior Senator from Virginia, Senator WARNER, as well as Senators from Maryland, Senator SARBANES and Senator MIKULSKI, for their efforts to make some improvements in an area of this bill that concerns all of us, and many others.

Mr. President, I rise this afternoon to express my strong opposition to interference in our region's airports that is included in the FAA reauthorization bill. I certainly understand that this overall legislation is important for the Nation as a whole, and I fully support most of the bill. We must clearly prepare for the future by investing in aviation infrastructure, safety, and security. This bill provides for those critical investments and, for that, I thank Senators MCCAIN and FORD.

This bill also reauthorizes the Airport Improvement Program, which funds the capital needs of our Nation's airports, including millions of dollars for Virginia facilities. Moreover, as the bill's name implies, it reauthorizes the Federal Aviation Administration. The FAA monitors aircraft inspections, manages air traffic control, and develops new ways to detect and prevent security threats. Without these efforts, few people would want to travel by air.

But beyond all of the good and necessary things this bill does, Mr. President, it also reneges on two important Federal commitments to the citizens of Virginia and this area—the existing flight limits and the existing perimeter rule at Ronald Reagan Washington National Airport. These two Federal commitments are extremely important to the future strength and stability of both National and Dulles Airports, Mr. President. They are also extremely important to the communities that surround the airports and have relied on the existing rules.

Mr. President, as my friend and the author of this legislation is quoted as saying just yesterday—but admittedly in a different context—''a deal is a deal.'' And changing that deal to the clear detriment of the communities and businesses that relied on it—is fundamentally unfair.

This Congress should not involve itself in matters that are essentially local and regional, that serve both the airports and their communities well, and that have provided and continue to provide a road map to future economic strength for the people of northern Virginia as well as those throughout the metropolitan Washington area.

Mr. President, these changes are bad public policy because they benefit, in some cases, Members of Congress, and certainly a small group of consumers, while harming a far larger group. They wreak serious damage on the interdependence of National Airport and Dulles National Airport. They erode the quality of life for communities surrounding the airports. And they fly in the face of an agreement this Congress made in 1986 to turn those airports over to a regional authority and essentially leave them alone.

First, Mr. President, proponents argue that this bill would marginally assist air travelers by increasing the number of daily flights at Ronald Reagan Washington National Airport. But when we increase the number of flights to benefit a few people, we increase the congestion for everyone, and we add to the overall delays of all who fly in and out of National Airport.

In weakening the perimeter rule, we allow a few select people to take long-haul flights out of National. But what about consumers who may lose their short-haul flights to make room for flights to California, Nevada, and Arizona? I am concerned that once we breach the perimeter rule we will eventually lose small-haul flights to smaller communities altogether. This would be brought about in a bill intended to assist travelers to underserved communities.

Second, adjusting the perimeter rule at National will fundamentally shatter the carefully crafted interdependence between National and Dulles airports that has proven so effective in fostering growth at both airports.

Today Dulles flourishes as an international gateway for our region. National thrives, providing convenient regional service. The history of both airports shows us that this constructive, vibrant interdependence is not by accident.

National first opened in 1941, before the advent of large commercial jets such as the DC–8. And Dulles was built in 1962 because larger jets could not land on National's short runways. Medium-sized jets arrived on the scene in 1966, and National soon became overcrowded. Jets were forced to circle, and delays were considerable.

In 1966, the airlines agreed to limit the number of flights at National. They also agreed to a perimeter rule to further reduce overcrowding.

But these were voluntary limits and did not provide the security or the stability needed to maximize the potential of either airport. So during the 1970's and early 1980's, improvements were negligible or nonexistent at both National and Dulles, for two reasons.

One, National drained flights from Dulles. And so improvements at Dulles were put on hold. Two, improvements were also on hold at National. Extensive litigation and public protest over increasing noise lead to this freeze. And there was even some discussion of shutting down National completely.

Congressional legislation in 1986 solved these problems by codifying the perimeter and slot rules that the airlines themselves had agreed upon, and by creating an independent authority to manage the airports. This statutorily limited the number of flights at National, along with the accompanying delays and noise, and increased the business at Dulles providing what we thought was long-term stability to both airports.

Mr. President, there is no way around the fact that weakening the perimeter rule will bring long-haul flights to National at the expense of Dulles.

This marriage between National and Dulles—along with the stability that accompanies most strong unions—has been extremely lucrative for both airports.

Billions of dollars have been invested by businesses in the area near Dulles Airport based on the assumption that Dulles would remain the region's major international gateway. And the public represented by the Metropolitan Washington Airports Authority has made significant investments in Dulles, including more than $1.6 billion in bonds.

Investments in Reagan National Airport have also grown under the stability provided by local management and the slot and perimeter rules. Since the airport was transferred to the Metropolitan Washington Airports Authority, more than $940 million has been invested in the airport. The new terminal is well designed, and represents our Nation's capital well. But the new terminal at National and the substantial investments at Dulles would not have occurred, Mr. President, without the perimeter and slot rules.

In 1986, Congress was sensitive to community outrage as well as the need to improve service. In hearings on the legislation, Congressman Hammerschmidt asked how the Congress could be sure residents would support improvements at National. Secretary of Transportation Elizabeth Dole stated:

> With a statutory bar, to more flights, noise levels, will continue to decline, as quieter aircraft, are introduced.
>
> Thus all the planned projects at National, would simply improve the facility, not increase, its capacity, for air traffic.
>
> Under these conditions, I believe that National's neighbors, will no longer object, to the improvements.

Mr. President, as a result of this understanding between the local community and the Congress, we have had enormous benefits to air service in this region—benefits that we shouldn't imperil by changing rules that have worked so well.

Third, Mr. President this exchange between Secretary Dole and Congressman Hammerschmidt illustrates that there was some concern about the effect of the transfer legislation on the people who live in the communities around National Airport. We need to be sensitive and respectful of their concerns and wishes today.

Increasing the number of flights at National Airport will increase the noise level for local citizens, will exacerbate the congestion for residents, will increase delays for those who fly in and out of National, and could also pose safety risks for surrounding communities.

Weakening the perimeter rule could wreak economic hardship on Dulles, which would threaten the countless businesses and families who settled around the airport expecting it to remain our Nations regional international gateway.

By focusing on the few travelers who may benefit from increasing the flight limits at National, this bill ignores the harm it will cause to the many northern Virginia families who are neighbors to National Airport. Local communities and local businesses surrounding both airports are in opposition to changes in the flight limits and the perimeter rules. It is their quality of life, their economic strength, their ability to plan for a secure future, that is at risk with this portion of the legislation. We have a system in place that works for this region. We have a careful balance between two airports that needs to be preserved.

Finally, Mr. President, with this bill we are again meddling in the affairs of two airports that Congress transferred to a regional authority which we created because we thought airports could be managed better by the authority than by Members of Congress.

The 1986 transfer legislation signed into law by President Ronald Reagan embodied two important concepts that are demolished by the bill we are considering today: That local authorities—not the Federal Government—should decide local issues; and, that the two airports work together in tandem, and with BWI, to serve the national capital region.

As I mentioned earlier, the operation of one airport cannot be changed without affecting the operation of the other.

As the Senate Commerce Committee report noted at the time:

[I]t is the legislation's purpose, to authorize the transfer under long-term lease of the two airports ''as a unit, to a properly constituted independent airport authority, to be created by Virginia and the District of Columbia, in order to improve the management, operation, and development of these important transportation assets.''

Let me quote from Congressman DICK ARMEY, who has the following to say about transferring the airports from Federal to local control:

The simple fact is that our Federal Government was not designed, nor is it suited, to the task of running the day-to-day operations of civilian airports.

Transferring control of the airports to an ''independent authority'' will put these airports on the same footing as all others in the country.

It gets the Federal Government out of the day-to-day operation and management of civilian airports, and puts this control into the hands of those who are more interested in seeing these airports run in the safest and most efficient manner possible . . . Rather than throw limited federal funds at the airports and tell them to do what they can, this legislation will allow the type of coordinated long-range planning necessary to keep the airports safe and efficient into the future.

The Metropolitan Washington Airports Authority has engaged in the type of long-range coordinated planning that Mr. ARMEY encouraged. Essential to that long-range plan is to balance the operations of the two interdependent airports. National is designed to handle short-haul flights inside the perimeter, and Dulles is designed to handle long-haul flights which are essential to maintaining Dulles as an international gateway.

Yesterday, I heard one of my colleagues comment on the bustling activities surrounding Dulles. The current robust growth at Dulles results directly from the balance between the two airports. The legislation we are considering today begins to tip that balance in a way that will harm both of the airports as well as the communities that surround them.

As Senator Dole said during debate on the 1986 legislation:

Mr. President, I would like to take just one moment to reaffirm my support for passage of the regional airport bill.

Continuing to quote Senator Dole. ''There are a few things the Federal Government—and only the Federal Government—can do well. Running local airports is not one of them.''

Finally, Mr. President, in making these changes to the flight limits and the perimeter rule, proponents argue that we are just following the wisdom of the free market. I am aware that the slot and perimeter rules are limits on the market, and I am also aware that GAO studies have criticized the rules as anticompetitive. Moreover, I believe in the free market.

But Government has a role in checking the excesses that can flow from an unfettered free market. The market won't educate children, the market won't protect workers, the market won't check monopolies, and the market won't safeguard our natural resources.

So our charge as policymakers in a capitalist economy is to allow individuals and entrepreneurs and businesses the freest rein possible while safeguarding society's other concerns. Defining those concerns and implementing those safeguards without destroying the benefits we achieve from the free market is one of the most difficult tasks we face.

Mr. President, the free market doesn't care if Ronald Reagan Washington National Airport is unnecessarily congested, but we do. The free market doesn't care if there are flight delays, but we do. The free market doesn't care if there is excessive noise in Alexandria or Arlington, but we do. The free market doesn't care if Dulles Airport is harmed, but we do.

We seek a balance here between the free market and the strength of our airports and the quality of life of our people. That balance is embodied in the flight limits and perimeter rule. They should not be sacrificed to the free market in this debate.

And perhaps more egregiously, Mr. President, this legislation applies an adherence to free market principles on an inconsistent and selective basis. This bill, for example, contemplates restricting air flights over both small and large parks. The report on the bill states that the Commerce Committee ''intends that the [Federal agencies] work together to preserve quiet in the national parks.'' The report goes on to say that while ''natural quiet is not an important attribute for all national parks, such as historic sites in urban settings,'' preserving quiet in some parks ''may require banning commercial air tour operations over the park altogether.''

I agree with the committee, Mr. President. We should work to preserve the pristine nature of our national parks for the public to enjoy.

But how can we abandon free market principles to preserve the sanctity of our parks and use free market principles to damage the sanctity of life here in our Nation's Capital? It would be wrong, Mr. President, to force Virginians and those who live in this area to endure more noise from National Airport.

There is a second significant inconsistency in this bill, and that involves service assistance for small communities.

On the one hand, the bill attempts to expand service to underserved communities. It creates the Community-Carrier Air Service Program which seeks to develop public/private partnerships with commercial airlines and the local State and Federal governments. These partnerships will offer service previously unavailable. In addition, the bill maintains the Essential Air Service Program which now subsidizes air service in communities such as Kingman, AZ; Rockland, ME; and Seward, AL.

On the other hand, we jeopardize short-haul service from National. This legislation weakens the perimeter rule which was created to both improve service to underserved airports and to expand service at Dulles Airport. Again, if we weaken the perimeter rule, we weaken more than Dulles Airport. We begin a dangerous journey that could jeopardize consumer access to smaller airports across the Nation that currently benefit from the perimeter rule.

Fortunately, Mr. President, the bill before us does not erase the perimeter rule altogether. Unfortunately, it does damage to the rule, and I believe it contemplates doing away with the rule completely, which embodies its own threat to the economic performance of our region.

Before I conclude, I want to ask that Members of this body step back for just a moment and recommit ourselves to honoring the commitment that we made to our regional airports in 1986. Those of us who represent this region have spent enormous time and energy over the last decade trying to keep the Congress from breaking its commitment to communities that we serve. We need to stop wasting valuable time micromanaging these airports. Let's put out a moratorium, if you will, on legislating changes that are in the purview of the Metropolitan Washington Airports Authority. Let's give the Authority, say, 5 years to continue to develop a strong, vibrant air transportation system we want and need for this area at the dawn of a new millennium.

I understand that Senators MCCAIN and LOTT will express their commitment not to interfere further in the slot and perimeter rule should this bill pass. I welcome that commitment. But let's acknowledge that the existing rules we change with this bill were carefully crafted, are based on sound public policy, and should not be altered. And let's oppose this Federal intervention in the operation of two airports that are doing just fine without us.

Mr. President, I know this bill will pass, and it should for the reasons I stated at the outset. But in opposition to yet another broken promise by this Congress to the citizens of Virginia and this region, I will vote no on final passage and hope that my concerns, shared by so many of our colleagues, will be addressed in conference.

With that, Mr. President, I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MCCAIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. MCCAIN. While my friends from Virginia are here on the floor, both Senator WARNER and Senator ROBB, I want to first of all tell Senator ROBB I appreciate all his words of criticism and scorn. They are well received.

Mr. ROBB. And friendship.

Mr. MCCAIN. In the spirit of friendship.

I also want to say that both Senator ROBB and Senator WARNER have been staunch advocates for the people who live in the State of Virginia who are directly affected by these policy changes. I understand that concern and that commitment, and I think it is not only appropriate but laudable. I assure both Senators, my commitment to them and their citizens is we will do everything we can to see that there is not an increase in noise in the neighborhoods surrounding these airports. If we renege on that commitment, I will be glad to come back and revisit this issue. If there is an increase of noise pollution of any kind, I want to tell my two dear friends that I will come back, revisit this issue, so that we can repair any damage that is inflicted on the people of the State of Virginia—and Maryland as well, I might add. Maryland as well.

Both Senators from Virginia have been staunch opponents. They have done remarkable things in preventing even this very modest—let's be realistic here—this is very modest. When we are talking about a total of six round-trip flights a day, it is not a huge increase. But they have done a great job, and I commit to them, finally, we will be glad to revisit this issue if problems arise as a result of this legislation.

Also, we can put all the blame on Senator FORD because he will no longer be with us at that time.

Mr. FORD. There he goes, talking out of school again.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. ROBB. Mr. President, may I thank our friend and colleague from Arizona, who has worked for many, many years. He does reflect an ongoing dialog that my distinguished senior Senator and I, and the two distinguished Senators from Maryland, have had with him as well as Senators representing a couple of the other airports that were affected by both flight and perimeter rules.

I appreciate very much and take sincerely his offer to revisit the question on noise. I hope he will also include, at least in the spirit of the commitment that he makes, both congestion and diminution in the vitality of Dulles, which is really the other major issue that we are talking about. All of these are in play.

But I understand and appreciate very much, as does my senior colleague, both the commitment the Senator from Arizona has made as well as the spirit of that commitment and the spirit with which he has worked with us over a very long period of time, many years, to get to this particular point.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I join with my distinguished colleague, Senator ROBB, in expressing to both managers our appreciation. It is clear that we are about to adopt a bill which will have measurable impact, in terms of the environment, on the immediate region—Maryland, Virginia, and the District of Columbia. I am about to make a correction in an amendment which will provide, I think, adequate monitoring of that impact on the environment.

I started on the question of these airports—I can't remember, it is so many years ago now. Now that Senator ROBB has joined me in the Senate, he, too, has worked very hard on the airports. I was on the airport commission when we transferred them from Federal ownership to the current legal concept with MWAA. As a matter of fact, I think my colleague was Governor; isn't that correct?

Mr. ROBB. If my colleague will yield just for a comment, I was indeed and, as a matter of fact, had an opportunity to come up and work with the distinguished senior Senator and with others on this legislation. Before I left the Governors' office, I appointed the first two members of the board.

Mr. WARNER. Mr. President, that is correct. I actually wrote the legislation that was eventually adopted. But so much for history.

The residents of this community have to endure the hardships as occasioned by this growing airport. But in the course of my analysis here, in the past year, of this question, I talked at great length with the technical people. The margin, the incremental margin that could increase both in noise pollution and safety—we should include safety in this, and certainly in my conversations no alarm bells were sounded. I hope the NEPA report eventually verifies that finding.

I also would like—having a few moments here with the distinguished managers of this bill, would like to talk a moment about the MWAA board. I know the Committee on Commerce has had the hearing on them. They are yet to go on the Executive Calendar. This is something I have been following very closely. I do not wish to say more about it, but I just look my constituents straight in the eye and say, ''Trust the old senior Senator that somehow this thing is going to be resolved.'' I have known Mr. MCCAIN a quarter of a century as a colleague. Trust me, this will be resolved.

I would like to place in the RECORD the importance of allowing last year's money, and such moneys that flow from this piece of legislation—exactly what those projects are. I enumerated them in the course of the hearings on the MWAA appointees, but I think it is important to put them in the RECORD. Foremost among them is, hopefully, the elimination of those vehicles that go out between the terminals at Dulles—how many of our colleagues have come up to me on the floor: ''JOHN, the time has come; we have outlived those''?—and other very important modifications, modernization for both of these airports, for which I and others have fought hard in these years.

At Reagan National Airport and Washington Dulles International Airport several major projects are virtually on hold as a result of inaction by the Senate on the confirmation of Metropolitan Washington Airports Authority board members:

(1) At Dulles, the temporary gates attached at the foot of the tower need to be replaced. $11.2 million would come from PFCs; (2) an all-weather connector between a new, badly-needed parking garage and the Main Terminal would require about $29 million from PFCs; (3) for the Midfield B Concourse, a tunnel with moving sidewalks would replace the mobile lounge ride, with about $46 million provided by PFCs; (4) a new baggage handling requires $31.4 million in PFC revenue.

At Ronald Reagan Washington National Airport there are several more:

(1) Rehabilitation of the historic old main terminal, now called Terminal A, will cost $94 million, and is to be paid for with $21 million in grants and $36 million in PFCs; (2) the ''connector'' between the old and new terminals will be widened, and moving sidewalks added. The cost is $4.8 million, with $4.3 million in PFCs.

Mr. President, these two airports are vital to the economic development of Virginia and the entire metropolitan Washington area. We are anxious that they are physically able to support the improvements in air service the region so badly needs.

I would urge the Commerce Committee to act promptly to forward these nominations to the Senate for its advice and consent.

So I thank the managers. This is an important colloquy we have had right now. I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Very quickly we will go—Senators GORTON and SPECTER are here with the final amendment which we will go to in a moment.

Mr. WARNER. May I make a technical change?

AMENDMENT NO. 3639, AS AMENDED

Mr. FORD. Prior to that, we have a pending amendment that is agreed to.

Mr. MCCAIN. We have a pending amendment.

The PRESIDING OFFICER. If there is no further debate, the amendment of the Senator from Maryland is adopted.

The amendment, No. 3639, as amended, was agreed to.

Mr. MCCAIN. Mr. President, I move to reconsider the vote.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MCCAIN. I assure my colleague Senator WARNER on his technical amendment, we are going to mark up the nominees to the board on Thursday and we will report them out on Thursday.

Mr. WARNER. I thank the Senator.

Mr. MCCAIN. I yield the floor.

AMENDMENT NO. 3643 VITIATED

Mr. WARNER. Mr. President, earlier the Senate adopted amendment No. 3643, which the Senator from Virginia introduced on behalf of Senator ROBB, Senator SARBANES, Senator MIKULSKI.

By an innocent error, the wrong sheet of paper got into the hands of the clerk. I take full responsibility.

I now ask that amendment No. 3643 be vitiated.

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

Amendment No. 3643 was vitiated.

AMENDMENT NO. 3644

Mr. WARNER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for himself, Mr. SARBANES, Ms. MIKULSKI and Mr. ROBB, proposes an amendment numbered 3644.

Mr. WARNER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 43 of the Manager's Amendment beginning with line 21, strike through line 5 on page 44 and insert the following:

(d) ASSESSMENT OF SAFETY, NOISE AND ENVIRONMENTAL IMPACTS.—The Secretary shall assess the impact of granting exemptions, including the impacts of the additional slots and flights at Ronald Reagan Washington National Airport provided under subsections (a) and (b) on safety, noise levels and the environment within 90 days of the date of the enactment of this Act. The environmental assessment shall be carried out in accordance with parts 1500–1508 of title 40, Code of Federal Regulations. Such environmental assessment shall include a public meeting.

Mr. WARNER. I am pleased to offer this amendment for myself and Senators SARBANES, MIKULSKI and ROBB.

The purpose of this amendment is in the event the conference report adopts part or all of the provisions of this bill which would increase the number of slots—that is in this legislation that we are now considering—the Secretary of Transportation is given authority to grant additional slots and additional flights beyond the 1,250-mile perimeter of the Ronald Reagan Washington National Airport. These provisions will permit 24 additional flights daily at Reagan National Airport.

I have worked with the managers of the bill for some time. I have expressed my grave concern about the perimeter rule and the associated potential, and probably likely degradation of environmental consequences from these flights.

So, to the extent our bill as passed through the Senate, which still remains to be seen but I presume it will—will contain this provision, then of course, in the conference I cannot predict what will come out of conference. But in that event, then I think we better put a little insurance policy in here as regards the environmental concerns. That is the purpose of this amendment. These additional flights are permitted without any evaluation of the potential impact on noise level, safe operations of the airport, or other environmental impacts.

The amendment I offer today, together with my distinguished colleagues from Virginia and Maryland, requires the Secretary of Transportation to conduct an environmental assessment of the potential impacts of these additional flights on noise levels, safety and the environment prior to the Secretary granting any exemptions.

That is a very important provision. The environmental assessment process, as defined under the National Environmental Policy Act, ensures that the Secretary will fully review possible impacts of these additional flights. Also, this process provides the opportunity for the public to fully participate—I underline that, the public gets a voice—in making known their views on the potential impacts of these additional flights.

I believe this amendment is critical to ensuring that the Ronald Reagan Washington National Airport continues to be a safe and efficient airport for the traveling public, the area residents, and, indeed, the many thousands of employees who work at this airport, together with the aircrews who operate these aircraft.

Having worked the better part of the day on this amendment with the managers, it is my understanding at this time the managers indicate they will accept this amendment without the necessity of a rollcall vote.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. My friend and colleague is not here, the manager of the bill from the majority side. We have discussed this between us and the Senator's statement, as far as I am concerned, is absolutely true. He has worked hard on it, done a lot of hard work on it. I think it is absolutely necessary we have it in for his protection and others. I would not want to speak for my colleague.

Mr. WARNER. Mr. President, I did speak with the manager just moments ago, the Senator from Arizona, Mr. MCCAIN, and he has agreed. I convey that to the distinguished minority leader.

Mr. FORD. I don't doubt your word.

Mr. WARNER. I urge its adoption.

The PRESIDING OFFICER. If there is no further debate, without objection, the amendment is adopted.

The amendment (No. 3644) was agreed to.

Mr. MCCAIN. I move to reconsider the vote.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WARNER. I thank the Chair and thank the managers.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. I thank the Chair.

AMENDMENT NO. 3645

(Purpose: To amend title 46, United States Code, to provide for the recovery of non-pecuniary damages in commercial aviation suits)

Mr. President, on behalf of Senator SANTORUM, Senator LOTT and myself, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Pennsylvania [Mr. SPECTER] for himself, Mr. SANTORUM and Mr. LOTT, proposes an amendment numbered 3645.

Mr. SPECTER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place in the bill, insert the following:

SEC. . COMPENSATION UNDER THE DEATH ON THE HIGH SEAS ACT.

(a) IN GENERAL.—Section 2 of the Death on the High Seas Act (46 U.S.C. App. 762) is amended by—

(1) inserting ''(a) IN GENERAL.—'' before ''The recovery''; and

(2) adding at the end thereof the following:

''(b) COMMERCIAL AVIATION.—

''(1) IN GENERAL.—If the death was caused during commercial aviation, additional compensation for non-pecuniary damages for wrongful death of a decedent is recoverable in a total amount, for all beneficiaries of that decedent, that shall not exceed the greater of the pecuniary loss sustained or a sum total of $750,000 from all defendants for all claims. Punitive damages are not recoverable.

''(2) INFLATION ADJUSTMENT.—The $750,000 amount shall be adjusted, beginning in calendar year 2000 by the increase, if any, in the Consumer Price Index for all urban consumers for the prior year over the Consumer Price Index for all urban consumers for the calendar year 1998.

''(3) NON-PECUNIARY DAMAGES.—For purposes of this subsection, the term 'non-pecuniary damages' means damages for loss of care, comfort, and companionship.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies to any death caused during commercial aviation occurring after July 16, 1996.

Mr. SPECTER. Mr. President, this amendment clarifies the 1920 shipping law known as the Death on the High Seas Act which has been interpreted to prohibit families of victims, such as those who were on TWA Flight 800, from seeking relief for other than pecuniary damages.

This amendment is a modification of Senate bill 943 which I had introduced

earlier with the following cosponsors Senators SANTORUM, D'AMATO, LAUTENBERG, INHOFE, GRAMM of Texas, HUTCHISON of Texas, MOYNIHAN, WELLSTONE, DODD, FEINSTEIN, TORRICELLI, MURRAY, DURBIN, MOSELEY-BRAUN, MIKULSKI, SARBANES, ROBB and LEVIN.

We have not had an opportunity to circulate this amendment, but I do think it would have very broad support since those cosponsors supported the broader legislative proposal contained in Senate bill 943.

Mr. President, we are submitting this compromise amendment in order to move ahead to obtain some possible compensation for damages beyond pecuniary damages. Specifically, the families of victims of plane crashes more than 3 miles off our shores will be able to sue not only for economic losses such as the lost salary of a deceased spouse, but also for non-economic losses such as loss of companionship, loss of care, and loss of comfort.

The amendment provides that a court can make an award for nonpecuniary damages which shall not exceed the greater of the pecuniary loss sustained or a total of $750,000 per victim.

This amendment is retroactive to the crash of TWA 800, which tragically took 230 lives on July 17, 1996. The hardest hit community in the TWA 800 crash was Montoursville, PA, which lost 16 students and 5 adult chaperones from the local high school who were participating in a long-awaited French club trip to France. It was the parents of some of these children who first contacted our office about introducing legislation to allow them to seek compensation other than for pecuniary losses, which they believed courts would not provide.

Mr. President, under this amendment, the loss for noneconomic damages will be the greater of the pecuniary loss sustained for a total of $750,000 per victim. Illustratively, if the pecuniary loss to an individual was $1 million, then that individual could obtain $1 million for nonpecuniary damages. But if the pecuniary damages are less than $750,000, the maximum that an individual can take would be $750,000.

I offer this amendment, Mr. President, to make the best of what I consider to be a less-than-desirable situation. I am philosophically strongly opposed to caps on damages. I believe that there is very substantial evidence that corporate America has disregarded damages to victims on a calculated pecuniary evaluation as to what will cost them the least money.

Illustrative of that is the famous Pinto case where Ford decided to leave the gas tank in the back of the car because it would cost $11 or $12 to move it to a safe position; and there was a calculation, as disclosed in the files of the Ford Motor Company, that that judgment was made because it would be cheaper to pay the damages than it would be to change the location of the gas tank.

I have some detailed knowledge of recent litigation involving Ford Motor Company where there was a defective brake at issue. It was acknowledged to be defective and the National Transportation Safety Board said it was defective, and there were efforts made to get Ford to recall it, but Ford did not recall it, again, obviously, because the costs they calculated would be less onerous from a financial point of view to allow that danger to remain. A young child aged 3 was killed as a result of that incident.

And there are many, many cases—case after case—the tobacco cases, which were recently illustrative, where there is a calculation made by the corporation to give false information for pecuniary gain, which would warrant punitive damages; cases involving IUDs where there were known defective instrumentalities; cases involving flammable pajamas where children were burned; many, many cases which have led me to conclude that there really ought not to be caps.

I have had some experience as a litigator, mostly on the defense side, some for claimants for personal injuries, but mostly on the defense side with the firm of Barnes, Dechert, Price and Rhoads, later known as Dechert, Price and Rhoads of Philadelphia, and have seen this issue from both sides of the fence. But it is not possible to move ahead on the FAA reauthorization bill, which is an appropriate spot to have this aviation amendment, without tying up this important legislation.

We have had a series of meetings with interested parties and had an amendment to the Death on the High Seas Act been enacted which would have had unlimited damages, there was the announced intent to filibuster the bill. However, the pending FAA bill really needs to be enacted because it contains very substantial money for airport construction across my State of Pennsylvania and throughout America.

So this is a compromise which can be worked out. The figure moved from $250,000 for nonpecuniary damages to $600,000, to the greater of the pecuniary loss or $750,000. I think that the figure is too low as it stands now, but this is the best that can be obtained today. I would note that in offering this amendment today, I make the pledge that if we fail to remove them in Conference on the FAA bill, I will introduce legislation in the next Congress to take the caps off because I think one day there will be a Congress which will be sympathetic to eliminating such caps.

When there was a threat of a filibuster, that was on the basis that a Death on the High Seas Act amendment might be enacted without any cap at all. The whole issue of product liability is a complex issue. And there are some who think that it ought to be curtailed to some substantial extent and others who think that it ought not to be curtailed.

But this does advance the position of families of individuals who have met with tragic death. And it is not uncommon in our Congress and our U.S. Senate that we reach compromises and live to fight another day to push the principles that we believe in. But this is the best that can be done.

In conversations with my constituents and interested parties there is, I think, a sense that this is a desirable consequence today, the $750,000 in noneconomic damages, and that we will look to another day to try to remove the caps altogether.

I want to comment briefly about what I consider to be a very serious potential problem for the Senate procedurally on what has occurred in this matter with respect to what amendments are in order under our rules and what notification Senators like me receive on that matter. It was well known by all of the interested Senators—the majority leader's office, the managers of the bill, and others—that an amendment on Death on the High Seas would be offered.

Then there was a unanimous consent request where the matters that could be presented were limited. At that time, the technical consideration was raised as to what was a relevant amendment, which challenged the ingenuity of the Parliamentarian as to what is relevant in technical Senate rules.

Had there been any doubt in my mind that this amendment was to be challenged on the basis of relevance, and all the interested parties knew what it was, it would be a relatively simple matter for me as a Senator having a right to object to a unanimous consent agreement and to have this specific amendment protected so that I would not face a technical challenge on relevancy. I brought that issue to the attention of the distinguished majority leader and said if we were starting to parse semicolons in this body we would have to have a lot of Senators on the floor to protect their interests on unanimous consent agreements, because it was plain that this amendment was to be offered. Our distinguished majority leader thought my point was well taken.

Thereafter, there was another unanimous consent agreement entered into on the floor of the Senate without ''hotlining''—and I don't know that anybody listening to C–SPAN2 cares about it, but the Senators do care—and hotlining is a procedure where Senators' offices are called and told this unanimous consent agreement is to be entered into, which is more than an announcement on the floor of the U.S. Senate, which may be noted or may not be noted.

This Senator did not have notice about a limitation on the amendments which were to be limited in the FAA bill under the unanimous consent agreement. Here again, all the parties were on notice that this was an issue which this Senator intended to pursue.

Now, I have made it plain in my discussions with the interested parties

and the majority leader that I understood the importance of this FAA bill, that I would not take steps which would tie the bill up and that I was prepared to try to reach an acceptable compromise as to a figure on noneconomic damages.

However, this experience has taught me something new. From what I have seen in the Senate up to this point, there is a recognition of what Senators intend to offer and there is notification so that Senators can appear and protect their technical interests.

I am not claiming it is prejudice because, as I repeat, I was prepared to accept this compromise. But to be put in a position where, had I chosen not to do so, to have been foreclosed under these circumstances, I think, would have been an inappropriate limitation on my rights to offer a broader amendment. If I must take the position of filing an objection to every unanimous consent agreement, that is an alternative that I would not like. But, that may be necessary if we are not to have our interests protected and to be notified where our interests are known—to come and make sure our amendments can be offered.

I speak about that at some great length because I am very concerned about what has happened in this case. I cannot be more emphatic in saying I disapprove of the procedures which were followed here.

I yield the floor.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, the Death on the High Seas Act was either passed or last amended some 70 years ago. It is an act relating to exactly that—death on the high seas—that sets out limitations on damages that can be recovered in fault-based actions for such deaths.

Obviously, the absence of any change in those limitations can be said to be something of an anachronism at this point. The Death on the High Seas Act does not limit the dollar amount of actual economic damages that can be recovered. The Death on the High Seas Act applies equally to death over the seas or on the seas as a result of an aircraft accident. The rationale, of course, for that kind of limitation on damages is the vital importance to the people of this country, of the maritime transportation of goods and passengers, and the air transportation of goods and passengers over the seas of the world.

The view, I am sure, of those who passed the act in the first place was that this was such an important part of our society, that it was so important to encourage the development of efficient, swift, and inexpensive transport of goods and passengers, that there should be certain limitations to legal actions resulting in deaths on the high seas.

The bill to which the Senator from Pennsylvania refers was the subject of a hearing in the Commerce Committee. That bill was not reported favorably or at all by the committee. So some portion of it or all of it was originally posed as an amendment to this bill on the reauthorization of the Federal Aviation Administration, to which this subject is not clearly relevant.

The proponents of S. 943 and of the original form of this amendment wanted to remove all limitations—both for noneconomic damages and for punitive damages—from any such actions. That seemed to me, and continues to seem to me, to be an inappropriate response. The necessity for transportation by air over seas remains absolute in the world in which we live, and to subject either aircraft manufacturers or airlines to unlimited amounts of noneconomic damages and to punitive damages would have a clearly negative impact on the design and maintenance of airliners and of the airlines that operate.

Flight 800 is not a Ford Pinto. All airlines and all aircraft manufacturers, domestic and foreign, are required to meet extraordinarily strict safety standards imposed by the Government of the United States. After 2 or 3 years of study, the greatest experts in the world are not certain of the cause of that crash. They think they know, but if one thing is clear to the ordinary observer, the crash did not take place due to the negligence of the manufacturer or of TWA.

Nevertheless, in the fault-based litigation field which afflicts the United States, there is little doubt that a number of juries by trial lawyers could be persuaded that negligence that no one could have determined in advance was, in fact, present, and these damages would thereby be unlimited.

So as the Senator from Pennsylvania has so graciously pointed out, we have here a compromise. I think that it is appropriate that certain noneconomic damages be recoverable. I think they will be recoverable and will be recovered even though in the normal sense of the word ''negligence'' against any of the defendants, it will never actually be proven. But I do not think that they should be unlimited. I do not think that cases like this admit to punitive damages under any conceivable set of circumstances.

What this bill does is two things: It allows the recovery of certain noneconomic damages for the loss of care, comfort, and companionship of those who were killed in the aircraft crash to which this bill is retroactively applicable, and in future aircraft accidents, up to the amount of actual economic damages or $750,000—whichever figure is larger. I believe that is a generous award and a generous limitation for aircraft accidents.

The Senator from Pennsylvania feels they should be unlimited, and he represents a strongly held point of view held by a large number of other Members of this body. But this is a legislative compromise. These damage limitations are far greater than they are under present law. They are far less than the American Trial Lawyers Association would like.

It does seem to me that in a body that has struggled with product liability legislation for the better part of two decades, and which includes a majority of Members who feel that certain limits should be placed on product liability litigation, but whose goals have been frustrated through filibusters and the like, that to add another field to the kind of unlimited litigation that so plagues society at the present time and has so troubled debates in this body, not just over product liability but over medical malpractice as well, that such an extension would be highly unwise.

As a consequence, the Senator from Pennsylvania and I disagree on the general philosophy of the vehicle with which we are involved here. But I think that, in the best traditions of the Senate, our disagreements have been resolved, at least for the time being, by a compromise—a compromise that has limits —limits that I think are perhaps too high on the kind of damages that can be recovered and implicitly as to whether they should be recovered at all under the circumstances, and the belief of the Senator from Pennsylvania that standard negligence rules ought to apply here as they do in many other areas.

We have reached compromise on this. He has proposed an amendment which he doesn't completely agree with himself, but he thinks it represents an improvement. And I agree with an amendment that I do not completely disagree with and one I think is relatively too generous. It may well be that the Senator from Arizona thinks this will be the last amendment on this bill and we will move forward from here. I guess we can say that at some future time there will be another contest during which we can examine the premises of our fault-based system of liability and its relationship to aircraft accidents at greater length and at more leisure.

For the time being, I thank the Senator from Pennsylvania and the other Senator from Pennsylvania, Mr. SANTORUM, who first brought this to my attention, and the many others who worked very hard to reach an accommodation. The senior Senator from Pennsylvania has done a very good job on a cause in which he believes, even though he didn't get everything he wanted.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I thank my colleague from Washington for those kind remarks. I thank him for saying the Senator from Pennsylvania has done a good job. If I can attract the attention of the Senator from Washington, I think he has done even a better job. He and I were elected in 1980 and have served in this body for some considerable period of time, and we are lawyers. It may be unwise to make that kind of admission publicly on C–SPAN2, but we are lawyers. We have many discussions and we agree most of the time.

I heard Don Meredith, the legendary quarterback of the Dallas Cowboys, make a comment about lawyers one day. He said, ''99 percent of the lawyers give the rest of them a bad name.'' Senator DOMENICI, who is listening, is also a lawyer and, with some frequency, he disagrees with the legal profession. We will continue to take up these issues. This is the conclusion for today.

The bill will now go to conference and, in conference, on the House side there has been a decision that the Death on the High Seas Act should not apply to any aircraft accidents. It should apply only to other instrumentalities, but not to airplanes. That will be a matter for conference. If the House should prevail, then the objectives of this Senator would have been accomplished because there would be no limitation on damages because the Act would be inapplicable to airline crashes.

With respect to the TWA 800 incident, it ought to be noted that the federal district court, the trial court, has recently ruled that the limitation of the Death on the High Seas Act does not apply because, while it was outside of 3 miles, it was within 12 miles, and a certain action by President Reagan extended that definition of our waters to a 12-mile limit. But that hasn't been ruled upon by the court of appeals, nor by the Supreme Court. So that district court judge's ruling may change. There are issues that are yet to be resolved in conference and also in the courts on this matter.

In conclusion, I think we have advanced the matter. It is in accordance with the traditions of the Senate to try to reach an accommodation and move the legislation forward and reenter the fray and rejoin the issue at a later date. I thank the Chair and yield the floor.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I want to take a moment to thank my two lawyer colleagues. I am very pleased that I am not of that profession. I will refrain from telling any more lawyer jokes on the floor.

There were two very different positions here and strongly held views. I believe this is what our work here in the Senate is all about. The Senator from Washington, in his responsibilities as chairman of the Aviation Subcommittee, has preserved some fundamental principles here, and I also think the Senator from Pennsylvania, who has taken a major step forward concerning children. For the first time, now children will be ranked along with everybody else in compensation and in the case of tragedy. I believe that the people who have fallen victim to these terrible aircraft tragedies owe a great debt of gratitude to Senator SPECTER for what he did tonight. There is now some hope for them for some reasonable compensation. We all know that there is no compensation for the loss of a life. But there are certainly ways that we can make their lives better and give them a chance to have a decent future.

I thank Senator SPECTER for what he did here tonight. I also want to thank Senator GORTON, who fundamentally protected principles that he has adhered to for a long period of time.

I yield to the Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I thank the distinguished Senator from Arizona for those comments. He has done an outstanding job as chairman of the Commerce Committee on this bill and on other matters.

I urge adoption of the amendment.

Mr. FORD. Mr. President, I object to that right now, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MCCAIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. MCCAIN. Mr. President, because of the unanimous consent agreement, which limited the number of amendments, the Senator from Pennsylvania and I have agreed to put that amendment into the managers' package, which we will be proposing very shortly. It will be Senator SPECTER's amendment. We do this only for the sake of preserving the process of the unanimous consent agreement. It will be part of the managers' amendment.

Mr. SPECTER. Mr. President, that accurately states our agreement. For technical reasons, I will withdraw the amendment and it will become a part of the bill as if voted on and passed as part of the managers' package. I concur with what my colleague just articulated.

The PRESIDING OFFICER. The amendment is withdrawn.

The amendment (No. 3645) was withdrawn.

Mr. MCCAIN. Senator WYDEN has very strong views on the High Seas Act. We have been working together on a colloquy that will be included in the RECORD to reflect that.

ALASKA EXEMPTION FROM TITLE VII

Mr. STEVENS. I thank the Manager, the Senator from Arizona, Chairman MCCAIN, for his able and fair management of the FAA Reauthorization bill. Subsection 702(b) exempts overflights in Alaska from the provisions of the new section 40125 of title 40 set forth in the subsection 702(a). Is that the Committee's intent?

Mr. MCCAIN. Yes.

Mr. STEVENS. Subsection 702(b) also exempts overflights in Alaska from the provisions of Title VII of S. 2279. Is that the Committee's intent?

Mr. MCCAIN. Yes.

Mr. STEVENS. The effect of subsection 702(b) then, is to expressly prohibit the federal government's prohibition and regulation of overflights over national park land and tribal land in Alaska, if there were lands or waters in Alaska that would otherwise qualify as such land in the absence of this exemption.

Mr. MCCAIN. That is correct.

Mr. STEVENS. I ask that the chairman of the authorizing committee for the Alaska National Interest Lands Conservation Act, Senator MURKOWSKI, to comment on section 702(b) and the operation of section 1110(a) of the Alaska National Interest Lands Conservation Act.

Mr. MURKOWSKI. Section 1110(a) of the Alaska National Interest Lands Conservation Act provides an express and affirmative right to air access to federal lands in Alaska. Section 1110(a) provides as follows:

> Notwithstanding any other provision of this Act or other law, the Secretary shall permit, on conservation system units, national recreation areas, and national conservation areas, and those public lands designated as wilderness study, the use of snowmachines (during periods of adequate snow cover, or frozen river conditions in the case of wild and scenic rivers), motorboats, airplanes, and nonmotorized surface transportation methods for traditional activities (where such activities are permitted by this Act or other law) and for travel to and from villages and homesites. Such use shall be subject to reasonable regulations by the Secretary to protect the natural and other values of the conservation system units, national recreation areas, and national conservation areas, and shall not be prohibited unless, after notice and hearing in the vicinity of the affected unit or area, the Secretary finds that such use would be detrimental to the resource values of the unit or area. Nothing in this section shall be construed as prohibiting the use of other methods of transportation for such travel and activities on conservation system lands where such use is permitted by this Act or other law.

Overflights, including those conducted for profit, are a ''traditional activity'' in Alaska, and as such currently may be subject to ''reasonable regulation'' by the Secretary of the Interior under section 1110(a). This policy works for Alaska. Although section 1110(a) applies notwithstanding any other law, section 702(b) clarifies that Congress is not changing its policy toward Alaska in any way.

Mr. STEVENS. The last time Congress enacted legislation on the overflights matter was in the 100th Congress under Public Law 100–91 (101 Stat. 674 et seq.). Prior to enactment, this legislation was reviewed by both the Senate Committee on Energy and Natural Resources and the Senate Committee on Commerce Science and Transportation. As a Commerce Committee member then and now, I would like to discuss P.L. 1001–91.

Under P.L. 100–91, Congress mandated a study by the Secretary of the Interior, acting through the Director of the National Park Service, to determine the impacts that overflights of aircraft have on park unit resources. Section 1(c) expressly excluded all National

Park System units in Alaska from the research and the study. In a hearing held during the 105th Congress on S. 268, the park overflights bill that ultimately became Title VII of S. 2279, the National Park Service testified that Alaska parks were not a part of the study commissioned in 1987 and completed in 1995. Therefore, that study mandated by Congress did not provide a basis for applying S. 2279's park overflights provisions to Alaska.

Mr. MURKOWSKI. That's clear.

Mr. COATS. Mr. President, I filed an amendment on this bill regarding the eligibility for new slots at Reagan National Airport. I have decided not to seek a vote on my amendment at this time. I appreciate the efforts of my colleague, Senator MCCAIN, the chairman of the Committee, and his leadership on the FAA bill. I would like to ask if the Chairman would be willing to continue to review this issue and its merits as he takes this bill to conference.

Mr. MCCAIN. The Senator from Indiana has made clear his concerns regarding increasing the ability of airlines to compete for slots at Reagan National. I can assure him that we will continue to look at this issue as we approach conference in the hopes of crafting a final provision which best meets the many competing interests of members and their states, including those expressed by the Senator from Indiana.

Mr. COATS. I thank the Chairman.

CONSUMER ACCESS TO TRAVEL INFORMATION ACT

Mr. D'AMATO. Mr. President, I would like to engage the distinguished senior Senator from Arizona, the manager of this bill, in a discussion about the growing concern of consumers about airline travel in this country.

Earlier this year, I introduced S. 1977, the Consumer Access to Travel Information Act of 1998. I introduced this important piece of legislation to address a growing problem in the airline industry. For over three years, the major airlines have been moving to gain more control over the airline travel ticket distribution system. While this effort may seem harmless, the ramifications to consumers are significant. Currently, most air travelers get their information from one of the 33,000 travel agencies around the country. These agencies provide consumers with unbiased and comprehensive air travel information, i.e. the best flight at the cheapest fare. Without that independent source of travel information, there is no doubt that consumers will be paying more, in many cases, substantially more for air travel.

S. 1977 would simply require the Secretary of Transportation to investigate the extent of possible anti-consumer, anti-competitive behavior of major airlines, including discriminatory and predatory practices of airlines which target travel agents, other independent distributors, and small airlines. This is authority that the Secretary currently has under the Airline Deregulation Act of 1978, but has failed to act upon. this bill would make certain this investigation is undertaken. If it is determined that anticompetitive, discriminatory or predatory practices exist, the Secretary would report to Congress those steps the Department intends to take to address such practices.

Mr. President, I ask the distinguished Chairman of the Commerce Committee whether he has been made aware of concerns raised by consumers regarding air travel?

Mr. MCCAIN. I want to thank the Senator from New York for raising concerns in this area. I have, indeed, heard from consumer groups, particularly small businessmen, regarding the high price of air travel, and the lack of competition in certain markets. Although most of the concerns in this area focus on small, upstart, and regional airlines' ability to compete with the big airlines, I am glad that you have brought to my attention the role of the larger airlines in the ticket distribution system.

Mr. D'AMATO. I thank the Senator. I salute and support the efforts by the manager of this bill to address the competition issue with small airlines. A critical part of a small airline's ability to compete is to have its tickets distributed by an independent entity, mainly the travel agent. Travel agents provide critical services to air travelers, and air travelers depend heavily on travel agents to provide an accurate, broad selection of schedules, fare quotes, and ticketing services for all airlines.

Mr. President, I ask the Senior Senator from Arizona if Congress should address possible anti-competitive behavior with respect to the airline ticket distribution system?

Mr. MCCAIN. Mr. President, the Senator raises a valid concern and I believe it is one our Committee needs to explore further. Although I understand the Senator's legitimate concern about the treatment of travel agents by the major airlines, the Committee needs to investigate this issue further before we pass any legislation on the matter.

Mr. D'AMATO. Mr. President, I naturally would prefer to pass this legislation now and have the Department begin looking into possible anti-competitive activities, but I understand the distinguished Chairman's position. In addition, I realize this FAA Reauthorization legislation must be signed into law by the end of this month, and I do not want to delay it further. I ask the Senior Senator from Arizona if the Commerce Committee could have a hearing on this matter in the near future to thoroughly examine the airline ticket distribution system and the critical role of travel agents for consumers?

Mr. MCCAIN. I say to my friend from New York that the Committee needs to explore this issue further, and I would like to work with him to put together a hearing on this matter as soon as it is feasible. The air travelling consumer has a real advocate in the Senator from New York, and his leadership on this issue is to be commended.

Mr. D'AMATO. I thank the Senator, and I look forward to working with him further on this important issue.

I thank you, Mr. President.

Mr. HOLLINGS. Mr. President, I rise today in support of S. 2279. This is an important bill that we must finish before we adjourn. Without it the Federal Aviation Administration (FAA) cannot spend any money on airport improvements, and airports in my state of South Carolina and throughout the nation would have to stop needed improvements that will bring better, safer air service to local communities—service which allows those communities to attract and expand businesses.

The bill authorizes approximately $10 billion per year for the FAA for fiscal years 1998 and 1999. This will allow the FAA to focus on its most important mission—safety. Last year, more than 500 million passengers boarded planes and arrived at their destinations safely. Out air traffic control system is the safest in the world, but it needs to be upgraded if we are to remain the world's leader.

The FAA is about to deploy new controller work stations—first in the Seattle en route center, and later in other en route centers. New controller work stations should also begin to be deployed within the next year under the Standard Terminal Automation Replacement System (STARS) contract.

More needs to be done. The National Civil Aviation Review Commission (NCARC) reported that unless something is done, the air traffic system faces gridlock. The FAA has estimated that future passenger growth will be about 3.5% per year through 2009, with enplanements going from 561 million in 1998 to 821 million in 2009. More controllers and more equipment are needed. Not only are we looking at relying on satellites to track aircraft, but each of our airports will need to expand. Concrete, new lighting systems, new terminals, and new security measures are required.

Right now, with the passage of last year's tax increase on the air carriers, the Airport and Airway Trust Fund is flush with money. The FAA estimates that the Trust Fund will take in total receipts of $10.622 billion in FY 1999. Only about 60 percent of the FAA's budget comes from the Trust Fund, with the remainder coming from the General Fund. There is more than enough money in the Trust fund to pay for the Airport Improvement Program (AIP), and I wish we could invest more funding for the program than is included in the bill.

Next year I will fight to make sure that we restore the trust in the aviation trust fund by taking it off budget. The state of South Carolina has an airport in every county. These airports serve small and large communities

that benefit from the opportunities that are created by construction on an up-to-date airport. For example, runway improvements at the Greenville/Spartanburg Airport allowed the South Carolina Upstate to attract BMW to build its North American plant there. AIP funding helped the former Myrtle Beach Air Force Base become the Myrtle Beach Jetport, bringing hundreds of tourists to vacations on the South Carolina Grand Strand. Whether it is Orangeburg, Marlboro County, or Hilton Head, South Carolina needs strong air transportation infrastructure. I can tell you as I travel around the state how critical aviation is. I have supported these interests for many years. This bill allow us to continue to meet the needs of the state and country.

Finally, included in the managers' amendment are provisions of the Visit USA Act, introduced earlier this year as S. 2412 by Senator BURNS and myself to further the international standing of the U.S. travel and tourism industry. As co-chairman of the United States Senate Tourism Caucus along with Senator BURNS, I know that the tourism industry is a winner for the United States. In my state of South Carolina, tourism generates over $6.5 billion and is responsible for 113,000 jobs. Over 46 million international visitors came to the United States and spent over $90 billion in 1997. These visitors generated more than $5 billion in Federal taxes alone. To compete with other nations for a larger share of international tourism over the next decade, we must support an international tourism marketing effort. Provisions of this legislation would do that by authorizing appropriations for the marketing program of the U.S. National Tourism Organization (NTO). This authorization would allow the NTO to continue operations beyond the October 11 sunset date.

This legislation is the product of a lot of hard work by many members of the Commerce Committee. I would like to thank them for their dedication to improving America's airport infrastructure and bolstering the safety of airline travel. I look forward to expeditious consideration and passage of S. 2279.

Mr. FORD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MCCAIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

AMENDMENT NO. 3646

(Purpose: To make technical corrections in the managers' amendment)

Mr. MCCAIN. Mr. President, I ask that a managers' amendment be included at this time, which also includes what had previously been the Specter amendment.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona (Mr. MCCAIN), for himself and Mr. FORD, proposes an amendment numbered 3646.

Mr. MCCAIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 18 of the managers' amendment, line 17, strike ''11(4)'' and insert ''(4)''.

On page 34 of the managers' amendment, line 6, insert ''directly'' after ''person''.

On page 34, beginning in line 10, strike ''aircraft registration numbers of any aircraft; and'' and insert ''the display of any aircraft-situation-display-to-industry derived data related to any identified aircraft registration number; and''.

On page 34 of the managers' amendment, beginning in line 14, strike ''that owner or operator's request within 30 days after receiving the request.'' and insert ''the Administration's request.''

On page 34 of the managers' amendment, strike lines 16 through 21.

On page 34 of the managers' amendment, line 22, strike ''(c)'' and insert ''(b)''.

On page 36 of the managers' amendment, strike lines 16 and 17 and insert the following:

''(1) An airport with fewer than 2,000,000 annual enplanements; and

On page 39 of the managers' amendment, beginning in line 4, strike ''shall, in conjunction with subsection (f),'' and insert ''shall''.

On page 40 of the managers' amendment, strike lines 1 through 8 and insert the following:

''(i) REGIONAL JET DEFINED.—In this section, the term 'regional jet' means a passenger, turbofan-powered aircraft carrying not fewer than 30 and not more than 50 passengers.''.

On page 41 of the managers' amendment, beginning in line 9, strike ''In addition to any exemption granted under section 41714(d), the'' and insert ''The''.

On page 41 of the managers' amendment, beginning in line 24, strike ''In addition to any exemption granted under section 41714(d) or subsection (a) of this section, the'' and insert ''The''.

On page 42 of the managers' amendment, beginning in line 5, strike ''smaller than large hub airports (as defined in section 47134(d)(2))'' and insert ''with fewer than 2,000,000 annual enplanements''.

On page 42 of the managers' amendment, line 10, strike ''airports other than large hubs'' and insert ''such airports''.

On page 46, line 18, strike ''(d)'' and insert ''(f)''.

On page 46, line 24, after ''and the'' insert ''metropolitan planning organization for''.

On page 47, line 1, strike ''Council of Governments''.

On page 35 of the managers' amendment, between lines 2 and 3, insert the following:

SEC. 529. CERTAIN ATC TOWERS.

Notwithstanding any other provision of law, regulation, intergovernmental circular advisories or other process, or any judicial proceeding or ruling to the contrary, the Federal Aviation Administration shall use such funds as necessary to contract for the operation of air traffic control towers, located in Salisbury, Maryland; Bozeman, Montana; and Boca Raton, Florida, provided that the Federal Aviation Administration has made a prior determination of eligibility for such towers to be included in the contract tower program.

On page 114, insert:

SEC. 530. COMPENSATION UNDER THE DEATH ON THE HIGH SEAS ACT

(a) IN GENERAL.—Section 2 of the Death on the High Seas Act (46 U.S.C. App. 762) is amended by—

(1) inserting ''(a) IN GENERAL.—'' before ''The recovery''; and

(2) adding at the end thereof the following:

''(b) COMMERCIAL AVIATION.—

''(1) IN GENERAL.—If the death was caused during commercial aviation, additional compensation for non-pecuniary damages for wrongful death of a decedent is recoverable in a total amount, for all beneficiaries of that decedent, that shall not exceed the greater of the pecuniary loss sustained or a sum total of $750,000 from all defendants for all claims. Punitive damages are not recoverable.

''(2) INFLATION ADJUSTMENT.—The $750,000 amount shall be adjusted, beginning in calendar year 2000 by the increase, if any, in the Consumer Price Index for all urban consumers for the prior year over the Consumer Price Index for all urban consumers for the calendar year 1998.

''(3) NON-PECUNIARY DAMAGES.—For purposes of this subsection, the term 'non-pecuniary damages' means damages for loss of care, comfort, and companionship.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies to any death caused during commercial aviation occurring after July 16, 1996.

Mr. MCCAIN. Mr. President, there is no further debate on the amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 3646) was agreed to.

Mr. MCCAIN. Mr. President, I move to reconsider the vote.

The PRESIDING OFFICER. I move to lay on the table in my capacity as a Senator from Utah.

The motion to lay on the table was agreed to.

Mr. MCCAIN. Mr. President, I believe there are no other amendments.

We are prepared for third reading of the bill.

I would like to withhold that for just 1 minute.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MCCAIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. MCCAIN. Mr. President, I understand there are no further amendments.

We are prepared for third reading of the bill.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time.

Mr. MCCAIN. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 536, H.R. 4057, all after the enacting clause be stricken, and the text of S. 2279, as amended, be inserted in lieu thereof, the bill then be read the third time, and immediately following the convening of the Senate on Friday there be 20 minutes for closing remarks divided equally between the majority and minority managers; and, following that time, the Senate proceed to a vote on passage of H.R. 4057, with no other intervening action or debate.

I finally ask unanimous consent that following passage of the bill the Senate insist on its amendment, request a conference with the House, and the Chair be authorized to appoint conferees on the part of the Senate.

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

Mr. MCCAIN. Mr. President, for the information of all Senators, there will be a vote tomorrow morning at approximately 9:50 on passage of the FAA reauthorization bill.

UNANIMOUS CONSENT REQUEST—S. 442

Mr. MCCAIN. Mr. President, I ask unanimous consent that it be in order for the majority leader, after consultation with the Democratic leader, to proceed to the consideration of Calendar No. 509, S. 442, and it be considered under the following limitations:

The Commerce Committee amendment be agreed to, and the Finance Committee substitute then be agreed to, and the substitute then be considered as original text for the purpose of further amendment.

I further ask unanimous consent that the only other amendments in order to the bill be the following:

A managers' amendment; McCain-Wyden, extending length of moratorium; Coats, Internet porn, 1 hour equally divided; Nickles, relevant; Bennett, relevant; two Warner amendments, relevant; Senator Hutchison, relevant; Senator Murkowski, relevant; Bond, relevant; Bumpers, mail order; Graham, relevant; Abraham, government paperwork; Enzi, three amendments, relevant; Domenici, interest rates; Bumpers, a commission amendment; and another Nickles relevant amendment.

I further ask unanimous consent that relevant second-degree amendments be in order to all amendments other than the Coats amendment.

I further ask that there be 2 hours of general debate equally divided on the bill.

I finally ask that following disposition of the above listed amendments and the expiration of the time, the bill be read a third time and the Senate proceed to a vote on passage of the bill with no other intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. FORD. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. MCCAIN. Mr. President, I ask unanimous consent that on Friday, September 25, the Senate turn to Calendar No. 509, S. 442, the Internet tax bill, and immediately following reporting by the clerk, the Commerce Committee substitute be agreed to, and immediately following that action the Finance Committee substitute be agreed to and considered original text for the purpose of further amendments. I further ask that during the Senate's consideration of S. 442 or the House companion measure, only relevant amendments be in order.

Mr. FORD. Mr. President, reserving the right to object, if the acting leader would take the first paragraph and use that as his unanimous consent request, this side is willing to accept that. The one I cannot agree to is: ''I further ask that during the Senate's consideration of S. 442 or the House companion measure, only relevant amendments be in order.'' I would object to that. But I would accept the upper part if the Senator is willing to make that unanimous consent request.

Mr. MCCAIN. Mr. President, I can't do that, but I appreciate the willingness of the Senator from Kentucky. Let me also state that I am aware that the leadership on the other side is basically prepared tomorrow for us to move forward. I appreciate that. There is great understanding that this is a very important piece of legislation. The Internet Tax Freedom Act is of the highest priority all over America. I believe we will move to it. I believe that we will do it soon. I appreciate the interest and the agreement of the Senator from Kentucky that we could work out some agreement on this—perhaps not tonight but perhaps tomorrow.

Mr. FORD. Mr. President, I will be more than willing to agree to a unanimous consent agreement to proceed to the bill without any other reservations or any time agreements or agreements to amendments. I would be more than willing to do that. But under the circumstances, I doubt if that would be acceptable so we will just have to work overnight and tomorrow on the legislation and see if we can't come to some kind of agreement. And I am hopeful, because we were close tonight, and I think if we had waited until morning I would not have been placed in a position to object. You do a lot of things around here sometimes you don't really like to do, but then I always like to be ''Senator No.''

Mr. MCCAIN. Mr. President, I thank the Senator from Kentucky, especially as we approach the end of this very important legislation which bears his name. I do not wish to end up this evening in any kind of disagreement with the Senator from Kentucky. It is not worth it.

Mr. FORD. A red letter day.

Mr. MCCAIN. I do know he is committed to passage of this legislation, the Internet Tax Freedom Act. He understands as well as I do, with just a few days remaining, that if we didn't have some kind of agreement, which I do believe we will agree to, on circumscribing the number of amendments to the bill, then it would be very difficult to get it done in a short period of time. I am not going to pursue this issue. Again, I spent too many hundreds of hours working with the Senator from Kentucky for us to end up in some disagreement over an issue such as this before completion of the bill that is called the Wendell H. Ford legislation, which is very fittingly named after him as the reality is that there is no Member of the Senate who has done more to further the cause of aviation in America than the Senator from Kentucky.

So, Mr. President, for the information of all Senators, there will be a vote tomorrow morning at approximately 9:50 a.m. on passage of the FAA reauthorization bill.

MORNING BUSINESS

Mr. MCCAIN. I now ask unanimous consent that there be a period for the transaction of morning business with Senators permitted to speak up to 5 minutes each.

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

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Wednesday, September 23, 1998, the federal debt stood at $5,517,883,379,683.46 (Five trillion, five hundred seventeen billion, eight hundred eighty-three million, three hundred seventy-nine thousand, six hundred eighty-three dollars and forty-six cents).

One year ago, September 23, 1997, the federal debt stood at $5,382,650,000,000 (Five trillion, three hundred eighty-two billion, six hundred fifty million).

Five years ago, September 23, 1993, the federal debt stood at $4,380,953,000,000 (Four trillion, three hundred eighty billion, nine hundred fifty-three million).

Ten years ago, September 23, 1988, the federal debt stood at $2,587,266,000,000 (Two trillion, five hundred eighty-seven billion, two hundred sixty-six million).

Fifteen years ago, September 23, 1983, the federal debt stood at $1,354,045,000,000 (One trillion, three hundred fifty-four billion, forty-five million) which reflects a debt increase of more than $4 trillion—$4,163,838,379,683.46 (Four trillion, one hundred sixty-three billion, eight hundred thirty-eight million, three hundred seventy-nine thousand, six hundred eighty-three dollars and forty-six cents) during the past 15 years.

CLINTON ADMINISTRATION MUST RESPOND FORCEFULLY TO CUBAN ESPIONAGE

Mr. HELMS. Mr. President, the recent discovery of a sophisticated spy ring operating in U.S. territory is a wake-up call to all who assume that Fidel Castro is no longer America's tireless enemy. The Federal Bureau of Investigation is to be congratulated for its excellent work, and, I ask unanimous consent that the Bureau's press release (dated September 14, 1998) be printed in the RECORD.

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

FEDERAL BUREAU OF INVESTIGATION

[Press Release—Date: September 14, 1998—contact: SA Mike Fabregas or Ausa John Schlesinger]

FBI DERAILS CUBAN INTELLIGENCE NETWORK

Hector M. Pesquera, Special Agent in Charge (SAC) of the Miami Division of the Federal Bureau of Investigation (FBI) and Thomas E. Scott, United States Attorney for the Southern District of Florida announce the arrests of ten (10) individuals for conducting espionage activities against the United States for the Republic of Cuba.

The arrest of ten (10) individuals in South Florida on September 12, 1998, marked the culmination of a lengthy investigation into subversive activities by the Cuban Intelligence Service. The ten (10) individuals arrested were directed to infiltrate and spy on United States agencies and installations. These agents also attempted to infiltrate and manipulate Anti-Castro groups within the South Florida community.

The individuals arrested by the FBI include: Alejandro M. Alonso, date of birth November 27, 1958; Ruben Campa, date of birth September 15, 1965; Rene Gonzalez, date of birth August 13, 1956; Antonio Guerrero, Jr., date of birth October 16, 1958; Linda Hernandez, date of birth June 21, 1957; Nilo Hernandez-Mederos, date of birth March 31, 1954; Luis Medina, date of birth July 9, 1968; Joseph Santos-Cecilia, date of birth October 9, 1960; Amarilys Silverio-Garcia, date of birth September 23, 1961; Manuel Viramontez, date of birth January 26, 1967.

Search warrants executed at several locations in South Florida yielded disguises, radios, antennas, maps, computers, money, and other items.

Sac Pesquera and U.S. Attorney Scott would like to commend the efforts of the Naval Criminal Investigative Service (NCIS) who assisted greatly in this investigation.

Mr. HELMS. Mr. President, the fact that several U.S. military installations were among the targets of this spying is evidence that the Castro regime is a menace to the national security of the United States. According to a reliable 1996 report, Cuban commandos have been training in Vietnam at least since 1990 to carry out strikes against U.S. military bases, precisely the target of the attempted infiltrations of last week.

Mr. President, the Clinton Administration simply cannot and must not default on its clear obligation to respond to this and other hostile actions by Cuba.

First, the Federal Bureau of Investigation is obliged to pursue this espionage conspiracy relentlessly. Any and all Cuban personnel working in any diplomatic posts in Washington, D.C., and at the United Nations, who had contact with this spy ring should be detained, prosecuted, and/or expelled without delay.

Future requests by Cuban ''diplomats'' to travel beyond the confines of Washington, D.C., or New York—particularly to South Florida—should be summarily denied.

Second, U.S. officials, exile groups, and citizens who have been, or are, targets of Cuban spies should be warned by U.S. authorities of this threat.

Third, it is imperative to hold the Russians accountable for their continued eavesdropping on U.S. defense and commercial communications at the state-of-the-art intelligence facility at Lourdes, Cuba. According to reliable published reports, sensitive U.S. information gathered at Lourdes is in the possession of Castro's Cubans and made available to other rogue states to use against the United States. The Russians compensate Castro for this spy platform through a generous oil-for-sugar deal—at a time when Moscow looks to the United States and the international community for multi-billion-dollar hand-outs of the American taxpayers' money.

Mr. President, the Clinton Administration at this very moment is contemplating a huge increase in U.S. aid to Russia, has therefore soft-peddled this grave security threat for too long. The removal of the Lourdes facility and an end to the related compensation to the Cubans must be given top priority in U.S.-Russian relations—and as a subject to be considered in the instances of future U.S. aid proposals.

Fourth, this hostile espionage should put to rest the absurd notion—conceived by the Cuban regime and being considered by Administration officials—that the United States should ''cooperate'' with the Cuban government to fight drug trafficking in the Caribbean. Any serious talk about anti-drug cooperation should be deferred until after Castro surrenders the half-dozen senior Cuban officials who have been indicated in U.S. courts for smuggling drugs into the United States.

Fifth, senior Administration policy makers have informed members of the Senate Foreign Relations Committee staff that they see no connection between the spy ring and the Clinton plan to give U.S. food aid to the United Nations for Cuba. In light of the espionage revelations, it is incumbent upon the State Department and U.S.A.I.D. to make certain that any food that the Administration proposes to donate to needy Cubans must be conducted entirely through international, independent relief groups operating under scrupulous monitoring.

And, sixth, Mr. President, Americans have long awaited the Clinton Administration's getting around to holding Castro's officials accountable for the terrorist attack carried out by Cuban MIGs on two unarmed Cessnas in February 1996. The fact that this attack on two small planes which were over international waters went unpunished has emboldened the Castro regime to act against us.

The Department of Justice should proceed promptly with an investigation of this incident in connection with the indictment of the Cuban officials involved. It should be done under section 32 of title of the U.S. Code for the willful, premeditated destruction of two civil aircraft resulting in the deaths of Pablo Morales, Carlos Costa, Mario de la Pena, and Armando Alejandre.

Mr. President, the Clinton Administration has an obligation to defend America's national security against any country determined to do us harm.

Surely, decades of fighting tyrants has taught us that appeasement and unilateral concessions serve only to tempt our enemies. If the Administration fails to hold Castro accountable for his repeated acts of treachery against us, it will tempt him to escalate them.

TRIBUTE TO MRS. MINAL KUMAR

Mr. INOUYE. Mr. President, I rise today to pay tribute to the late Mrs. Minal Kumar, who throughout her exceptional career dedicated herself to public service. Mrs. Kumar's extraordinary humanitarian efforts and outstanding contributions have improved the lives of women, children and infants in Hawaii.

As the sole nutritionist on the Island of Kauai for the State of Hawaii Department of Health's Women, Infants and Children program, Mrs. Kumar nearly tripled the program's caseload in six years. She opened clinics in the outlying areas of the underserved communities of Hanalei, Kilauea and Waimea, and was the first nutritionist to serve the Island of Niihau. The central theme of her work was encouraging and supporting mothers to breast feed their children, the infant feeding method recommended to improve the health of infants.

In remembrance of her many accomplishments, her co-workers have built a garden at the Hawaii Department of Health's Kauai District office and a memorial fund in her name has been established by Hawaii Mothers' Milk, Inc. I ask my colleagues to join me in paying tribute to the late Minal Kumar for all she has done for the people of Hawaii.

INDEPENDENT COUNSEL LAW

Mr. MOYNIHAN. Mr. President, I rise to commend to the Senate a most timely and informative article which appeared in the New York Times on August 11, 1998. Written by Todd S. Purdum, the article provides a useful overview of the twenty year history of the independent counsel law and interviews seven of the attorneys who have

served in this capacity since the adoption of the Ethics in Government Act of 1978.

Most of those interviewed cite problems with the way the independent counsel process currently works and provide specific recommendations for improvement. Those of us in the Congress will soon have an opportunity to review this matter in greater detail for, as you may know, its current provisions, reauthorized and amended by the Independent Counsel Reauthorization Act of 1994, P.L. 103–270, June 30, 1994, will expire on June 30, 1999, unless reauthorized.

I ask unanimous consent to have this article printed in the RECORD and I thank my good friend Clifton Daniel of New York for calling it to my attention.

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

[From the New York Times August 11, 1998]

FORMER SPECIAL COUNSELS SEE NEED TO ALTER LAW THAT CREATED THEM

(By Todd S. Purdum)

They are a rarefied roster of not quite two dozen, the men and women who have served as independent counsels investigating high Government officials over the last 20 years. They have delved into accusations of everything from cocaine use by a senior White House aide to perjury, influence-peddling and favor-trading, and have produced decidedly mixed results, from no indictments to convictions to reversals on appeal.

Some of them have been harshly criticized for taking too long, spending too much or criminalizing conduct other prosecutors would most often not bother with. But as Kenneth W. Starr's investigation of President Clinton has moved from scrutiny of a tangled real estate investment to intimations of intimacy with an intern, the law that created independent counsels has come under attack as almost never before.

Interviews in the last week with seven of the people who have held the job since that law, the Ethics in Government Act of 1978, was adopted in the wake of Watergate produced broad consensus that the statute was needed but might have to be overhauled if it was to be renewed by Congress when it expires next year.

The former counsels were unanimous on one point: all were glad to have served. But a majority also said that as currently written, the law covered too many officials and too many potential acts of wrongdoing, and left the Attorney General too little discretion about when to invoke it.

''It should be limited to activities that occur in office,'' said Lawrence E. Walsh, who spent six years and $40 million investigating the Iran-contra affair and whose suggestions for changes were among the most sweeping. ''It should be limited to misuse of Government power and should not include personal mistakes or indiscretions. The enormous expense of an independent counsel's investigation and the disruption of the Presidency should not be inflicted except for something in which there was a misuse of power. That's not out of consideration for the individual; it's out of consideration for the country.''

And while the former counsels generally declined to comment on Mr. Starr's investigation, virtually all of them also said that wide experience as a criminal prosecutor or a defense lawyer—which Mr. Starr does not have—should be a requirement for the job.

''I believe strongly in the concept of an independent counsel to guarantee public confidence in the impartiality of any criminal investigation into conduct of top officials in the executive branch of our Government,'' said Whitney North Seymour Jr., who won a perjury conviction against Michael K. Deaver, a former top aide to President Ronald Reagan who was accused of lying about his lobbying activities after leaving office.

''However,'' Mr. Seymour continued, in comments generally echoed by his colleagues, ''appointments to that position should be limited to lawyers with proven good judgment and extensive prior experience in gathering admissible evidence, developing corroboration and satisfying the trial standard of reasonable doubt. We simply cannot afford the spectacle of on-the-job training in such a sensitive position.''

Since Arthur H. Christy was appointed in 1979 to investigate accusations that Hamilton Jordan, President Jimmy Carter's chief of staff, had used cocaine at Studio 54—a case that ended with no indictments—there have been a total of 20 independent-counsel investigations, some conducted by more than one prosecutor. The names of the targets of two investigations in the Bush era, and the counsels who conducted them, were sealed by court order. One investigator, Robert B. Fiske Jr., was appointed by Attorney General Janet Reno in 1994, at a time when the law had expired, and was replaced four years ago last week by a three-judge Federal panel that chose Mr. Starr instead, but Mr. Fiske had essentially all the same powers.

Five investigations of Clinton Administration officials, including Mr. Starr's, still await outcome, and Ms. Reno remains under intense pressure to ask the judicial panel for yet another independent counsel, to look into campaign finance abuses. No effort was made to interview those conducting active investigations, or the counsel who ended his investigation of Commerce Secretary Ronald H. Brown after Mr. Brown's death in a plane crash in 1996.

ENORMOUS POWER AND INTENSE ISOLATION

A common theme in the remarks of the seven former counsels who agreed to be interviewed was the momentous power and isolation of the job, a universe of solitude and solemn responsibility.

''In terms of individual power, I never had anything like this,'' said Mr. Walsh, who had served as a Federal district judge and Deputy Attorney General in the Eisenhower Administration. ''Night after night, I'd wake up in the middle of the night. I kept a notebook by my bed, and the only way I could get back to sleep was to write down whatever was bothering me. I'd worry about my travel expenses, thinking, 'This is going to seem very high.' ''

When Mr. Fiske set up shop to investigate Whitewater, he forsook the companionship of the only four friends he had in Little Rock, Ark., who all happened to be leading lawyers with ties to the city's political and legal establishment.

Scholarly critics of the independent counsel law, including a Supreme Court Justice, Antonin Scalia, have argued that it creates built-in incentives for prosecutors to pursue evidence and avenues of inquiry that law-enforcement officials might otherwise decide were never likely to bear fruit. Those incentives: simply the intense political pressure and public scrutiny that surround any appointment, and the requirement that the prosecutor produce a detailed report justifying all the effort.

That concern was also common among the former prosecutors themselves.

''There ought to be some way to limit the ability of an independent counsel to expand his or her investigation, to keep their eye on the original target they were initially appointed to investigate,'' said James C. McKay, whose conviction of Lyn Nofziger, a former Reagan aide charged with violating ethics laws on lobbying, was overturned on appeal after an inquiry that lasted 14 months and cost $3 million. ''When you think of how the Starr investigation started with Mr. Fiske and Whitewater and now what's become of it, it just seems that there should be some way to have prevented that from occurring.''

Joseph DiGenova, who ultimately brought no charges after a three-year, $2.2 million investigation into accusations that senior Bush Administration officials improperly sought information from Bill Clinton's passport files during the 1992 campaign, was the sole former prosecutor to condemn the law altogether, and he said it should not be renewed.

''All of the usual governors, both legal and practical, are absent, because of the special nature of the statute,'' said Mr. DiGenova, who argues that once the law is invoked, prosecutors are forced to bring ''an unnatural degree of targeted attention'' to the case.

DISCRETION THAT CUTS IN EITHER DIRECTION

Mr. Fiske, who like Mr. Walsh and Mr. DiGenova thinks any law should cover investigation of only the President, the Vice President and the Attorney General rather than the 75 or so senior Government and campaign officials now automatically covered, also worries about the potential for abuse.

''Once the person is selected, it's like recalling a missile,'' Mr. Fiske said. ''You can't recall it, and it's kind of unguided, except by its own gyroscope. And so all these things are judgment calls.''

But like his colleagues, he emphasized that a prosecutor's wide discretion ultimately cut both ways. He recalled that David Hale, a former municipal judge in Arkansas, having pleaded guilty and begun cooperating in the Whitewater case, provided much useful information, along with some that seemed far afield.

''There were a lot of other things that David Hale told us that we could have investigated under our charter,'' Mr. Fiske recounted, ''but I just said, 'This is too far removed from what we were supposed to be doing.' ''

Several of the prosecutors expressed concern that the current law led too easily to the appointment of independent counsels. Every time the Attorney General receives from a credible source specific allegations of wrongdoing by an official covered under the act, she has 30 days to decide, without compelling anyone's testimony, whether a preliminary investigation is warranted. If she concludes that it is, then she must decide within 90 days whether there are ''reasonable grounds'' to believe that further investigation is warranted. If there are, she must apply to the special three-judge court for appointment of an independent counsel.

''That time limit now is too brief,'' Mr. McKay said.

But one of the former prosecutors, who spoke only on the condition of anonymity, said that the law was sound as written and that complaints that it invited prosecutorial vendettas were overblown. Mr. Seymour also rejected complaints of unbridled power, saying he had had no more leeway as independent counsel than he had earlier had as United States Attorney in Manhattan in the Nixon Administration.

''The United States Attorney for the Southern District has almost unlimited

power,'' Mr. Seymour said. ''How the responsibility is carried out is another question.''

Similarly another former independent counsel, Alexia Morrison, said that the law did not need any major changes and that ''there's been a very successful campaign to lay faults at the foot of the statute when in fact it is conduct that got us here.'' Asked whether she meant conduct by President Clinton, Mr. Starr or both, Ms. Morrison simply repeated her assertion.

It was Ms. Morrison's investigation into whether Theodore Olson, an Assistant Attorney General in the Reagan Administration, misled Congress in a dispute over toxic waste cleanup that led to the 1988 Supreme Court ruling unholding the independent counsel law. And though she ultimately brought no charges after a 30-month, $1.5 million investigation, she, like some of her colleagues, said that very result underscored one of the most important features of the law: enhancing the public's confidence that nothing has been covered up.

''There are a heck of a lot of very troublesome investigations that have been resolved without bringing any criminal charges,'' Ms. Morrison said, ''and there was not a situation in which anyone came back and said, 'That's outrageous.'''

Mr. Fiske, too, said that in the absence of an independent counsel law, there would seldom be significant public controversy if high officials were charged and brought to trial, whatever the outcome, but that ''the problem is when the case isn't brought'' because a prosecutor decides there is not enough evidence or likelihood of success. ''In many respects,'' he said, ''that is where you need the independent counsel most of all.''

But for alleged misdeeds that may have occurred before a senior official took office, Mr. Walsh said, the independent counsel law should not apply. Rather, the solution should be to extend the statute of limitations for any such crimes and investigate after the official leaves office—a suggestion that Ms. Morrison seconded while acknowledging that this could pose its own problems, in terms of stale evidence or lost witnesses.

ONE COMMON THEME: DISDAIN FOR PARTISANSHIP

In one way or another, all the former counsels who were interviewed deplored the partisanship now surrounding an office that grew out of bipartisan concern over President Richard M. Nixon's ''Saturday night massacre'' of the first Watergate special prosecutor, Archibald Cox, and the two highest officials of the Justice Department.

''It's become so politicized now,'' Mr. McKay said, ''that the ins hate it and the outs love it just for the purpose of bringing the ins down. That's the part that will turn the public sour.''

Mr. Seymour agreed, saying: ''It plainly has gotten a bad name. And that comes from the public perception of recent events, and I think that's unfortunate.''

Mr. DiGenova contended that the aftermath of Mr. Cox's dismissal demonstrated that the independent counsel law was not needed, since the Watergate inquiry continued under a new special prosecutor, Leon Jaworski, until Mr. Nixon's downfall four years before the law was enacted.

''There's no way that a sitting President can possibly prevent his own investigation by firing anybody,'' Mr. DiGenova said, ''because the political process will not permit it.''

Ms. Morrison said it remained unclear whether the public would continue to support the law.

''I think most of the previous independent counsels have been able to achieve a result with a general sense of public confidence that the way they got there was appropriate,'' she said. ''But hold your breath. It may be that Starr can spin out a report that tells an incredibly interesting tale that puts the lie to most of the procedural and substantive assaults on him. On the other hand, if it looks like he hasn't produced so much, and has used an elephant gun on a flea, then maybe that won't be so well regarded.''

''A Rarefied Roster'', independent counsels, the years of their appointments and the results of their investigations.

1979, Arthur H. Christy, investigated accusations of cocaine use by Hamilton Jordan, chief of staff to President Jimmy Carter. No indictments.

1980, Gerald Gallinghouse, investigated accusations of cocaine use by Tim Kraft, President Carter's campaign manager. No indictments.

1981, Leon Silverman, investigated alleged mob ties of Raymond J. Donovan, Labor Secretary to President Ronald Reagan. No indictments.

1984, Jacob A. Stein, investigated alleged financial improprieties of Attorney General Edwin Meese 3d. No indictments.

1986, Whitney North Seymour Jr., won perjury conviction of Michael K. Deaver, former White House deputy chief of staff under President Reagan.

1986, Alexia Morrison, investigated accusations that former Assistant Attorney General Theodore Olson was deceptive about documents withheld from Congress. No indictments.

1986, Lawrence E. Walsh, investigated the sale of weapons to Iran and the diversion of some profits to Nicaraguan rebels. Obtained many convictions, some overturned on appeal, others leading to pardons by President George Bush.

1987, James C. McKay, won conviction of Lyn Nofziger for violating ethics law on lobbying. Conviction was overturned on appeal, and Mr. McKay decided not to retry case. Investigated Mr. Meese on accusations related to the collapse of Wedtech, a military contractor. No indictments.

1987, Carl Rauh, James Harper, investigated the finances of W. Lawrence Wallace, a former Assistant Attorney General. No indictment.

1989, Name of independent counsel and target sealed by court order. No indictment.

1990, Arlin M. Adams, Larry D. Thompson, investigated variety of scandals involving the sale of favors in the Department of Housing and Urban Development. Several indictments and convictions.

1991, Name of independent counsel and target sealed by court order. No indictment.

1992, Joseph DiGenova, investigated possible abuse of passport files by Bush Administration officials. No indictments.

1994, Robert B. Fiske Jr.,* Kenneth W. Starr, conducted inquiry into Whitewater real estate deal, since expanded to include several other investigations, some still ongoing.

1994, Donald C. Smaltz, won indictment of former Agriculture Secretary Mike Espy on charges of receiving, and covering up, favors from companies doing business with the Government. Trial pending. Mr. Espy's former chief of staff was convicted of lying to investigators.

1995, David M. Barrett, investigated accusations that Henry G. Cisneros, the Secretary of Housing and Urban Development, lied to the F.B.I. about payments he made to a former mistress. Won indictment of Mr. Cisneros on 18 felony counts. Trial pending.

1995, Daniel S. Pearson, investigated Commerce Secretary Ronald H. Brown's personal finances. Stopped after Mr. Brown was killed in a plane crash in Croatia.

1996, Curtis Emery von Kann, investigated Eli J. Segal for conflict-of-interest accusations involving fund-raising for a private group while he was head of the Americorps national service program. Investigation ended in 1997 without any action.

1998, Carol Elder Bruce, appointed to investigate whether Interior Secretary Bruce Babbitt broke the law in connection with his testimony to Congress about an Indian casino license.

1998, Ralph I. Lancaster Jr., appointed to investigate accusations that Labor Secretary Alexis Herman engaged in influence-peddling solicitation of $250,000 in illegal campaign contributions.

*Appointed by Attorney General Janet Reno during a period when the independent counsel law had lapsed.

MESSAGES FROM THE HOUSE

At 12:12 p.m., a message from the House of Representatives, delivered by one of its reading clerks announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 81. An act to designate the United States courthouse located at South Michigan Street in South Bend, Indiana, as the ''Robert K. Rodibaugh United States Courthouse.''

H.R. 1481. An act to amend the Great Lakes Fish and Wildlife Restoration Act of 1990 to provide for implementation of recommendations of the United States Fish and Wildlife Service contained in the Great Lakes Fishery Resources Restoration Study.

H.R. 1659. An act to provide for the expeditious completion of the acquisition of private mineral interests within the Mount St. Helens Volcanic Monument mandated by 1982 Act that established the Monument, and for other purposes.

H.R. 2000. An act to amend the Alaska Native Claims Settlement Act to make certain clarifications to the land bank protection provisions, and for other purposes.

H.R. 2314. An act to restore Federal Indian services to members of the Kickapoo Tribe of Oklahoma residing in Maverick County, Texas, to provide trust land for the benefit of the Tribe, and for other purposes.

H.R. 3381. An act to direct the Secretary of Agriculture and the Secretary of the Interior to exchange land and other assets with Big Sky Lumber Co. and other entities.

H.R. 4068. An act to make certain technical corrections in laws relating to Native Americans, and for other purposes.

H.R. 4558. An act to make technical amendments to clarify the provision of benefits for noncitizens, and to improve the provision of unemployment insurance, child support, and supplementary security income benefits.

The message also announced the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 315. Concurrent Resolution expressing the sense of the Congress condemning the atrocities by Serbian police and military forces against Albanians in Kosova and urging that blocked assets of the Federal Republic of Yugoslavia (Serbia and Montenegro) under control of the United States and other governments be used to compensate the Albanians in Kosova for losses suffered through Serbian police and military.

The message further announced that the House has passed the following bill, with amendments, in which it requests the concurrence of the Senate:

S. 1355. An act to designate the United States courthouse located in New Haven,

Connecticut, as the ''Richard C. Lee United States Courthouse.''

At 12:44 p.m., a message from the House of Representatives, delivered by one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two House on the amendment of the Senate to the bill (H.R. 4112) making appropriations for the Legislative Branch for the fiscal year ending September 30, 1999, and for other purposes.

At 3:00 p.m., a message from the House of Representatives, delivered by Mr. Hanrahan, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3616) to authorize appropriations for fiscal year 1999 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

ENROLLED BILLS SIGNED

The following enrolled bills, previously signed by the Speaker of the House, were signed on today on September 24, 1998, by the President pro tempore (Mr. THURMOND).

S. 1695. An act to authorize the Secretary of the Interior to study the suitability and feasibility of designating the Sand Creek Massacre National Historic Site in the State of Colorado as a unit of the National Park System, and for other purposes.

H.R. 1856. An act to amend the Fish and Wildlife Act of 1956 to promote volunteer programs and community partnerships for the benefits of national wildlife refuges, and for other purposes.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent and referred as indicated:

H.R. 81. An act to designate the United States courthouse located at South Michigan Street in South Bend, Indiana, as the ''Robert K. Rodibaugh United States Bankruptcy Courthouse''; to the Committee on Environment and Public Works.

H.R. 2314. An act to restore Federal Indian services to members of the Kickapoo Tribe of Oklahoma residing in Maverick County, Texas, to provide trust land for the benefit of the Tribe, and for other purposes, to the Committee on Indian Affairs.

The following concurrent resolution was real and referred as indicated:

H. Con. Res. 315. Concurrent resolution expressing the sense of the Congress condemning the atrocities by Serbian police and military forces against Albanians in Kosova and urging that blocked assets of the Federal Republic of Yugoslavia (Serbia and Montenegro) under control of the United States and other governments be used to compensate the Albanians in Kosova for losses suffered through Serbian police and military; to the Committee on Foreign Relations.

MEASURES PLACED ON THE CALENDAR

The following bills were read the first and second times, and placed on the calendar:

H.R. 1481. An act to amend the Great Lakes Fish and Wildlife Restoration Act of 1990 to provide for implementation of recommendations of the United States Fish and Wildlife Service contained in the Great Lakes Fishery Resources Restoration Study.

H.R. 1659. An act to provide for the expeditious completion of the acquisition of private mineral interests within the Mount St. Helens Volcanic Monument mandated by 1982 act that established the Monument, and for other purposes.

H.R. 2000. An act to amend the Alaska Native Claims Settlement Act to make certain clarifications to the land bank protection provisions, and for other purposes.

H.R. 3381. An act to direct the Secretary of the Agriculture and the Secretary of the Interior to exchange land and other assets with Big Sky Lumber Co. and other entities.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on September 24, 1998 he had presented to the President of the United States, the following enrolled bill:

S. 1695. An act to authorize the Secretary of the Interior to study the suitability and feasibility of designating the Sand Creek Massacre National Historic Site in the State of Colorado as a unit of the National Park System, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–7101. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a cumulative report on rescissions and deferrals dated September 18, 1998; referred jointly, pursuant to the order of January 30, 1975 as modified by the order of April 11, 1986, to the Committee on Appropriations, to the Committee on the Budget, to the Committee on Agriculture, Nutrition, and Forestry, to the Committee on Commerce, Science, and Transportation, to the Committee on Energy and Natural Resources, to the Committee on Finance, and to the Committee on Foreign Relations.

EC–7102. A communication from the Administrator of the Substance Abuse and Mental Health Services Administration, Department of Health and Human Services, transmitting, pursuant to law, notice of drug-free workplace plan certifications for certain agencies; to the Committee on Appropriations.

EC–7103. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the Department's report on agency drug-free workplace plans; to the Committee on Appropriations.

EC–7104. A communication from the Executive Director of the Committee For Purchase From People Who Are Blind or Severely Disabled, transmitting, pursuant to law, a notice of additions to the Committee's Procurement List dated September 15, 1998; to the Committee on Governmental Affairs.

EC–7105. A communication from the Secretary of Labor, transmitting, pursuant to law, the Department's report on the labor market for veterans; to the Committee on Veterans' Affairs.

EC–7106. A communication from the Secretary of Defense, transmitting, notice of routine military retirements; to the Committee on Armed Services.

EC–7107. A communication from the Federal Register Liaison Officer, Office of Thrift Supervision, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Agency Disapproval of Directors and Senior Executive Officers of Savings Associations and Savings and Loan Holding Companies'' (RIN1550–AB10) received on September 22, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC–7108. A communication from the General Counsel of the Department of Housing and Urban Development, transmitting, pursuant to law, the report of two rules regarding the Section 8 Management Assessment Program and the Hispanic-Serving Institutions Work Study Program (RIN2577–AB60, RIN2528–AA06) received on September 23, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC–7109. A communication from the Manager of the Federal Crop Insurance Corporation, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Common Crop Insurance Regulations; Guaranteed Production Plan of Fresh Market Tomato Crop Insurance Provisions'' received on September 22, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–7110. A communication from the Manager of the Federal Crop Insurance Corporation, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Nursery Crop Insurance Regulations; and Common Crop Insurance Regulations; Nursery Crop Insurance Provisions'' (RIN0563-AB65) received on September 22, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–7111. A communication from the Chairman of the Federal Communications Commission, transmitting, pursuant to law, the Commission's report under the Freedom of Information Act for calendar year 1997; to the Committee on the Judiciary.

EC–7112. A communication from the Chairman of the United States Sentencing Commission, transmitting, the Commission's Annual Report and Sourcebook of Federal Sentencing Statistics for fiscal year 1997; to the Committee on the Judiciary.

EC–7113. A communication from the Chairman of the United States Sentencing Commission, transmitting, pursuant to law, notice of an amendment to the sentencing guidelines regarding telemarketing fraud; to the Committee on the Judiciary.

EC–7114. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the Department's ''Consolidated Report on the Community Services Block Grant Program Implementation Assessments'' for fiscal years 1992 through 1997; to the Committee on Labor and Human Resources.

EC–7115. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the Department's reports on the National Information System for the Community Services Block Grant Program for fiscal years 1991 through 1995; to the Committee on Labor and Human Resources.

EC–7116. A communication from the Assistant Secretary for Employment Standards, Department of Labor, transmitting, pursuant to law, the report of a rule entitled ''Technical Amendments of Rules Relating to Labor-Management Standards of Conduct for Federal Sector Labor Organizations; Correction'' (RIN1215–AB22) received on September 22, 1998; to the Committee on Labor and Human Resources.

EC–7117. A communication from the Assistant Secretary for Occupational Safety and Health, Department of Labor, transmitting, pursuant to law, the report of a rule entitled ''Occupational Exposure to Methylene Chloride'' (RIN1218–AA98) received on September 21, 1998; to the Committee on Labor and Human Resources.

EC–7118. A communication from the Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Obstetric and Gynecological Devices; Reclassification and Classification of Medical Devices Used for In Vitro Fertilization and Related Assisted Reproduction Procedures'' (Docket 97N–0335) received on September 22, 1998; to the Committee on Labor and Human Resources.

EC–7119. A communication from the Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Removal of Regulations Regarding Certification of Antibiotic Drugs'' (Docket 98N–0211) received on September 22, 1998; to the Committee on Labor and Human Resources.

EC–7120. A communication from the Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Removal of Regulations Regarding Certification of Drugs Composed Wholly or Partly of Insulin'' (Docket 98N–0210) received on September 22, 1998; to the Committee on Labor and Human Resources.

EC–7121. A communication from the Inspector General of the Railroad Retirement Board, transmitting, pursuant to law, the Office of Inspector General's budget request for fiscal year 2000; to the Committee on Labor and Human Resources.

EC–7122. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Source Rules for Foreign Sales Corporation Transfer Pricing'' (RIN1545–AV90) received on September 17, 1998; to the Committee on Finance.

EC–7123. A communication from the National Director of Appeals, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Settlement Guideline: Tenant Allowances to Retail Store Operators'' received on September 23, 1998; to the Committee on Finance.

EC–7124. A communication from the National Director of Appeals, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Settlement Guideline: Subchapter K Anti-Abuse Rule'' received on September 23, 1998; to the Committee on Finance.

EC–7125. A communication from the Chief of the Regulations Branch, U.S. Customs Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Lay Order Period; General Order; Penalties'' received on September 21, 1998; to the Committee on Finance.

EC–7126. A communication from the Acting Chief of the Regulations Branch, U.S. Customs Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Andean Trade Preference'' received on September 22, 1998; to the Committee on Finance.

EC–7127. A communication from the Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''An Update of Addresses and OMB Information Collection Numbers for Fish and Wildlife Service Permit Applications'' (RIN1080–AF07) received on September 22, 1998; to the Committee on Environment and Public Works.

EC–7128. A communication from the Director of the Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Endangered and Threatened Wildlife and Plants; Final Rule to List the San Bernardino Kangaroo Rat as Endangered'' (RIN1018–AE59) received on September 21, 1998; to the Committee on Environment and Public Works.

EC–7129. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Glutamic Acid; Technical Amendment and Correction of Pesticide Tolerance Exemption'' (FRL6029–1) received on September 21, 1998; to the Committee on Environment and Public Works.

EC–7130. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Flufenacet; Time-Limited Pesticide Tolerance'' (FRL6028–8) received on September 21, 1998; to the Committee on Environment and Public Works.

EC–7131. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Isoxaflutole; Pesticide Tolerance'' (FRL6029–3) received on September 21, 1998; to the Committee on Environment and Public Works.

EC–7132. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''National Emission Standards for Hazardous Air Pollutants for Flexible Polyurethane Foam Production'' (FRL6163–9) received on September 21, 1998; to the Committee on Environment and Public Works.

EC–7133. A communication from the Chairman of the Federal Maritime Commission, transmitting, pursuant to law, the report of a rule entitled ''Update of Existing and Addition of New Filing and Service Fees'' (Docket 98–09) received on September 22, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7134. A communication from the Administrator of the National Aeronautics and Space Administration, transmitting, pursuant to law, notice of changes to NASA's initial FY 1998 Operating Plan; to the Committee on Commerce, Science, and Transportation.

EC–7135. A communication from the Chairman of the Federal Communications Commission, transmitting, pursuant to law, the Commission's Third Annual Report and Analysis of Competitive Market Conditions With Respect to Commercial Mobile Services; to the Committee on Commerce, Science, and Transportation.

EC–7136. A communication from the Associate Managing Director for Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, the report of a rule regarding financing for personal communications services licensees (Docket 97–82) received on September 22, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7137. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; CFM International CFM56–5B/2P Series Turbofan Engines'' (Docket 97–ANE–29–AD) received on September 21, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7138. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Cessna Aircraft Company Models T210N, P210N, and P210R Airplanes'' (Docket 97–CE–62–AD) received on September 21, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7139. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Bombardier Model CL–600–2B19 (Regional Jet Series 100) Series Airplanes'' (Docket 98–NM–236–AD) received on September 21, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7140. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Boeing Model 777–200 Series Airplanes Equipped With Air Cruisers Evacuation Slides/Rafts'' (Docket 97–NM–95–AD) received on September 21, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7141. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Boeing Model 757–200 Series Airplanes'' (Docket 96–NM–232–AD) received on September 21, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7142. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Airbus Model A310 and A300–600 Series Airplanes'' (Docket 98–NM–17–AD) received on September 21, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7143. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Airbus Model A320 Series Airplanes'' (Docket 98–NM–26–AD) received on September 21, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7144. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Glaser-Dirks Flugzeubau GmbH Model DG–400 Gliders'' (Docket 98–CE–12–AD) received on September 21, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7145. A communication from the Acting Director of the Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Atlantic Tuna Fisheries; Atlantic Bluefin Tuna; Closure'' (I.D. 090498A) received on September 22, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7146. A communication from the Policy, Management and Information Officer, National Ocean Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Announcement of Graduate Research Fellowships in the National Estuarine Research Reserve System for Fiscal Year 1999'' (RIN0648–ZA45) received on September 22, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7147. A communication from the Acting Director of the Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of

a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 630 of the Gulf of Alaska'' (I.D. 091598B) received on September 22, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7148. A communication from the Director of the Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 610 in the Gulf of Alaska'' (I.D. 091198D) received on September 22, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7149. A communication from the Director of the Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Atlantic Tuna Fisheries; Atlantic Bluefin Tuna; Closure'' (I.D. 090898A) received on September 22, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7150. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, notice of a proposed manufacturing license agreement with Turkey for the production of certain transceivers (DTC 89–98); to the Committee on Foreign Relations.

EC–7151. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, notice of a proposed Manufacturing License Agreement with the United Kingdom for the production of Longbow Hellfire Missile warheads (DTC 93–98); to the Committee on Foreign Relations.

EC–7152. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, notice of a proposed licence for the export of TOW 2A Anti-Tank Missiles to Greece (DTC 97–98); to the Committee on Foreign Relations.

EC–7153. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, notice of a proposed licence for the export of S70B SEAHAWK helicopters to Turkey (DTC 98–98); to the Committee on Foreign Relations.

EC–7154. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, notice of a proposed Manufacturing License Agreement with Spain for the production of M60A3 Laser Tank Fire Control Systems (DTC 105–98); to the Committee on Foreign Relations.

EC–7155. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, notice of a proposed Manufacturing License Agreement with the United Kingdom for the production of Airborne TOW Missile Fire Control Systems (DTC 107–98); to the Committee on Foreign Relations.

EC–7156. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, notice of a proposed Manufacturing License Agreement with Japan for the production of AN/VPS–2 radar equipment (DTC 110–98); to the Committee on Foreign Relations.

EC–7157. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, notice of a proposed Manufacturing License Agreement with Japan for the production of T56–A–14 engines for P–3C aircraft (DTC 122–98); to the Committee on Foreign Relations.

EC–7158. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, a list of internatioanl agreements other than treaties entered into by the United States (98–139 to 98–149); to the Committee on Foreign Relations.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. D'AMATO, from the Committee on Banking, Housing, and Urban Affairs, with an amendment in the nature of a substitute:

S. 1405. A bill to provide for improved monetary policy and regulatory reform in financial institution management and activities, to streamline financial regulatory agency actions, to provide for improved consumer credit disclosure, and for other purposes (Rept. No. 105–346).

By Mr. HATCH, from the Committee on the Judiciary, without amendment:

H.R. 378. A bill for the relief of Heraclio Tolley.

H.R. 379. A bill for the relief of Larry Errol Pieterse.

H.R. 2744. A bill for the relief of Chong Ho Kwak.

S. 1202. A bill providing relief for Sergio Lozano, Fauricio Lozano, and Ana Lozano.

S. 1460. A bill for the relief of Alexandre Malofienko, Olga Matsko, and their son Vladimir Malofienko.

S. 1551. A bill for the relief of Kerantha Poole-Christian.

By Mr. HATCH, from the Committee on the Judiciary, with an amendment in the nature of a substitute and an amendment to the title:

S. 2151. A bill to clarify Federal law to prohibit the dispensing or distribution of a controlled substance for the purpose of causing, or assisting in causing, the suicide, euthanasia, or mercy killing of any individual.

By Mr. HATCH, from the Committee on the Judiciary, without amendment:

S. 2235. A bill to amend part Q of the Omnibus Crime Control and Safe Streets Act of 1968 to encourage the use of school resource officers.

S. 2253. A bill to establish a matching grant program to help State and local jurisdictions purchase bullet resistant equipment for use by law enforcement departments.

EXECUTIVE REPORTS OF COMMITTEE

The following executive reports of committees were submitted:

By Mr. THURMOND, from the Committee on Armed Services:

Bernard Daniel Rostker, of Virginia, to be Under Secretary of the Army.

James M. Bodner, of Virginia, to be Deputy Under Secretary of Defense for Policy.

Stephen W. Preston, of the District of Columbia, to be General Counsel of the Department of the Navy.

Herbert Lee Buchanan III, of Virginia, to be an Assistant Secretary of the Navy.

Jeh Charles Johnson, of New York, to be General Counsel of the Department of the Air Force.

Richard Danzig, of the District of Columbia, to be Secretary of the Navy.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

The following named Reserve officer for appointment as Chief of the Air Force Reserve under title 10, U.S.C., section 8038:

To be Chief of the Air Force Reserve, United States Air Force

Maj. Gen. James E. Sherrard, III, 6641

The following named officer for appointment in the United States Air Force to the grade indicated under title 10, U.S.C., section 624:

To be brigadier general

Col. Robert W. Chedister, 3487

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility and title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Charles R. Heflebower, 8234

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility and title 10, U.S.C., section 601:

To be lieutenant general

Lt. Gen. Thomas R. Case, 2013

The following Air National Guard of the United States officer for appointment in the Reserve of the Air Force to the grade indicated under title 10, U.S.C., section 12203:

To be brigadier general

Col. Richard J. Hart, 0821

The following named officer for appointment as The Judge Advocate General of the United States Air Force and for appointment to the grade indicated under title 10, U.S.C., section 8037:

To be major general

Brig. Gen. William A. Moorman, 5251

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility and title 10, U.S.C., section 601:

To be general

Lt. Gen. Montgomery C. Meigs, 3239

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility and title 10, U.S.C., section 601:

To be lieutenant general

Lt. Gen. William M. Steele, 0433

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility and title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. John Costello, 9581

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Ronald E. Adams, 5264

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Lt. Gen. Randolph W. House, 7507

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Davis S. Weisman, 2064

The following named officer for appointment in the United States Army to the grade

indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Daniel J. Petrosky, 1004

The following named officer for appointment in the Reserve of the Army to the grade indicated under title 10, U.S.C., section 12203:

To be major general

Brig. Gen. Darrel W. McDaniel, 4512

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be general

Gen. Eric K. Shinseki, 3256

The following named officer for appointment in the United States Marine Corps to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Lt. Gen. Michael J. Byron, 1295

The following named officers for appointment in the United States Navy to the grade indicated under title 10, U.S.C., section 624:

To be rear admiral

Rear Adm. (lh) Keith W. Lippert, 1581
Rear Adm. (lh) Paul O. Soderberg, 9559

The following named officers for appointment in the United States Naval Reserve to the grade indicated under title 10, U.S.C., section 12203:

Capt. Mark R. Feichtinger, 3808
Capt. John A. Jackson, 3255
Capt. Sam H. Kupresin, 8757
Capt. John P. McLaughlin, 4645
Capt. James B. Plehal, 5145
Capt. Marke R. Shelley, 9994

The following named officers for appointment in the United States Naval Reserve to the grade indicated under title 10, U.S.C., section 12203:

To be rear admiral (Lower Half)

Capt. James S. Allan, 7214
Capt. Maurice B. Hill, Jr., 6455
Capt. Duret S. Smith, 6254
Capt. James M. Walley, Jr., 5129
Capt. Jerry D. West, 5130

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be admiral

Vice Adm. Dennis C. Blair, 1618

The following named officers for appointment in the United States Navy to the grade indicated under title 10, U.S.C., section 624:

To be rear admiral (lower half)

Capt. David Architzel, 0741
Capt. Jose L. Betancourt, 0044
Capt. Annette E. Brown, 7474
Capt. Brian M. Calhoun, 7720
Capt. Kevin J. Cosgriff, 3968
Capt. Lewis W. Crenshaw, Jr., 4960
Capt. Joseph E. Enright, 8942
Col. Terrance T. Etnyre, 8044
Capt. Mark P. Fitzgerald, 2694
Capt. Jonathan W. Greenert, 8869
Capt. Charles H. Griffiths, Jr., 0725
Capt. Stephen C. Heilman, 2302
Capt. Curtis A. Kemp, 5881
Capt. Anthony W. Lenderich, 9020
Capt. Walter B. Massenburg, 4394
Capt. Michael G. Mathis, 4091
Capt. James K. Moran, 5752
Capt. Charles L. Munns, 9043
Capt. Richard B. Porterfield, 3989
Capt. Issac E. Richardson III, 4443
Capt. James A. Robb, 4692
Capt. Paul S. Schultz, 8203
Capt. Joseph A. Sestaak, Jr., 0962
Capt. David M. Stone, 6735
Capt. Steven J. Tomaszeski, 3394
Capt. John W. Townes III, 0177
Capt. Thomas E. Zelibor, 6272

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be vice admiral

Vice Adm. Vernon E. Clark, 8489

(The above nominations were reported with the recommendations that they be confirmed.)

Mr. THURMOND. Madam President, from the Committee on Armed Services, I report favorably the attached listing of nominations which were printed in full in the RECORDS of July 22, 1998, July 30, 1998, September 2 1998, September 3, 1998, September 10, 1998, September 11, 1998 and September 14, 1998, and ask unanimous consent, to save the expense of printing on the Executive Calendar, that these nominations lie at the Secretary's desk for the information of Senators.

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

(The nominations ordered to lie on the Secretary's desk were printed in the RECORDS of July 22, 1998, July 30, 1998, September 2, 1998, September 3, 1998, September 10, 1998, September 11, 1998 and September 14, 1998, at the end of the Senate proceedings.)

In the Army nominations beginning *David W. Acuff, and ending *Michael E. Yarman, which nominations were received by the Senate and appeared in the Congressional Record of July 22, 1998.

In the Navy nominations beginning Ann E.B. Adcook, and ending Thomas J. Yurik, which nominations were received by the Senate and appeared in the Congressional Record of July 22, 1998.

In the Air Force nominations beginning Jeffrey C. Mabry, and ending Neal A. Thagard, which nominations were received by the Senate and appeared in the Congressional Record of July 30, 1998.

In the Army nominations beginning David W. Brooks, and ending Shelby R. Pearcy, which nominations were received by the Senate and appeared in the Congressional Record of July 30, 1998.

In the Navy nominations beginning David W. Adams, and ending John R. Anderson, which nominations were received by the Senate and appeared in the Congressional Record of July 30, 1998.

In the Air Force nominations beginning Hart Jacobsen, and ending Henry S. Jordan, which nominations were received by the Senate and appeared in the Congressional Record of September 2, 1998.

In the Air Force nominations beginning Charles C. Armstead, and ending Scott A. Zuerlein, which nominations were received by the Senate and appeared in the Congressional Record of September 2, 1998.

In the Army nomination of Col. James G. Harris, which was received by the Senate and appeared in the Congressional Record of September 2, 1998.

In the Marine Corps nomination of Lt. Col. Edward R. Cawthon, which was received by the Senate and appeared in the Congressional Record of September 2, 1998.

In the Navy nominations beginning Thomas A. Buterbaugh, and ending Dermot P. Cashman, which nominations were received by the Senate and appeared in the Congressional Record of September 2, 1998.

In the Navy nominations beginning Dean A. Barsaleau, and ending James N. Rosenthal, which nominations were received by the Senate and appeared in the Congressional Record of September 2, 1998.

In the Air Force nomination of Larry V. Zettwoch, which was received by the Senate and appeared in the Congressional Record of September 3, 1998.

In the Army nomination of Carl W. Huff, which was received by the Senate and appeared in the Congressional Record of September 3, 1998.

In the Army nominations beginning Robert D. Alston, and ending Earl R. Woods, Jr., which nominations were received by the Senate and appeared in the Congressional Record of September 3, 1998.

In the Navy nominations beginning John M. Adams, and ending Maureen J. Zeller, which nominations were received by the Senate and appeared in the Congressional Record of September 10, 1998.

In the Navy nominations beginning Christopher L. Abbott, and ending Kevin S. Zumbar, which nominations were received by the Senate and appeared in the Congressional Record of September 10, 1998.

In the Navy nominations beginning Daniel Avenancio, and ending Carl B. Weicksel, which nominations were received by the Senate and appeared in the Congressional Record of September 11, 1998.

In the Navy nominations beginning Karla M. Abreuolson, and ending Glen A. Zurlo, which nominations were received by the Senate and appeared in the Congressional Record of September 11, 1998.

In the Navy nominations beginning Leanne K. Aaby, and ending Michael J. Zucchero, which nominations were received by the Senate and appeared in the Congressional Record of September 14, 1998.

By Mr. THOMPSON, from the Committee on Governmental Affairs:

Patricia A. Broderick, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for the term of fifteen years, vice Harriett Rosen Taylor, term expired.

Natalia Combs Greene, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for the term of fifteen years, vice Stephen F. Eilperin.

Neal E. Kravitz, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for the term of fifteen years, vice Paul Rainey Webber, III, term expired.

(The above nominations were reported with the recommendation that they be confirmed.)

Kenneth Prewitt, of New York, to be Director of the Census, vice Martha F. Riche, resigned.

Robert M. Walker, of Tennessee, to be Deputy Director of the Federal Emergency Management Agency, vice Harvey G. Ryland, resigned.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first

and second time by unanimous consent, and referred as indicated:

By Mr. LEAHY (for himself, Mr. JEFFORDS, Mrs. HUTCHISON, Mr. FEINGOLD, Ms. MOSELEY-BRAUN, Mr. MOYNIHAN, Mr. GREGG, Mr. SARBANES, Mr. CLELAND, and Mr. DODD):

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; to the Committee on Commerce, Science, and Transportation.

By Mr. REID:

S. 2515. A bill to amend the Internal Revenue Code of 1986 to increase the amount of Social Security benefits exempt from tax for single taxpayers; to the Committee on Finance.

By Mr. GRASSLEY (for himself and Mr. DURBIN):

S. 2516. A bill to make improvements in the operation and administration of the Federal courts, and for other purposes; to the Committee on the Judiciary.

By Mr. GRAMS:

S. 2517. A bill to amend the Federal Crop Insurance Act to establish a pilot program commencing in crop year 2000 for a period of 2 years in certain States to provide improved crop insurance options for producers; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. MOYNIHAN:

S. 2518. A bill to enhance family life; to the Committee on Finance.

By Mr. MCCAIN (for himself and Mr. BURNS):

S. 2519. A bill to promote and enhance public safety through use of 9–1–1 as the universal emergency assistance number, further deployment of wireless 9–1–1 service, support of States in upgrading 9–1–1 capabilities and related functions, encouragement of construction and operation of seamless, ubiquitous and reliable networks for personal wireless services, and ensuring access to Federal Government property for such networks, and for other purposes; to the Committee on Commerce, Science, and Transportation.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. JOHNSON:

S. Res. 282. A resolution to express the sense of the Senate regarding social security and the budget surplus; to the Committee on the Budget and the Committee on Governmental Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LEAHY (for himself, Mr. JEFFORDS, Mrs. HUTCHINSON, Mr. FEINGOLD, Ms. MOSELEY-BRAUN, Mr. MOYNIHAN, Mr. GREGG, Mr. SARBANES, Mr. CLELAND, and Mr. DODD):

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; to the Committee on Commerce, Science, and Transportation.

TELECOMMUNICATIONS LEGISLATION

● Mr. LEAHY. Mr. President, I am pleased to continue my strong objections to proposed Federal Communications Commission rules that could rob states and communities of the authority to decide where unsightly telecommunications towers should be built.

I am one of five Senators who voted against the Telecommunications Act of 1996. One of my fears was that the will and voice of states and local communities would be muzzled if that bill became law. Unfortunately, with the passage and implementation of the Telecommunications Act, my fears have been confirmed.

Mayors and citizens in Vermont towns and in towns across this nation are outraged that they have little control over the construction of these towers. This is especially troubling when communications technology is advancing so rapidly that large towers may become obsolete.

For example, some wireless phone providers offer the older analog wireless service. That is now being replaced by digital phone service in many parts of the nation. Analog providers could provide towerless service to towns by using an array of small antennas, instead of a large tower. Phone companies prefer to build one large tower with its switching equipment because that is cheaper than the switching equipment needed to control an array of small antennas. However, if a town does not want its landscape ruined with a tower, I think the company should be required to offer service through these smaller antennas.

Second, for companies offering the ''newer'' digital wireless phone service, other technologies are eliminating the need for large towers. The Iridium Corporation will offer phone service throughout the United States in the near future that is based on more than 60 low-earth-orbit satellites. Over time, this will provide a satellite communications link from any place in the world, even where no tower-based system is available.

In areas of the United States outside the range of cellular coverage the Iridium phone will connect you directly to the Iridium satellite network. Emergency communications—911 and disaster assistance—will be greatly aided with this development.

Hospitals, ambulances and other emergency service providers will be linked together by satellite directly from a hand held phone.

The Wall Street Journal reports that this service will cost more than regular cell phone service. However, they also report that other competitors and more efficiencies of scale are likely to bring down costs over time.

In addition, I have previously discussed how the towerless PCS-Over-Cable technology provides digital cellular phone service by using small antennas rather than large towers. These small antennas can be quickly attached to existing telephone poles, lamp posts or buildings and can provide quality wireless phone service without the use of towers. This technology is cheaper than most tower technology in part because the PCS-Over-Cable wireless provider does not have to purchase land to erect large towers.

Since there are viable and reasonable alternatives to providing wireless phone service through the use of towers, I think that towns should have some say in this matter. And I think that mayors, town officials and local citizens will agree with me.

Why should a large tower be forced on a town when wireless phone service can be provided without using a tower? Indeed, many argue that towerless phone service is much better in a disaster situation. During New England's ice storm, I am told that some towers collapsed. Tornadoes, earthquakes or hurricanes can destroy large telephone towers. But satellite phone service would not be affected by these disasters. Also, the PCS-Over-Cable technology is much less likely to be out of service for large areas during a disaster as compared to wireless phone service provided by large towers.

In addition, other advances in communications technology may also make towers obsolete even faster than anticipated.

This is one reason why I am so concerned about the federal government taking away the power of local communities to control where these towers are located. When big, unsightly towers are proposed to be located in the wrong place, towns should be able to just say no. And if the rules proposed by the FCC are implemented, towns will be further marginalized and even lose their input as to where the towers are placed.

As I have said before, I do not want Vermont turned into a pincushion, with 200 foot towers indiscriminately sprouting up on every mountain and in every valley. I have heard from many Vermonters, as well as town leaders and citizens from across the country, who are justifiably afraid that they are losing control over the siting, design, and construction of telecommunications towers and related facilities. They feel that state and local concerns are being sacrificed to the interests of a small part of the telecommunications industry that uses large towers.

Today I continue in my commitment to the preservation of state and local authority. I am joined by Senators JEFFORDS, HUTCHINSON, MOYNIHAN, FEINGOLD, GREGG, MOSELEY-BRAUN, SARBANES, DODD, and CLELAND in introducing legislation which would repeal the authority of the FCC to preempt state and local regulations affecting the placement of new telecommunications towers. This legislation expands and improves upon S. 1350, which I introduced one year ago.

Vermont communities and the state of Vermont must have a role in deciding where towers are going to go. They

must be able to take into account the protection of Vermont's scenic beauty. This is true for other states as well.

In fact, by requiring the companies to work with Vermont towns, acceptable alternative locations of towers, acceptable co-location of antennas on existing towers, or the use of alternative towerless technology, could be suggested. This would be much better than allowing any company to just come in willy-nilly and plop down towers next to our backyards.

In my view passage of this bill will actually promote better emergency phone service, better phone service in disasters and the more advanced digital wireless phone service.

The bill I am introducing today will mandate that states and towns cannot be ignored in the spread of telecommunications towers. This bill will recognize that states and towns do have choices in this cellular age.

This bill also incorporates the concerns of the aviation industry. The Federal Aviation Administration presently does not have authority to regulate the siting of towers. Airport officials work with local governments in the siting of towers. Silencing local governments will have a direct effect on airline safety, according to the representatives of the airline industry that we have heard from.

In a comment letter responding to the FCC's proposed rule, the National Association of State Aviation Officials attacked preemption on the grounds that it ''is contrary to the most fundamental principles of aviation safety * * * the proposed rule could result in the creation of hazards to aircraft and passengers at airports across the United States, as well as jeopardize safety on the ground.'' I cannot think of anyone who would want towers constructed irrespective of the negative and potentially dangerous impacts they may have on airplane flight and landing patterns.

Make no mistake. I am for progress, but not for ill-considered, so-called progress at the expense of Vermont families, towns and homeowners. Vermont can protect its rural and natural beauty while still providing for the amazing opportunities offered by these technological advances.

To deprive states of the ability to protect their land from unsightly towers is wrong, and the FCC rules should not stand. My legislation would reaffirm that states have a role to play in where telecommunications towers are placed and providing alternates to wireless providers.

I ask unanimous consent that this new legislation be printed in the RECORD.

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

S. 2514

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

SECTION 1. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress makes the following findings:

(1) The placement of commercial telecommunications, radio, or television towers near homes can greatly reduce the value of such homes, destroy the views from such homes, and reduce substantially the desire to live in such homes.

(2) States and localities should be able to exercise control over the siting and modification of such towers through the use of zoning, planned growth, and other controls relating to the protection of the environment and public safety.

(3) There are alternatives to the construction of towers to meet telecommunications and broadcast needs, including the co-location of antennae on existing towers or structures, towerless PCS-Over-Cable telephone service, satellite television systems, low-Earth orbit satellite communication networks, and other alternative technologies.

(4) There are alternative methods of designing towers to meet telecommunications and broadcast needs, including the use of small towers that do not require blinking aircraft safety lights, break skylines, or protrude above tree canopies and that are camouflaged or disguised to blend with their surroundings, or both.

(5) On August 19, 1997, the Federal Communications Commission issued a proposed rule, MM Docket No. 97–182, which would preempt the application of State and local zoning and land use ordinances regarding the placement of broadcast transmission facilities. It is in the interest of the Nation that the Commission not adopt this rule.

(6) It is in the interest of the Nation that the memoranda opinions and orders and proposed rules of the Commission with respect to application of certain ordinances to the placement of such towers (WT Docket No. 97–192, ET Docket No. 93–62, RM–8577, and FCC 97–303, 62 F.R. 47960) be modified in order to permit State and local governments to exercise their zoning and land use authorities, and their power to protect public health and safety, to regulate the placement of telecommunications or broadcast towers and to place the burden of proof in civil actions, and in actions before the Commission relating to the placement of such towers, on the person or entity that seeks to place, construct, or modify such towers.

(7) PCS-Over-Cable or satellite telecommunications systems, including low-Earth orbit satellites, offer a significant opportunity to provide so-called ''911'' emergency telephone service throughout much of the United States.

(8) According to the Comptroller General, the Commission does not consider itself a health agency and turns to health and radiation experts outside the Commission for guidance on the issue of health effects of radio frequency exposure.

(9) The Federal Aviation Administration does not have the authority to regulate the siting of personal wireless telephone or broadcast transmission towers near airports or high-volume air traffic areas such as corridors of airspace or commonly used flyways. The Commission's proposed rules to preempt State and local zoning and land-use restrictions for the siting of such towers will have a serious negative impact on aviation safety, airport capacity and investment, and the efficient use of navigable airspace.

(b) PURPOSES.—The purposes of this Act are as follows:

(1) To repeal certain limitations on State and local authority regarding the placement, construction, and modification of personal wireless service towers and related facilities as such limitations arise under section 332(c)(7) of the Communications Act of 1934 (47 U.S.C. 332(c)(7)).

(2) To permit State and local governments—

(A) in cases where the placement, construction, or modification of personal wireless service telephone and broadcast towers and other facilities is inconsistent with State and local requirements or decisions, to require the use of alternative telecommunication or broadcast technologies when such alternative technologies are available; and

(B) to regulate the placement of such towers so that their location or modification will not interfere with the safe and efficient use of public airspace or otherwise compromise or endanger public safety.

SEC. 2. STATE AND LOCAL AUTHORITY OVER PLACEMENT, CONSTRUCTION, AND MODIFICATION OF BROADCAST TRANSMISSION AND OTHER TELECOMMUNICATIONS FACILITIES.

(a) REPEAL OF LIMITATIONS ON REGULATION OF PERSONAL WIRELESS FACILITIES.—Section 332(c)(7)(B) of the Communications Act of 1934 (47 U.S.C. 332(c)(7)(B)) is amended—

(1) in clause (i), by striking ''thereof—'' and all that follows through the end and inserting ''thereof shall not unreasonably discriminate among providers of functionally equivalent services.'';

(2) by striking clause (iv);

(3) by redesignating clause (v) as clause (iv); and

(4) in clause (iv), as so redesignated—

(A) in the first sentence, by striking ''30 days after such action or failure to act'' and inserting ''30 days after exhaustion of any administrative remedies with respect to such action or failure to act''; and

(B) by striking the third sentence and inserting the following: ''In any such action in which a person seeking to place, construct, or modify a tower facility is a party, such person shall bear the burden of proof.''.

(b) PROHIBITION ON ADOPTION OF RULE REGARDING PREEMPTION OF STATE AND LOCAL AUTHORITY OVER BROADCAST TRANSMISSION FACILITIES.—Notwithstanding any other provision of law, the Federal Communications Commission may not adopt as a final rule the proposed rule set forth in ''Preemption of State and Local Zoning and Land Use Restrictions on Siting, Placement and Construction of Broadcast Station Transmission Facilities'', MM Docket No. 97–182, released August 19, 1997.

(c) AUTHORITY OVER PLACEMENT, CONSTRUCTION, AND MODIFICATION OF OTHER TRANSMISSION TOWERS.—Part I of title III of the Communications Act of 1934 (47 U.S.C. 301 et seq.) is amended by adding at the end the following:

''SEC. 337. STATE AND LOCAL AUTHORITY OVER PLACEMENT, CONSTRUCTION, AND MODIFICATION OF TELECOMMUNICATIONS AND BROADCAST TOWERS.

''(a) IN GENERAL.—Notwithstanding any other provision of this Act, no provision of this Act may be interpreted to authorize any person to place, construct, or modify a broadcast tower or telecommunications tower in a manner that is inconsistent with State or local law, or contrary to an official decision of the appropriate State or local government entity having authority to approve, license, modify, or deny an application to place, construct, or modify a tower, if alternate technology is capable of delivering the broadcast or telecommunications signals without the use of a tower.

''(b) AUTHORITY REGARDING PRODUCTION OF SAFETY STUDIES.—No provision of this Act may be interpreted to prohibit a State or local government from—

''(1) requiring a person seeking authority to locate telecommunications facilities or broadcast transmission facilities within the jurisdiction of such government to produce—

''(A) environmental studies, engineering reports, or other documentation of the compliance of such facilities with radio frequency exposure limits established by the Commission; and

''(B) documentation of the compliance of such facilities with applicable Federal, State, and local aviation safety standards or aviation obstruction standards regarding objects effecting navigable airspace; or

''(2) refusing to grant authority to such person to locate such facilities within the jurisdiction of such government if such person fails to produce any studies, reports, or documentation required under paragraph (1).''.●

● Mrs. HUTCHISON. Mr. President, I am pleased to join forces with Senators LEAHY and JEFFORDS to introduce legislation which confirms that zoning decisions should be the providence of local governments, not overseen by the Federal Communications Commission through the use of preemption authority.

It has been my position for some time that the FCC does not have a role to play in local zoning, right of way management and franchising decisions. I fought hard during consideration of the Communications Act of 1996 to ensure that local governments have the right to exercise these fundamental authorities. The issues associated with the use and value of property, public and private, are most appropriately considered at the levels of government closest to the citizenry. Local governments can balance the needs of commerce and the use of property. If their judgment is subject to question, it should be reviewed by the court system. It should not be checked by a federal regulator, who is far less able to calculate the totality of a community's interest.

This legislation is needed because local governments have contended with a proposed FCC rule to preempt local authority over the placement of broadcast towers. The rule, I understand, has been withdrawn as a result of an agreement between the FCC, local and state government interests and telecommunications industry interests under the auspices of the FCC's ''Local and State Government Advisory Committee.'' This agreement provides for facilities siting guidelines and informal dispute resolution. I applaud this agreement. I believe it represents the reality that local governments, in the main, do want to work cooperatively with telecommunications providers who want to serve the residents of a community.

However, I believe that this legislation is still necessary. The FCC simply should not have the authority to preempt local zoning decisions.

I look forward to working on the progress of this bill with my co-sponsors and appreciate the opportunity to act in support of the exercise of local authority.●

By Mr. REID:

S. 2515. A bill to amend the Internal Revenue Code of 1986 to increase the amount of Social Security benefits exempt from tax for single taxpayers; to the Committee on Finance.

SENIOR CITIZEN TAX REDUCTION ACT OF 1998

● Mr. REID. Mr. President, today I introduce legislation which will help alleviate a tax burden for senior citizens with modest incomes.

Until 1984, Federal taxes were not imposed on social security benefits. People pay taxes their whole working life for social security benefits and I do not believe that these payments should be taxed when they retire.

This legislation will help those single persons, widows and widowers with moderate incomes to keep more of their own money in their own pockets. When you responsibly plan for your retirement, you should be able to count on your government to meet its obligations under the contract you've made with social security.

Under current law, there is first, a calculation to determine whether any of your social security benefits are taxable. The base amount is $25,000 for singles and $32,000 for married persons. This base amount is figured by taking one-half of your social security benefits and adding in your other income. If you are single and the result is under $25,000, you don't pay taxes on your social security benefit. If the amount is over this base amount, then a further calculation is done to figure what portion of your social security benefit is taxable.

This further calculation determines how much of a person's benefit is taxed and the answer depends on the total amount of a person's social security benefit and their other income. Right now, if the total of one-half of your benefits and all your other income is more than $34,000 for a single person and $44,000 for married persons, up to 85% of your benefits could be taxable. My legislation increases the single amount to $44,000.

Let me give you an example of the effect my law would have. A widow has $37,000 total income consisting of $10,000 in social security benefits and $27,000 in other income. So for this widow, she adds half of her social security benefit which is $5,000 and her other income of $27,000 for a total of $32,000. Under the current law, since she has over $25,000 total income, she does the next calculation. The result is that she has to include $3,500 of her social security benefits in her adjusted gross income. Under my legislation, none of her social security benefits would be taxable.

While I realize that this may be considered a small step in removing an unfair tax burden, it is also an important first step to those seniors who have made America the greatest country in the world. I encourage the committee to give favorable consideration to our legislation.●

By Mr. GRASSLEY (for himself and Mr. DURBIN):

S. 2516. A bill to make improvements in the operation and administration of the Federal courts, and for other purposes; to the Committee on the Judiciary.

THE FEDERAL COURTS IMPROVEMENT ACT OF 1998

Mr. GRASSLEY. Mr. President, today, along with my colleague from Illinois, Senator DURBIN, I am introducing the Federal Courts Improvement Act of 1998. As chairman of the Judiciary Subcommittee on Administrative Oversight and the Courts, it is my responsibility to review federal court processes and procedures. Every two years or so, the Congress receives an official request from the Judicial Conference, the governing body of the federal courts, that include changes in the law the Judicial Conference believes is necessary to improve the functioning of the courts.

After reviewing the latest official request from the Judicial Conference, Senator DURBIN, who is the ranking member of the subcommittee, and I worked together in putting together a modification of this request to introduce as legislation. We are introducing this legislation today.

The bill contains four different titles including numerous changes in subjects such as judicial financial administration, judicial process improvements, judicial personnel administration, other personnel matters and federal public defenders. While many of these items may not be essential for the court system to operate, they will certainly help the system function better, and hopefully, more effectively.

Mr. President, it is my hope that we can consider this bill and pass it during these last few weeks of this Congress. I will work with Senator DURBIN to try and make that happen. I urge my colleagues to support us in this effort.

Mr. President, I ask unanimous consent 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. 2516

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

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Federal Courts Improvement Act of 1998.''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title and table of contents.

TITLE I—JUDICIAL FINANCIAL ADMINISTRATION

Sec. 101. Extension of Judiciary Information Technology Fund.

Sec. 102. Bankruptcy fees.

Sec. 103. Disposition of miscellaneous fees.

TITLE II—JUDICIAL PROCESS IMPROVEMENTS

Sec. 201. Extension of statutory authority for magistrate judge positions to be established in the district courts of Guam and the Northern Mariana Islands.

Sec. 202. Magistrate judge contempt authority.

Sec. 203. Consent to magistrate judge authority in petty offense cases and magistrate judge authority in misdemeanor cases involving juvenile defendants.

Sec. 204. Savings and loan data reporting requirements.
Sec. 205. Membership in circuit judicial councils.
Sec. 206. Sunset of civil justice expense and delay reduction plans.
Sec. 207. Repeal of Court of Federal Claims filing fee.
Sec. 208. Technical bankruptcy correction.
Sec. 209. Technical amendment relating to the treatment of certain bankruptcy fees collected.
TITLE III—JUDICIAL PERSONNEL ADMINISTRATION, BENEFITS, AND PROTECTIONS
Sec. 301. Judicial administrative officials retirement matters.
Sec. 302. Travel expenses of judges.
Sec. 303. Transfer of county to Middle District of Pennsylvania.
Sec. 304. Payments to military survivors benefits plan.
Sec. 305. Creation of certifying officers in the judicial branch.
Sec. 306. Authority to prescribe fees for technology resources in the courts.
TITLE IV—FEDERAL PUBLIC DEFENDERS
Sec. 401. Tort Claims Act amendment relating to liability of Federal public defenders.

TITLE I—JUDICIAL FINANCIAL ADMINISTRATION

SEC. 101. EXTENSION OF JUDICIARY INFORMATION TECHNOLOGY FUND.

Section 612 of title 28, United States Code, is amended—

(1) by striking ''equipment'' each place it appears and inserting ''resources'';

(2) by striking subsection (f) and redesignating subsequent subsections accordingly;

(3) in subsection (g), as so redesignated, by striking paragraph (3); and

(4) in subsection (i), as so redesignated—

(A) by striking ''Judiciary'' each place it appears and inserting ''judiciary'';

(B) by striking ''subparagraph (c)(1)(B)'' and inserting ''subsection (c)(1)(B)''; and

(C) by striking ''under (c)(1)(B)'' and inserting ''under subsection (c)(1)(B)''.

SEC. 102. BANKRUPTCY FEES.

Subsection (a) of section 1930 of title 28, United States Code, is amended by adding at the end the following new paragraph:

''(7) In districts that are not part of a United States trustee region as defined in section 581 of this title, the Judicial Conference of the United States may require the debtor in a case under chapter 11 of title 11 to pay fees equal to those imposed by paragraph (6) of this subsection. Such fees shall be deposited as offsetting receipts to the fund established under section 1931 of this title and shall remain available until expended.''.

SEC. 103. DISPOSITION OF MISCELLANEOUS FEES.

For fiscal year 1999 and thereafter, any portion of miscellaneous fees collected as prescribed by the Judicial Conference of the United States pursuant to sections 1913, 1914(b), 1926(a), 1930(b), and 1932 of title 28, United States Code, exceeding the amount of such fees in effect on September 30, 1998, shall be deposited into the special fund of the Treasury established under section 1931 of title 28, United States Code.

TITLE II—JUDICIAL PROCESS IMPROVEMENTS

SEC. 201. EXTENSION OF STATUTORY AUTHORITY FOR MAGISTRATE JUDGE POSITIONS TO BE ESTABLISHED IN THE DISTRICT COURTS OF GUAM AND THE NORTHERN MARIANA ISLANDS.

Section 631 of title 28, United States Code, is amended—

(1) by striking the first two sentences of subsection (a) and inserting the following: ''The judges of each United States district court and the district courts of the Virgin Islands, Guam, and the Northern Mariana Islands shall appoint United States magistrate judges in such numbers and to serve at such locations within the judicial districts as the Judicial Conference may determine under this chapter. In the case of a magistrate judge appointed by the district court of the Virgin Islands, Guam, or the Northern Mariana Islands, this chapter shall apply as though the court appointing such a magistrate judge were a United States district court.''; and

(2) by inserting in the first sentence of paragraph (1) of subsection (b) after ''Commonwealth of Puerto Rico,'' the following: ''the Territory of Guam, the Commonwealth of the Northern Mariana Islands,''.

SEC. 202. MAGISTRATE JUDGE CONTEMPT AUTHORITY.

Section 636(e) of title 28, United States Code, is amended to read as follows:

''(e) CONTEMPT AUTHORITY.—

''(1) IN GENERAL.—A United States magistrate judge serving under this chapter shall have within the territorial jurisdiction prescribed by his or her appointment the power to exercise contempt authority as set forth in this subsection.

''(2) SUMMARY CRIMINAL CONTEMPT AUTHORITY.—A magistrate judge shall have the power to punish summarily by fine or imprisonment such contempt of his or her authority constituting misbehavior of any person in the magistrate judge's presence so as to obstruct the administration of justice. The order of contempt shall be issued pursuant to the Federal Rules of Criminal Procedure.

''(3) ADDITIONAL CRIMINAL CONTEMPT AUTHORITY IN CIVIL CONSENT AND MISDEMEANOR CASES.—In any case in which a United States magistrate judge presides with the consent of the parties under subsection (c) of this section, and in any misdemeanor case proceeding before a magistrate judge under section 3401 of title 18, the magistrate judge shall have the power to punish by fine or imprisonment criminal contempt constituting disobedience or resistance to the magistrate judge's lawful writ, process, order, rule, decree, or command. Disposition of such contempt shall be conducted upon notice and hearing pursuant to the Federal Rules of Criminal Procedure.

''(4) CIVIL CONTEMPT AUTHORITY IN CIVIL CONSENT AND MISDEMEANOR CASES.—In any case in which a United States magistrate judge presides with the consent of the parties under subsection (c) of this section, and in any misdemeanor case proceeding before a magistrate judge under section 3401 of title 18, the magistrate judge may exercise the civil contempt authority of the district court. This paragraph shall not be construed to limit the authority of a magistrate judge to order sanctions pursuant to any other statute, the Federal Rules of Civil Procedure, or the Federal Rules of Criminal Procedure.

''(5) CRIMINAL CONTEMPT PENALTIES.—The sentence imposed by a magistrate judge for any criminal contempt provided for in paragraphs (2) and (3) shall not exceed the penalties for a Class C misdemeanor as set forth in sections 3581(b)(8) and 3571(b)(6) of title 18.

''(6) CERTIFICATION OF OTHER CONTEMPTS TO THE DISTRICT COURT.—Upon the commission of any such act—

''(A) in any case in which a United States magistrate judge presides with the consent of the parties under subsection (c) of this section, or in any misdemeanor case proceeding before a magistrate judge under section 3401 of title 18, that may, in the opinion of the magistrate judge, constitute a serious criminal contempt punishable by penalties exceeding those set forth in paragraph (5) of this subsection; or

''(B) in any other case or proceeding under subsection (a) or (b) of this section, or any other statute, where—

''(i) the act committed in the magistrate judge's presence may, in the opinion of the magistrate judge, constitute a serious criminal contempt punishable by penalties exceeding those set forth in paragraph (5) of this subsection;

''(ii) the act that constitutes a criminal contempt occurs outside the presence of the magistrate judge; or

''(iii) the act constitutes a civil contempt,

the magistrate judge shall forthwith certify the facts to a district judge and may serve or cause to be served upon any person whose behavior is brought into question under this paragraph an order requiring such person to appear before a district judge upon a day certain to show cause why he or she should not be adjudged in contempt by reason of the facts so certified. The district judge shall thereupon hear the evidence as to the act or conduct complained of and, if it is such as to warrant punishment, punish such person in the same manner and to the same extent as for a contempt committed before a district judge.

''(7) APPEALS OF MAGISTRATE JUDGE CONTEMPT ORDERS.—The appeal of an order of contempt pursuant to this subsection shall be made to the court of appeals in cases proceeding under subsection (c) of this section. In any other proceeding in which a United States magistrate judge presides under subsection (a) or (b) of this section, section 3401 of title 18, or any other statute, the appeal of a magistrate judge's summary contempt order shall be made to the district court.''.

SEC. 203. CONSENT TO MAGISTRATE JUDGE AUTHORITY IN PETTY OFFENSE CASES AND MAGISTRATE JUDGE AUTHORITY IN MISDEMEANOR CASES INVOLVING JUVENILE DEFENDANTS.

(a) AMENDMENTS TO TITLE 18.—

(1) PETTY OFFENSE CASES.—Section 3401(b) of title 18, United States Code, is amended by striking ''that is a class B misdemeanor charging a motor vehicle offense, a class C misdemeanor, or an infraction,'' after ''petty offense''.

(2) CASES INVOLVING JUVENILES.—Section 3401(g) of title 18, United States Code, is amended—

(A) by striking the first sentence and inserting the following: ''The magistrate judge may, in a petty offense case involving a juvenile, exercise all powers granted to the district court under chapter 403 of this title.'';

(B) in the second sentence by striking ''any other class B or C misdemeanor case'' and inserting ''the case of any misdemeanor, other than a petty offense,''; and

(C) by striking the last sentence.

(b) AMENDMENTS TO TITLE 28.—Section 636(a) of title 28, United States Code, is amended by striking paragraphs (4) and (5) and inserting in the following:

''(4) the power to enter a sentence for a petty offense; and

''(5) the power to enter a sentence for a class A misdemeanor in a case in which the parties have consented.''.

SEC. 204. SAVINGS AND LOAN DATA REPORTING REQUIREMENTS.

Section 604 of title 28, United States Code, is amended in subsection (a) by striking the second paragraph designated (24).

SEC. 205. MEMBERSHIP IN CIRCUIT JUDICIAL COUNCILS.

Section 332(a) of title 28, United States Code, is amended—

(1) by striking paragraph (3) and inserting the following:

''(3) Except for the chief judge of the circuit, either judges in regular active service or judges retired from regular active service under section 371(b) of this title may serve as members of the council. Service as a member of a judicial council by a judge retired from regular active service under section 371(b) may not be considered for meeting the requirements of section 371(f) (1)(A), (B), or (C).''; and

(2) in paragraph (5) by striking ''retirement,'' and inserting ''retirement under section 371(a) or section 372(a) of this title,''.

SEC. 206. SUNSET OF CIVIL JUSTICE EXPENSE AND DELAY REDUCTION PLANS.

Section 103(b)(2)(A) of the Civil Justice Reform Act of 1990 (Public Law 101–650; 104 Stat. 5096; 28 U.S.C. 471 note), as amended by Public Law 105–53 (111 Stat. 1173), is amended by inserting ''471,'' after ''sections''.

SEC. 207. REPEAL OF COURT OF FEDERAL CLAIMS FILING FEE.

Section 2520 of title 28, United States Code, and the item relating to such section in the table of contents for chapter 165 of such title, are repealed.

SEC. 208. TECHNICAL BANKRUPTCY CORRECTION.

Section 1228 of title 11, United States Code, is amended by striking ''1222(b)(10)'' each place it appears and inserting ''1222(b)(9)''.

SEC. 209. TECHNICAL AMENDMENT RELATING TO THE TREATMENT OF CERTAIN BANKRUPTCY FEES COLLECTED.

(a) AMENDMENT.—The first sentence of section 406(b) of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1990 (Public Law 101–162; 103 Stat. 1016; 28 U.S.C. 1931 note) is amended by striking ''service enumerated after item 18'' and inserting ''service not of a kind described in any of the items enumerated as items 1 through 7 and as items 9 through 18, as in effect on November 21, 1989,''.

(b) APPLICATION OF AMENDMENT.—The amendment made by subsection (a) shall not apply with respect to fees collected before the date of the enactment of this Act.

TITLE III—JUDICIAL PERSONNEL ADMINISTRATION, BENEFITS, AND PROTECTIONS

SEC. 301. JUDICIAL ADMINISTRATIVE OFFICIALS RETIREMENT MATTERS.

(a) DIRECTOR OF ADMINISTRATIVE OFFICE.—Section 611 of title 28, United States Code, is amended—

(1) in subsection (d), by inserting ''a congressional employee in the capacity of primary administrative assistant to a Member of Congress or in the capacity of staff director or chief counsel for the majority or the minority of a committee or subcommittee of the Senate or House of Representatives,'' after ''Congress,'';

(2) in subsection (b)—

(A) by striking ''who has served at least fifteen years and'' and inserting ''who has at least fifteen years of service and has''; and

(B) in the first undesignated paragraph, by striking ''who has served at least ten years,'' and inserting ''who has at least ten years of service,''; and

(3) in subsection (c)—

(A) by striking ''served at least fifteen years,'' and inserting ''at least fifteen years of service,''; and

(B) by striking ''served less than fifteen years,'' and inserting ''less than fifteen years of service,''.

(b) DIRECTOR OF THE FEDERAL JUDICIAL CENTER.—Section 627 of title 28, United States Code, is amended—

(1) in subsection (e), by inserting ''a congressional employee in the capacity of primary administrative assistant to a Member of Congress or in the capacity of staff director or chief counsel for the majority or the minority of a committee or subcommittee of the Senate or House of Representatives,'' after ''Congress,'';

(2) in subsection (c)—

(A) by striking ''who has served at least fifteen years and'' and inserting ''who has at least fifteen years of service and has''; and

(B) in the first undesignated paragraph, by striking ''who has served at least ten years,'' and inserting ''who has at least ten years of service,''; and

(3) in subsection (d)—

(A) by striking ''served at least fifteen years,'' and inserting ''at least fifteen years of service,''; and

(B) by striking ''served less than fifteen years,'' and inserting ''less than fifteen years of service,''.

SEC. 302. TRAVEL EXPENSES OF JUDGES.

Section 456 of title 28, United States Code, is amended by adding at the end the following new subsection:

''(h)(1) In this subsection, the term 'travel expenses'—

''(A) means the expenses incurred by a judge for travel that is not directly related to any case assigned to such judge; and

''(B) shall not include the travel expenses of a judge if—

''(i) the payment for the travel expenses is paid by such judge from the personal funds of such judge; and

''(ii) such judge does not receive funds (including reimbursement) from the United States or any other person or entity for the payment of such travel expenses.

''(2)(A) Each circuit judge of a court of appeals shall annually submit the information required under paragraph (3) to the chief judge for the circuit in which the judge is assigned.

''(B) Each district judge shall annually submit the information required under paragraph (3) to the chief judge for the district in which the judge is assigned.

''(3)(A) Each chief judge of each circuit and each district shall submit an annual report to the Director of the Administrative Office of the United States Courts on the travel expenses of each judge assigned to the applicable circuit or district (including the travel expenses of the chief judge of such circuit or district).

''(B) The annual report under this paragraph shall include—

''(i) the travel expenses of each judge, with the name of the judge to whom the travel expenses apply;

''(ii) a description of the subject matter and purpose of the travel relating to each travel expense identified under clause (i), with the name of the judge to whom the travel applies; and

''(iii) the number of days of each travel described under clause (ii), with the name of the judge to whom the travel applies.

''(4)(A) The Director of the Administrative Office of the United States Courts shall—

''(i) consolidate the reports submitted under paragraph (3) into a single report; and

''(ii) annually submit such consolidated report to Congress.

''(B) The consolidated report submitted under this paragraph shall include the specific information required under paragraph (3)(B), including the name of each judge with respect to clauses (i), (ii), and (iii) of paragraph (3)(B).''.

SEC. 303. TRANSFER OF COUNTY TO MIDDLE DISTRICT OF PENNSYLVANIA.

(a) TRANSFER.—Section 118 of title 28, United States Code, is amended—

(1) in subsection (a) by striking ''Philadelphia, and Schuylkill'' and inserting ''and Philadelphia''; and

(2) in subsection (b) by inserting ''Schuylkill,'' after ''Potter,''.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—This section and the amendments made by this section shall take effect 180 days after the date of the enactment of this Act.

(2) PENDING CASES NOT AFFECTED.—This section and the amendments made by this section shall not affect any action commenced before the effective date of this section and pending on such date in the United States District Court for the Eastern District of Pennsylvania.

(3) JURIES NOT AFFECTED.—This section and the amendments made by this section shall not affect the composition, or preclude the service, of any grand or petit jury summoned, impaneled, or actually serving on the effective date of this section.

SEC. 304. PAYMENTS TO MILITARY SURVIVORS BENEFITS PLAN.

Section 371(e) of title 28, United States Code, is amended by inserting after ''such retired or retainer pay'' the following: '', except such pay as is deductible from the retired or retainer pay as a result of participation in any survivor's benefits plan in connection with the retired pay,''.

SEC. 305. CREATION OF CERTIFYING OFFICERS IN THE JUDICIAL BRANCH.

(a) APPOINTMENT OF DISBURSING AND CERTIFYING OFFICERS.—Chapter 41 of title 28, United States Code, is amended by adding at the end the following new section:

''§ 613. Disbursing and certifying officers

''(a) DISBURSING OFFICERS.—The Director may designate in writing officers and employees of the judicial branch of the Government, including the courts as defined in section 610 other than the Supreme Court, to be disbursing officers in such numbers and locations as the Director considers necessary. Such disbursing officers shall—

''(1) disburse moneys appropriated to the judicial branch and other funds only in strict accordance with payment requests certified by the Director or in accordance with subsection (b);

''(2) examine payment requests as necessary to ascertain whether they are in proper form, certified, and approved; and

''(3) be held accountable for their actions as provided by law, except that such a disbursing officer shall not be held accountable or responsible for any illegal, improper, or incorrect payment resulting from any false, inaccurate, or misleading certificate for which a certifying officer is responsible under subsection (b).

''(b) CERTIFYING OFFICERS.—(1) The Director may designate in writing officers and employees of the judicial branch of the Government, including the courts as defined in section 610 other than the Supreme Court, to certify payment requests payable from appropriations and funds. Such certifying officers shall be responsible and accountable for—

''(A) the existence and correctness of the facts recited in the certificate or other request for payment or its supporting papers;

''(B) the legality of the proposed payment under the appropriation or fund involved; and

''(C) the correctness of the computations of certified payment requests.

''(2) The liability of a certifying officer shall be enforced in the same manner and to the same extent as provided by law with respect to the enforcement of the liability of disbursing and other accountable officers. A certifying officer shall be required to make restitution to the United States for the amount of any illegal, improper, or incorrect payment resulting from any false, inaccurate, or misleading certificates made by

the certifying officer, as well as for any payment prohibited by law or which did not represent a legal obligation under the appropriation or fund involved.

''(c) RIGHTS.—A certifying or disbursing officer—

''(1) has the right to apply for and obtain a decision by the Comptroller General on any question of law involved in a payment request presented for certification; and

''(2) is entitled to relief from liability arising under this section in accordance with title 31.

''(d) OTHER AUTHORITY NOT AFFECTED.—Nothing in this section affects the authority of the courts with respect to moneys deposited with the courts under chapter 129 of this title.''.

(b) CONFORMING AMENDMENT.—The table of sections for chapter 41 of title 28, United States Code, is amended by adding at the end the following item:

''613. Disbursing and certifying officers.''.

(c) RULE OF CONSTRUCTION.—The amendment made by subsection (a) shall not be construed to authorize the hiring of any Federal officer or employee.

(d) DUTIES OF DIRECTOR.—Paragraph (8) of subsection (a) of section 604 of title 28, United States Code, is amended to read as follows:

''(8) Disburse appropriations and other funds for the maintenance and operation of the courts;''.

SEC. 306. AUTHORITY TO PRESCRIBE FEES FOR TECHNOLOGY RESOURCES IN THE COURTS.

(a) IN GENERAL.—Chapter 41 of title 28, United States Code, is amended by adding at the end the following:

''§ 614. Authority to prescribe fees for technology resources in the courts

''The Judicial Conference is authorized to prescribe reasonable fees pursuant to sections 1913, 1914, 1926, 1930, and 1932, for collection by the courts for use of information technology resources provided by the judiciary for remote access to the courthouse by litigants and the public, and to facilitate the electronic presentation of cases. Fees under this section may be collected only to cover the costs of making such information technology resources available for the purposes set forth in this section. Such fees shall not be required of persons financially unable to pay them. All fees collected under this section shall be deposited in the Judiciary Information Technology Fund and be available to the Director without fiscal year limitation to be expended on information technology resources developed or acquired to advance the purposes set forth in this section.''.

(b) CONFORMING AMENDMENT.—The table of sections for chapter 41 of title 28, United States Code, is amended by adding at the end the following new item:

''614. Authority to prescribe fees for technology resources in the courts.''.

(c) TECHNICAL AMENDMENT.—Chapter 123 of title 28, United States Code, is amended—

(1) by redesignating the section 1932 entitled ''Revocation of earned release credit'' as section 1933 and placing it after the section 1932 entitled ''Judicial Panel on Multidistrict Litigation''; and

(2) in the table of sections by striking the 2 items relating to section 1932 and inserting the following:

''1932. Judicial Panel on Multidistrict Litigation.

''1933. Revocation of earned release credit.''.

TITLE IV—FEDERAL PUBLIC DEFENDERS

SEC. 401. TORT CLAIMS ACT AMENDMENT RELATING TO LIABILITY OF FEDERAL PUBLIC DEFENDERS.

Section 2671 of title 28, United States Code, is amended in the second undesignated paragraph—

(1) by inserting ''(1)'' after ''includes''; and

(2) by striking the period at the end and inserting the following: '', and (2) any officer or employee of a Federal public defender organization, except when such officer or employee performs professional services in the course of providing representation under section 3006A of title 18.''.

By Mr. GRAMS:

S. 2517. A bill to amend the Federal Crop Insurance Act to establish a pilot program commencing in crop year 2000 for a period of 2 years in certain States to provide improved crop insurance options for producers; to the Committee on Agriculture, Nutrition, and Forestry.

THE CROP INSURANCE REFORM ACT

Mr. GRAMS. Mr. President, I rise today to introduce a bill which takes an important step toward improving the nation's federal crop insurance program—the ''Crop Insurance Reform Act.''

Over the last year, we have witnessed devastating circumstances come together to create a crisis atmosphere for many of our nation's farmers. I know that in my own state of Minnesota, multiple years of wet weather and crop disease—especially scab—coupled with rising production costs and plummeting commodity prices is wiping out family farms in record numbers.

With the increased opportunities that accompany Freedom to Farm come increased risks. We've seen this first hand.

Freedom to Farm can work, but a necessary component of it is an adequate crop insurance program. This component has been missing so far. One of the promises made during debate of the 1996 Farm Bill was that Congress would address the need for better crop insurance.

We must not let another growing season pass without having instituted a new, effective crop insurance program. This overhaul is a major undertaking, but instituting a program of comprehensive reform must be a priority upon our return in January.

And, we must start the debate now so that we can have the best system in place in time. The bill I'm introducing today is a first step. It is the result of months of work from my Minnesota Crop Insurance Work Group.

The Work Group consists of various commodity groups, farm organizations, rural lenders, and agriculture economists. We have also worked closely with USDA's Farm Service and Risk Management Agencies. But it was my primary intention to assemble a committee of farmers and lenders—people who know the situation and have seen the problems first hand.

The Crop Insurance Reform Act is designed to address the coverage decision a farmer must make at the initial stages of purchasing crop insurance.

This bill allows more options for producers to choose from when making risk-management decisions. It essentially provides farmers with an enhanced coverage product at a more affordable price.

Currently, producer premium subsidies range from nearly 42% at the 100% price election for 65% coverage, to only 13% at the 100% price election for 85% coverage. Producers continue to stress that, although the Risk Management Agency has recently provided better product options, the subsidy levels at the higher ends of coverage make them cost prohibitive.

This bill will put in place a flat subsidy level of 29% across the 100% price election and at all levels of coverage. This will adjust the producer premiums to make better coverage more affordable.

When farmers are armed with the necessary risk management tools, everybody saves. The government saves in ad hoc disaster payments, arguably the most expensive way to address any kind of financial crisis. But more importantly, the family farmer saves.

This bill is just the beginning of reform. Over the next few months, I will continue to work with my Crop Insurance Work Group, and my colleagues, Senators LUGAR and ROBERTS, to craft a comprehensive program which directly benefits producers and protects the taxpayers.

By Mr. MOYNIHAN:

S. 2518. A bill to enhance family life; to the Committee on Finance.

THE ENHANCING FAMILY LIFE ACT OF 1998

Mr. MOYNIHAN. Mr. President, today I introduce the Enhancing Family Life Act of 1998, a bill inspired by an extraordinary set of proposals by one of our nation's most eminent social scientists, Professor James Q. Wilson. On December 4, 1997, I had the honor of hearing Professor Wilson—who is an old and dear friend—deliver the Francis Boyer Lecture at the American Enterprise Institute (AEI). The Boyer Lecture is delivered at AEI's annual dinner by a thinker who has ''made notable intellectual or practical contributions to improved public policy and social welfare.'' Previous Boyer lecturers have included Irving Kristol, Alan Greenspan, and Henry Kissinger. In his lecture, Professor Wilson argued that ''two nations'' now exist within the United States. He said:

> In one nation, a child, raised by two parents, acquires an education, a job, a spouse, and a home kept separate from crime and disorder by distance, fences, or guards. In the other nation, a child is raised by an unwed girl, lives in a neighborhood filled with many sexual men but few committed fathers, and finds gang life to be necessary for self-protection and valuable for self-advancement.

Sadly, this is an all-too-accurate portrait of the American underclass, the

problems of which have been the focus of decades of unsuccessful welfare reform and crime control efforts. We have tried a great many ''solutions,'' as Professor Wilson notes:

Congress has devised community action, built public housing, created a Job Corps, distributed Food Stamps, given federal funds to low-income schools, supported job training, and provided cash grants to working families.

Yet still we are faced with two nations. Professor Wilson explains why: ''[t]he family problem lies at the heart of the emergency of two nations.'' He notes that as our families become weaker—as more and more American children are born outside of marriage and raised by one, not two, parents—the foundation of our society becomes weaker. This deterioration helps to explain why, as reported by the Census Bureau today, the poverty rate for American children is almost twice that for adults aged 18 to 64 (19.9 percent for children versus 10.9 percent for adults). And it grows increasingly difficult for government to address the problems of that ''second nation.'' Professor Wilson even quotes the Senator from New York to this effect: ''If you expect a government program to change families, you know more about government than I do.''

Even so, Jim Wilson, quite characteristically, has fresh ideas about what might help. On the basis of recent scholarly research, and common sense, he urged in the Boyer lecture that we refocus our attention on the vital period of early childhood. I was so impressed with his lecture that afterward I set about writing a bill to put his recommendations into effect.

The Enhancing Family Life Act of 1998 contains four key elements, all of which are related to families. First, it supports ''second chance'' maternity homes for unwed teenage mothers. These are group homes where young women would live with their children under strict adult supervision and have the support necessary to become productive members of society. The bill provides $45 million a year to create such homes or expand existing ones.

Second, it promotes adoption. The bill expands the number of children in foster care eligible for federal adoption incentives. Too many children drift in foster care; we should do more to find them permanent homes. The bill also encourages states to experiment with ''per capita'' approaches to finding these permanent homes for foster children, a strategy Kansas has used with success.

Third, it funds collaborative early childhood development programs. Recent research has reminded us of the critical importance of the first few years of a child's life. States would have great flexibility in the use of these funds; for example, the money could be used for pre-school programs for poor children or home visits of parents of young children. It provides $3.75 billion over five years for this purpose.

Finally, the legislation creates a new education assistance program to enable more parents to remain home with young children. A parent who temporarily leaves the work force to raise a child would be eligible for an educational grant, similar to the Pell Grant, to help the parent enter, or reenter, the labor market with skills and credentials necessary for success in today's economy once the child is older.

Mr. President, this bill is a starting point. It is what Professor James Q. Wilson and I believe just might make a difference. We would certainly welcome the comments of others. And I would commend to the attention of Senators and other interested persons the full text of Professor Wilson's lecture ''Two Nations,'' which is available from my office or from the American Enterprise Institute. I ask unanimous consent that a summary of the legislation be included in the RECORD.

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

THE ENHANCING FAMILY LIFE ACT OF 1998—SUMMARY

SECTION 1. SHORT TITLE

This Act may be cited as the ''Enhancing Family Life Act of 1998.''

SECTION 2. FINDINGS

The Congressional findings support the importance of families in society and social policy.

Title I—Assistance for Children

SECTION 101. ''SECOND CHANCE HOMES''

The bill would provide $45 million annually to establish or expand ''second chance'' maternity homes for unwed teenage mothers. These are group homes where mothers live with their children under adult supervision and strict rules while learning good parenting skills.

SECTION 102. ADOPTION PROMOTION

The bill would expand the number of ''special needs'' children in foster care for which federal adoption subsidies are available. It de-links'' eligibility for these subsidies from the income level of the foster child's biological parents. (Under current law, a foster child determined to have special needs only qualifies for a federal adoption subsidy if the child's birth parents are welfare-eligible.) The subsidies would help adoptive parents meet the particular emotional and physical challenges of troubled children and so they can provide the children permanent homes.

In addition, last year's ''Adoption and Safe Families Act'' authorizes the Department of Health and Human Services to grant child welfare demonstration waivers to ten states each year. The bill would reserve three of each ten waivers to states willing to test ''per capita'' approaches to finding permanent homes for children in foster care, as Kansas has done. Under a per capita approach, states or localities contract on a fixed sum basis with agencies to reunite foster children with their biological families or place them with adoptive parents. Because the agency, typically a non-profit social service agency, receives a fixed sum per child (rather then unlimited reimbursement of costs) the agency may settle the child in a permanent home more quickly.

SECTION 103. EARLY CHILDHOOD DEVELOPMENT

The bill provides $3.75 billion over five years for collaborative early childhood development programs. Recent research has demonstrated the importance of the earliest years in a child's life in the child's intellectual and emotional development. States could use the funds for home visiting programs, parenting education, high-quality child care, and preventive health services. States would have great flexibility in deciding which services to provide.

SECTION II—''PARENT GRANTS''

The bill would create a new education assistance program to provide grants to parents who choose to remain at home with young children. The grants would allow parents to obtain the training, or re-training, needed to prosper and advance careers after a period of time outside the labor force. A custodial parent with children under the age of six and no earned income, welfare, or SSI receipt would be eligible to receive a benefit equivalent to the largest Pell Grant available for that year (about $2,700 in FY 1998). The benefit—to be called a ''Parent Grant''—could only be used for expenses associated with post-secondary education or completion of high school. Parents could accumulate grants (one for each year outside of the labor market) but would be required to use the grant within 15 years of the year for which the grant was earned. Eligibility would be subjected to income limits ($75,000/year maximum, subject to revision on the basis of cost estimates). The program would be administered by the Education Department, in parallel with Pell Grants and other financial aid programs.

By Mr. MCCAIN (for himself and Mr. BURNS):

S. 2519. A bill to promote and enhance public safety through use of 9–1–1 at the universal emergency assistance number, further deployment of wireless 9–1–1 service, support of States in upgrading 9–1–1 capabilities and related functions, encouragement of construction and operation of seamless, ubiquitous and reliable networks for personal wireless services, and ensuring access to Federal Government property for such networks, and for other purposes; to the Committee on Commerce, Science, and Transportation.

WIRELESS COMMUNICATIONS AND PUBLIC SAFETY ACT OF 1998

Mr. MCCAIN. Mr. President, today I am introducing the Wireless Communications and Public Safety Act of 1998 to help build a national wireless communications system and save lives. I would like to thank Senator BURNS for co-sponsoring this important legislation with me, and I look forward to working with him to move this legislation forward during the remainder of the Congress and the next Congress.

Mr. President, when a person is seriously injured, in a car crash or a violent crime or in some other way, every minute counts. Medical trauma and public safety professionals speak of the ''golden hour''—the first hour after serious injury when the greatest percentage of patient lives can be saved. The quicker that person gets medical help, the greater the chances of survival.

We would like people to be able to get medical help as fast as possible after serious injury. As a practical matter, it takes time—often a half-hour in an urban area or an hour in a rural area—before an ambulance completes the job of getting to the scene of

an accident and transporting the injured to a medical facility, where doctors can go to work saving the injured person. This bill is designed to help cut down that medical response time for millions of Americans, by helping to make sure that people can use their wireless telephones to call 9–1–1 immediately to get the ambulances rolling.

More than 60 million Americans carry wireless telephones. Many people carry them for safety reasons. People count on those phones to be their lifelines in emergencies. A parent driving down an interstate highway with children in the back seat draws comfort from knowing that if the car is involved in a crash, he or she can call 9–1–1 for help and an ambulance will be rolling in seconds. An older American driving alone on a long trip feels more comfortable knowing that if an accident occurs or sudden illness strikes, he or she can use the wireless phone to dial 9–1–1 for help and the state police will be on the way.

But there's a big problem. In many parts of our country, when the frantic parent or the suddenly disabled older person punches 9–1–1 on the wireless phone, nothing happens. In many areas of the country, 9–1–1 is not the emergency number, or there simply is no wireless telephone service at all. If a wireless telephone isn't within range of a wireless tower, a wireless call can't go through. The ambulance and the police won't be coming. You may be facing a terrible emergency, but you're on your own.

The same problem arises even if an emergency occurs within range of a wireless tower, if a person is too injured to make a 9–1–1 call, or can make the call but cannot give his or her location.

Mr. President, this bill can be called the 9–1–1 bill—its main purposes are to expand the areas covered by wireless telephone service so that more people in more places can call 9–1–1 systems so that they can deliver more information, like location and automatic crash notification data. The bill is designed to tie our citizens through their wireless telephones to the medical centers, police, and firefighters who can help them in emergencies.

The bill has four main elements.

First, it makes 9–1–1 the universal emergency telephone number. I suspect that most Americans think that 9–1–1 already is the emergency number everywhere, but it isn't. There are many places in America where, even if you can get a telephone connection, 9–1–1 isn't the right number to call for help. This legislation will reduce the danger of not knowing what number to call. The rule in America ought to be uniform and simple—if you have an emergency, wherever you are, dial 9–1–1. The bill sets a national policy for us all to pursue together, but, instead of imposing a federal mandate for executing that policy, allows the states and localities to decide how best to further that policy in their areas.

The second key element of the bill is a system of grants to assist the states and local governments in developing, coordinating, and carrying out their plans to make wireless service available to more citizens and to upgrade their 9–1–1 systems so they can provide the location of wireless callers. The bill gives the states maximum flexibility in designing their plans to qualify for the grants. It is written carefully so that it is not a federal mandate, and we will not have federal bureaucrats micro-managing wireless telephone companies, state and local public safety programs, or hospital emergency rooms.

The people who run our nation's 9–1–1 systems, and increasingly the elected officials who employ them, know they have a growing challenge in this area. More and more Americans are using wireless telephones to communicate, and there are over 83,000 wireless emergency calls a day now. But the technology receiving those calls is often outdated, and new local technology needs to be implemented. By offering substantial federal grants funded from the fees the government receives from wireless carriers who place their towers on federal land, the bill encourages the states to bring the stakeholders together to make the decisions necessary to deploy these life-saving technologies. The implementation problems here are not technological; they are financial and legislative. This bill will provide federal support, but the key leadership and decisions will come from state and local officials.

The the third key element of the bill is research and development of new lifesaving technology for motor vehicles. Proper medical care could be dispatched almost immediately if a car that was involved in a crash automatically signaled to public safety officials that the car had crashed, where it had crashed, and how bad the crash was. The trauma experts tell us they can predict the kinds of injuries a victim has this crash data—so they will know whether to send a helicopter, an advanced care ambulance, or just a wrecker and a ride home. We can use wireless technology to make these automatic reports. This bill will authorize the necessary investments to develop the know-how to tie together our cars, our public safety officials, and our hospitals for rapid response in vehicles emergencies

The fourth key element of this legislation is using federal property to help expand the wireless network. Current law and Administration policy say that federal agencies should encourage wireless facilities on federal property so as to expand the availability of wireless service, but agencies have been slow to open up their land and buildings. This bill will establish a clear and enforceable policy of allowing wireless facilities on federal property when it doesn't interfere with the agency's mission or use of the property. The agency will be allowed to charge fees for the use of the property, and those fees will go into a fund that will pay for grants to states and crash-notification investments under the bill.

It is also important to note what this bill does not do. It does not affect in any way the ability of state or local governments to impose taxes or fees on any business. It does not preempt in any way the current power of state and local government regarding antenna siting over property under their authority. And, indeed, it provides an explicit statutory requirement of notice and comment for state and local officials on siting applications for use of federal property. These three changes I made from earlier drafts resolve some of the concerns that were raised by some leaders of local and county governments.

Some organizations sought additional changes to the legislation.

The Department of the Interior, for example, wanted to change the provision on judicial review of federal agency denials of requests for access to federal property so that the burden of proof in court would be on the person challenging the agency's decision not to grant the requested access. This bill instead adopts the standard used in the Freedom of Information Act, which puts on the agency the burden of sustaining its action. Since the agency has superior access to all the relevant information, it is appropriate for the agency to bear the burden of going forward with evidence and persuading the court of the correctness of the agency's decision.

Also, some have suggested that the bill should be changed so that the sate and local law would apply to the citing of wireless antennas on federal property. That would be inconsistent with current law and run counter to the basis purpose of this legislation. To allow state and local officials to extend state and local zoning laws to the placement of antennas on federal property would give states and localities an unprecedented ability to control decisions by federal officials with respect to federal property, and reduce the revenue generated by the federal leases or antenna siting. We simply cannot have a situation in which a locality could be allowed to hold the interests of the region or the country hostage to parochial interests. The requirement in my legislation that state and local officials have notice and an opportunity to comment with respect to requests for antenna siting on federal property gives state and local officials their appropriate role. They will have the opportunity to present their views, but will not have a veto over placement of antennas on federal property. It is important to remember what is at issue here—the ability of people to call for help in emergencies and get a prompt public safety response—in short, save lives.

This legislation has been developed in consultation with a wide range of groups that have great expertise in the

subjects covered by the legislation, including state and local officials who run our nation's 9–1–1 systems, trauma experts, the American Automobile Association, the wireless industry and others. The bill has the strong support of a diverse coalition that includes these and many other groups. To the extent that some groups have concerns about a few of he bill's provisions, I intend to continue to work with them to try to address these concerns.

Mr. President, this bill is an important step forward to helping state and local emergency agencies do their jobs, offering them significant grants to improve their capabilities. This bill also will go a long way toward helping the nation expand its wireless network. It will help make sure that Americans everywhere can dial 9–1–1 to summon prompt assistance in an emergency.

I look forward to working with my colleagues on the Commerce Committee on this important life-saving legislation, an I urge all my colleague to support it.

ADDITIONAL COSPONSORS

S. 981

At the request of Mr. LEVIN, the name of the Senator from Missouri (Mr. ASHCROFT) was added as a cosponsor of S. 981, a bill to provide for analysis of major rules.

S. 1147

At the request of Mr. WELLSTONE, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of S. 1147, a bill to amend the Public Health Service Act, Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to provide for nondiscriminatory coverage for substance abuse treatment services under private group and individual health coverage.

S. 1529

At the request of Mr. KENNEDY, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of S. 1529, a bill to enhance Federal enforcement of hate crimes, and for other purposes.

S. 2110

At the request of Mr. BIDEN, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of S. 2110, a bill to authorize the Federal programs to prevent violence against women, and for other purposes.

S. 2130

At the request of Mr. GRAMS, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of S. 2130, a bill to amend the Internal Revenue Code of 1986 to provide additional retirement savings opportunities for small employers, including self-employed individuals.

S. 2180

At the request of Mr. LOTT, the names of the Senator from New Hampshire (Mr. GREGG), the Senator from Pennsylvania (Mr. SANTORUM), the Senator from Pennsylvania (Mr. SPECTER), the Senator from Wisconsin (Mr. FEINGOLD), the Senator from Maryland (Mr. SARBANES), and the Senator from New Mexico (Mr. DOMENICI) 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. 2201

At the request of Mr. TORRICELLI, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of S. 2201, a bill to delay the effective date of the final rule promulgated by the Secretary of Health and Human Services regarding the Organ Procurement and Transplantation Network.

S. 2283

At the request of Mr. DEWINE, the names of the Senator from Vermont (Mr. JEFFORDS), the Senator from Vermont (Mr. LEAHY), and the Senator from Virginia (Mr. WARNER) were added as cosponsors of S. 2283, a bill to support sustainable and broad-based agricultural and rural development in sub-Saharan Africa, and for other purposes.

S. 2295

At the request of Mr. MCCAIN, the names of the Senator from Kansas (Mr. BROWNBACK) and the Senator from Colorado (Mr. ALLARD) were added as cosponsors of S. 2295, a bill to amend the Older Americans Act of 1965 to extend the authorizations of appropriations for that Act, and for other purposes.

S. 2354

At the request of Mr. BOND, the name of the Senator from West Virginia (Mr. BYRD) was added as a cosponsor of S. 2354, a bill to amend title XVIII of the Social Security Act to impose a moratorium on the implementation of the per beneficiary limits under the interim payment system for home health agencies, and to modify the standards for calculating the per visit cost limits and the rates for prospective payment systems under the medicare home health benefit to achieve fair reimbursement payment rates, and for other purposes.

S. 2417

At the request of Mr. SESSIONS, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 2417, a bill to provide for allowable catch quota for red snapper in the Gulf of Mexico, and for other purposes.

S. 2494

At the request of Mr. MCCAIN, the names of the Senator from Vermont (Mr. JEFFORDS) and the Senator from Mississippi (Mr. COCHRAN) were added as cosponsors of S. 2494, a bill to amend the Communications Act of 1934 (47 U.S.C. 151 et seq.) to enhance the ability of direct broadcast satellite and other multichannel video providers to compete effectively with cable television systems, and for other purposes.

SENATE RESOLUTION 260

At the request of Mr. GRAHAM, the names of the Senator from Alaska (Mr. STEVENS), the Senator from Arizona (Mr. MCCAIN), and the Senator from Wyoming (Mr. ENZI) were added as cosponsors of Senate Resolution 260, a resolution expressing the sense of the Senate that October 11, 1998, should be designated as ''National Children's Day.''

SENATE RESOLUTION 274

At the request of Mr. FORD, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of Senate Resolution 274, a resolution to express the sense of the Senate that the Louisville Festival of Faiths should be commended and should serve as model for similar festivals in other communities throughout the United States.

SENATE RESOLUTION 282—EXPRESSING THE SENSE OF THE SENATE REGARDING SOCIAL SECURITY AND BUDGET SURPLUS

Mr. JOHNSON submitted the following resolution; which was referred jointly to the Committee on the Budget and to the Committee on Governmental Affairs.

S. RES. 282

Whereas the Congressional Budget Office projections released July 15, 1998, indicate that the ''on-budget'' deficit, which does not include Social Security program surpluses, will be $41,000,000,000 for Fiscal Year 1998;

Whereas the Congressional Budget Office projections also show that the amount of Federal debt held by the Social Security trust funds will grow from $736,000,000,000 in 1998 to $2,250,000,000,000 in 2008;

Whereas the Social Security trust funds will be credited with interest payments on Federal debt each year, rising from $46,000,000,000 in 1998 to $117,000,000,000 in 2008, and these interest payments are an integral part of Social Security's long-term financial viability; and

Whereas the Congressional Budget Office's current projections indicate that there will not be a consistent surplus in the unified budget until 2005: Now, therefore, be it

Resolved, That it is the sense of the Senate that Congress and the President should—

(1) continue to work to balance the budget without counting Social Security trust fund surpluses;

(2) continue to abide by ''pay as you go'' budget rules requiring that legislation increasing mandatory spending or reducing revenues must contain offsets to maintain budget neutrality; and

(3) save Social Security first by reserving all surpluses attributable to the Social Security program, including interest payments.

AMENDMENTS SUBMITTED

WENDELL H. FORD NATIONAL AIR TRANSPORTATION SYSTEM IMPROVEMENT ACT OF 1998

TORRICELLI (AND OTHERS) AMENDMENT NO. 3627

Mr. TORRICELLI (for himself, Mr. LAUTENBERG, Mr. D'AMATO, Mr. MOYNIHAN, Mr. WELLSTONE, and Mr. ROBB) proposed an amendment to the bill (S.

2279) to amend title 49, United States Code, to authorize the programs of the Federal Aviation Administration for fiscal years 1999, 2000, 2001, and 2002, and for other purposes; as follows:

At the end, add the following:

TITLE ____—NOISE ABATEMENT

SEC. ___01. SHORT TITLE.

This title may be cited as the ''Quiet Communities Act of 1998''.

SEC. ___02. FINDINGS.

Congress finds that—

(1)(A) for too many citizens of the United States, noise from aircraft, vehicular traffic, and a variety of other sources is a constant source of torment; and

(B) nearly 20,000,000 citizens of the United States are exposed to noise levels that can lead to psychological and physiological damage, and another 40,000,000 people are exposed to noise levels that cause sleep or work disruption;

(2)(A) chronic exposure to noise has been linked to increased risk of cardiovascular problems, strokes, and nervous disorders; and

(B) excessive noise causes sleep deprivation and task interruptions, which pose untold costs on society in diminished worker productivity;

(3)(A) to carry out the Clean Air Act of 1970 (42 U.S.C. 7401 et seq.), the Noise Control Act of 1972 (42 U.S.C. 4901 et seq.), and section 8 of the Quiet Communities Act of 1978 (92 Stat. 3084), the Administrator of the Environmental Protection Agency established an Office of Noise Abatement and Control;

(B) the responsibilities of the Office of Noise Abatement and Control included promulgating noise emission standards, requiring product labeling, facilitating the development of low emission products, coordinating Federal noise reduction programs, assisting State and local abatement efforts, and promoting noise education and research; and

(C) funding for the Office of Noise Abatement and Control was terminated in 1982 and no funds have been provided since;

(4) because the Administrator of the Environmental Protection Agency remains responsible for enforcing regulations issued under the Noise Control Act of 1972 (42 U.S.C. 4901 et seq.) even though funding for the Office of Noise Abatement and Control has been terminated, and because that Act prohibits State and local governments from regulating noise sources in many situations, noise abatement programs across the United States lie dormant;

(5) as the population grows and air and vehicle traffic continues to increase, noise pollution is likely to become an even greater problem in the future; and

(6) the health and welfare of the citizens of the United States demands that the Environmental Protection Agency once again assume a role in combating noise pollution.

SEC. ___03. REESTABLISHMENT OF OFFICE OF NOISE ABATEMENT AND CONTROL.

(a) REESTABLISHMENT.—

(1) IN GENERAL.—The Administrator of the Environmental Protection Agency shall reestablish an Office of Noise Abatement and Control (referred to in this title as the ''Office'').

(2) RESPONSIBILITIES.—The Office shall be responsible for—

(A) coordinating Federal noise abatement activities;

(B) updating or developing noise standards;

(C) providing technical assistance to local communities; and

(D) promoting research and education on the impacts of noise pollution.

(3) EMPHASIZED APPROACHES.—The Office shall emphasize noise abatement approaches that rely on State and local activity, market incentives, and coordination with other public and private agencies.

(b) STUDY.—

(1) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Administrator of the Environmental Protection Agency shall submit a study on airport noise to Congress and the Federal Aviation Administration.

(2) AREAS OF STUDY.—The study shall—

(A) examine the Federal Aviation Administration's selection of noise measurement methodologies;

(B) the threshold of noise at which health impacts are felt; and

(C) the effectiveness of noise abatement programs at airports around the United States.

(3) RECOMMENDATIONS.—The study shall include specific recommendations to the Federal Aviation Administration on new measures that should be implemented to mitigate the impact of aircraft noise on surrounding communities.

SEC. ___04. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this title—

(1) $5,000,000 for each of fiscal years 1999, 2000, and 2001; and

(2) $8,000,000 for each of fiscal years 2002 and 2003.

DORGAN AMENDMENT NO. 3628

Mr. DORGAN proposed an amendment to the bill, S. 2279, supra; as follows:

At the appropriate place, insert:

SEC. ___. TAX CREDIT FOR REGIONAL JET AIRCRAFT SERVING UNDERSERVED COMMUNITIES.

(a) ALLOWANCE OF CREDIT.—

(1) IN GENERAL.—Section 46 of the Internal Revenue Code of 1986 (relating to amount of credit) is amended by striking ''and'' at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting '', and'', and by inserting after paragraph (3) the following new paragraph:

''(4) in the case of an eligible small air carrier, the underserved community jet access credit.''

(2) UNDERSERVED COMMUNITY JET ACCESS CREDIT.—Section 48 of such Code (relating to the energy credit and the reforestation credit) is amended by adding after subsection (b) the following new subsection:

''(c) UNDERSERVED COMMUNITY JET ACCESS CREDIT.—

''(1) IN GENERAL.—For purposes of section 46, the underserved community jet access credit of an eligible small air carrier for any taxable year is an amount equal to 10 percent of the qualified investment in any qualified regional jet aircraft.

''(2) ELIGIBLE SMALL AIR CARRIER.—For purposes of this subsection and section 46—

''(A) IN GENERAL.—The term 'eligible small air carrier' means, with respect to any qualified regional jet aircraft, an air carrier—

''(i) to which part 121 of title 14, Code of Federal Regulations, applies, and

''(ii) which has less than 10,000,000,000 (10 billion) revenue passenger miles for the calendar year preceding the calendar year in which such aircraft is originally placed in service.

''(B) AIR CARRIER.—The term 'air carrier' means any air carrier holding a certificate of public convenience and necessity issued by the Secretary of Transportation under section 41102 of title 49, United States Code.

''(C) START-UP CARRIERS.—If an air carrier has not been in operation during the entire calendar year described in subparagraph (A)(ii), the determination under such subparagraph shall be made on the basis of a reasonable estimate of revenue passenger miles for its first full calendar year of operation.

''(D) AGGREGATION.—All air carriers which are treated as 1 employer under section 52 shall be treated as 1 person for purposes of subparagraph (A)(ii).

''(3) QUALIFIED REGIONAL JET AIRCRAFT.—For purposes of this subsection, the term 'qualified regional jet aircraft' means a civil aircraft—

''(A) which is originally placed in service by the taxpayer,

''(B) which is powered by jet propulsion and is designed to have a maximum passenger seating capacity of not less than 30 passengers and not more than 100 passengers, and

''(C) at least 50 percent of the flight segments of which during any 12-month period beginning on or after the date the aircraft is originally placed in service are between a hub airport (as defined in section 41731(a)(13) of title 49, United States Code, and an underserved airport.

''(4) UNDERSERVED AIRPORT.—The term 'underserved airport' means, with respect to any qualified regional jet aircraft, an airport which for the calendar year preceding the calendar year in which such aircraft is originally placed in service had less than 600,000 enplanements.

''(5) QUALIFIED INVESTMENT.—For purposes of paragraph (1), the term 'qualified investment' means, with respect to any taxable year, the basis of any qualified regional jet aircraft placed in service by the taxpayer during such taxable year.

''(6) QUALIFIED PROGRESS EXPENDITURES.—

''(A) INCREASE IN QUALIFIED INVESTMENT.—In the case of a taxpayer who has made an election under subparagraph (E), the amount of the qualified investment of such taxpayer for the taxable year (determined under paragraph (5) without regard to this subsection) shall be increased by an amount equal to the aggregate of each qualified progress expenditure for the taxable year with respect to progress expenditure property.

''(B) PROGRESS EXPENDITURE PROPERTY DEFINED.—For purposes of this paragraph, the term 'progress expenditure property' means any property which is being constructed for the taxpayer and which it is reasonable to believe will qualify as a qualified regional jet aircraft of the taxpayer when it is placed in service.

''(C) QUALIFIED PROGRESS EXPENDITURES DEFINED.—For purposes of this paragraph, the term 'qualified progress expenditures' means the amount paid during the taxable year to another person for the construction of such property.

''(D) ONLY CONSTRUCTION OF AIRCRAFT TO BE TAKEN INTO ACCOUNT.—Construction shall be taken into account only if, for purposes of this subpart, expenditures therefor are properly chargeable to capital account with respect to the qualified regional jet aircraft.

''(E) ELECTION.—An election under this paragraph may be made at such time and in such manner as the Secretary may by regulations prescribe. Such an election shall apply to the taxable year for which made and to all subsequent taxable years. Such an election, once made, may not be revoked except with the consent of the Secretary.

''(7) COORDINATION WITH OTHER CREDITS.—This subsection shall not apply to any property with respect to which the energy credit or the rehabilitation credit is allowed unless the taxpayer elects to waive the application of such credits to such property.

''(8) SPECIAL LEASE RULES.—For purposes of section 50(d)(5), section 48(d) (as in effect on the day before the date of the enactment of

the Revenue Reconciliation Act of 1990) shall be applied for purposes of this section without regard to paragraph (4)(B) thereof (relating to short-term leases of property with class life of under 14 years).

''(9) APPLICATION.—This subsection shall apply to periods after the date of the enactment of this subsection and before January 1, 2009, under rules similar to the rules of section 48(m) (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).''

(3) RECAPTURE.—Section 50(a) of such Code (relating to recapture in the case of dispositions, etc.) is amended by adding at the end the following new paragraph:

''(6) SPECIAL RULES FOR AIRCRAFT CREDIT.—

''(A) IN GENERAL.—For purposes of determining whether a qualified regional jet aircraft ceases to be investment credit property, an airport which was an underserved airport as of the date such aircraft was originally placed in service shall continue to be treated as an underserved airport during any period this subsection applies to the aircraft.

''(B) PROPERTY CEASES TO QUALIFY FOR PROGRESS EXPENDITURES.—Rules similar to the rules of paragraph (2) shall apply in the case of qualified progress expenditures for a qualified regional jet aircraft under section 48(c).''

(4) TECHNICAL AMENDMENTS.—

(A) Subparagraph (C) of section 49(a)(1) of such Code is amended by striking ''and'' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting '', and'', and by adding at the end the following new clause:

''(iv) the portion of the basis of any qualified regional jet aircraft attributable to any qualified investment (as defined by section 48(c)(5)).''

(B) Paragraph (4) of section 50(a) of such Code is amended by striking ''and (2)'' and inserting '', (2), and (6)''.

(C)(i) The section heading for section 48 of such Code is amended to read as follows:

''SEC. 48. OTHER CREDITS.''

(ii) The table of sections for subpart E of part IV of subchapter A of chapter 1 of such Code is amended by striking the item relating to section 48 and inserting the following new item:

''Sec. 48. Other credits.''

(5) EFFECTIVE DATE.—The amendments made by this subsection shall apply to periods after the date of the enactment of this Act, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990.

(b) REDUCED PASSENGER TAX RATE ON RURAL DOMESTIC FLIGHT SEGMENTS.—Section 4261(e)(1)(C) of such Code (relating to segments to and from rural airports) is amended to read as follows:

''(C) REDUCTION IN GENERAL TAX RATE.—

''(i) IN GENERAL.—The tax imposed by subsection (a) shall apply to any domestic segment beginning or ending at an airport which is a rural airport for the calendar year in which such segment begins or ends (as the case may be) at the rate determined by the Secretary under clause (ii) for such year in lieu of the rate otherwise applicable under subsection (a).

''(ii) DETERMINATION OF RATE.—The rate determined by the Secretary under this clause for each calendar year shall equal the rate of tax otherwise applicable under subsection (a) reduced by an amount which reflects the net amount of the increase in revenues to the Treasury for such year resulting from the amendments made by subsections (a) and (c) of section ___ of the Wendell H. Ford National Air Transportation System Improvement Act of 1998.

''(iii) TRANSPORTATION INVOLVING MULTIPLE SEGMENTS.—In the case of transportation involving more than 1 domestic segment at least 1 of which does not begin or end at a rural airport, the rate applicable by reason of clause (i) shall be applied by taking into account only an amount which bears the same ratio to the amount paid for such transportation as the number of specified miles in domestic segments which begin or end at a rural airport bears to the total number of specified miles in such transportation.''.

(c) TREATMENT OF CERTAIN DEDUCTIBLE LIQUIDATING DISTRIBUTIONS OF REGULATED INVESTMENT COMPANIES AND REAL ESTATE INVESTMENT TRUSTS.—

(1) IN GENERAL.—Section 332 of the Internal Revenue Code of 1986 (relating to complete liquidations of subsidiaries) is amended by adding at the end the following new subsection:

''(c) DEDUCTIBLE LIQUIDATING DISTRIBUTIONS OF REGULATED INVESTMENT COMPANIES AND REAL ESTATE INVESTMENT TRUSTS.—If a corporation receives a distribution from a regulated investment company or a real estate investment trust which is considered under subsection (b) as being in complete liquidation of such company or trust, then, notwithstanding any other provision of this chapter, such corporation shall recognize and treat as a dividend from such company or trust an amount equal to the deduction for dividends paid allowable to such company or trust by reason of such distribution.''.

(2) CONFORMING AMENDMENTS.—

(A) The material preceding paragraph (1) of section 332(b) of such Code is amended by striking ''subsection (a)'' and inserting ''this section''.

(B) Paragraph (1) of section 334(b) of such Code is amended by striking ''section 332(a)'' and inserting ''section 332''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to distributions after May 21, 1998.

REED AMENDMENT NO. 3629

Mr. REED proposed an amendment to the bill, S. 2279, supra; as follows:

At the appropriate place in title II, insert the following:

SEC. 2___. DISCRETIONARY GRANTS.

Notwithstanding any limitation on the amount of funds that may be expended for grants for noise abatement, if any funds made available under section 48103 of title 49, United States Code, remain available at the end of the fiscal year for which those funds were made available, and are not allocated under section 47115 of that title, or under any other provision relating to the awarding of discretionary grants from unobligated funds made available under section 48103 of that title, the Secretary of Transportation may use those funds to make discretionary grants for noise abatement activities.

WATER RESOURCES DEVELOPMENT ACT OF 1998

LEVIN AMENDMENT NO. 3630

(Ordered to lie on the table.)

Mr. LEVIN submitted an amendment intended to be proposed by him to the bill (S. 2131) to provide for the conservation and development of water and related resources, to authorize the Secretary of the Army to construct various projects for improvements to rivers and harbors of the United States, and for other purposes; as follows:

At the end, add the following:

TITLE ___—CONTAMINATED SETTLEMENTS

SEC. ___01. SHORT TITLE.

This title may be cited as the ''Contaminated Sediments Management and Remediation Act of 1998''.

SEC. ___02. FINDINGS.

Congress finds that—

(1) contaminated sediments can pose a serious and demonstrable risk to human health and the environment;

(2) persistent, bioaccumulative toxic substances in contaminated sediments can poison the food chain, making fish and shellfish unsafe for humans and wildlife to eat;

(3) potential costs to society from contaminated sediments include long-term health effects such as cancer and children's neurological and intellectual impairment;

(4) contamination of sediments can interfere with recreational uses and increase the costs of and time needed for navigational dredging and subsequent disposal of dredged material;

(5) since the enactment of the amendments to the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) made by the Great Lakes Critical Programs Act of 1990 (104 Stat. 3000) and the enactment of the National Contaminated Sediment Assessment and Management Act (33 U.S.C. 1271 note; Public Law 102–580), the Nation has gained considerable experience with and understanding of sediment contamination;

(6) a report on the incidence and severity of sediment contamination in surface waters of the United States, required under section 503 of the National Contaminated Sediment Assessment and Management Act (33 U.S.C. 1271), identified 96 areas of probable concern where contaminated sediments pose potential risks to fish and wildlife and to people who eat fish from those areas;

(7) the assessment and remediation of the contaminated sediment program under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) and subsequent studies have demonstrated that there are some effective tools for—

(A) determining the extent and magnitude of sediment contamination;

(B) assessing risk and modeling the changes that would result from remedial action; and

(C) involving the public in solutions;

(8) prompt response after discovery of sediment contamination can prevent subsequent spread through storm events, thereby minimizing environmental impacts and response costs;

(9) the United States needs a better understanding of the sources of sediment contamination in order to prevent subsequent recontamination and minimize the recurrence of environmental impacts and response costs;

(10) the response to releases of contaminated sediments should reflect the risk associated with the contamination, and remedies should reflect the potential for beneficial reuse of sediments;

(11) coordination in the use of government authorities and resources for remediation has not kept pace with the growth in knowledge of effective remediation measures, and responses have not been timely or adequately funded;

(12) the resources of the Federal Government should be brought to bear on the problems referred to in paragraph (11) in a well-coordinated fashion; and

(13) the Federal Government should use the funding and enforcement authorities of the Superfund program to respond to the serious environmental risks that can be posed by contaminated sediment sites.

SEC. ___03. DEFINITIONS.

In this title:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Environmental Protection Agency.

(2) CONTAMINATED SEDIMENT.—The term ''contaminated sediment'' has the meaning given the term in section 501(b) of the National Contaminated Sediment Assessment and Management Act (33 U.S.C. 1271 note; Public Law 102–580).

(3) REMEDIAL ACTION.—The term ''remedial action'' has the meaning given the term in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601).

(4) SECRETARY.—The term ''Secretary'' means the Secretary of the Army.

(5) TASK FORCE.—The term ''Task Force'' means the National Contaminated Sediment Task Force established by section 502 of the National Contaminated Sediment Assessment and Management Act (33 U.S.C. 1271 note; Public Law 102–580).

(6) WATER RESOURCES DEVELOPMENT ACTS.—The term ''Water Resources Development Acts'' means—

(A) the Water Resources Development Act of 1986 (100 Stat. 4082);

(B) the Water Resources Development Act of 1988 (102 Stat. 4012);

(C) the Water Resources Development Act of 1990 (104 Stat. 4604);

(D) the Water Resources Development Act of 1992 (106 Stat. 4797);

(E) the Water Resources Development Act of 1996 (110 Stat. 3658); and

(F) this Act.

SEC. ___04. TASK FORCE.

(a) CONVENING.—The Secretary and the Administrator shall convene the Task Force not later than 90 days after the date of enactment of this Act.

(b) ESTABLISHMENT.—Section 502(a) of the National Contaminated Sediment Assessment and Management Act (33 U.S.C. 1271 note; Public Law 102–580) is amended—

(1) in paragraph (5), by adding ''and'' at the end;

(2) in paragraph (6)—

(A) in subparagraph (A), by striking ''and''; and

(B) by adding at the end the following:

''(C) to remediate high priority contaminated sediment sites.''; and

(3) by striking paragraph (7).

(c) MEMBERSHIP.—Section 502(b)(1) of the National Contaminated Sediment Assessment and Management Act (33 U.S.C. 1271 note; Public Law 102–580) is amended by adding at the end the following:

''(G) The Council on Environmental Quality.

''(H) The Agency for Toxic Substances and Disease Registry.''.

(d) COMPENSATION FOR ADDITIONAL MEMBERS.—Section 502(b) of the National Contaminated Sediment Assessment and Management Act (33 U.S.C. 1271 note; Public Law 102–580) is amended by striking paragraph (5) and inserting the following:

''(5) COMPENSATION FOR ADDITIONAL MEMBERS.—The additional members of the Task Force selected under paragraph (2) shall, while away from their homes or regular places of business in the performance of services for the Task Force, be allowed travel expenses.''.

(e) STRATEGY.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Task Force shall publish a strategy to coordinate the use of Federal authorities to prevent the contamination of sediments and to remediate existing contamination.

(2) CONTENTS.—The strategy shall include—

(A) specific recommendations for modifying regulatory programs (including modifications to law) and for improving the management and remediation of contaminated sediments to reduce risks to human health and the environment;

(B) specific recommendations to—

(i) help ensure that management practices and remedial actions taken for contaminated sediments reflect the degree of risk associated with the contamination and the costs and benefits of remediation; and

(ii) encourage the beneficial reuse of sediments; and

(C) specific implementation steps, consistent with budget submissions by the President with the appropriate spending requests, as part of an interagency plan to promote remediation of contaminated sediments and prevent recontamination.

(f) REPORTING ON REMEDIAL ACTION.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Task Force shall submit to Congress a report on the status of remedial actions at aquatic sites in the areas described in paragraph (2).

(2) AREAS.—The report under paragraph (1) shall address remedial actions in—

(A) areas of probable concern identified in the survey of data regarding aquatic sediment quality required by section 503(a) of the National Contaminated Sediment Assessment and Management Act (33 U.S.C. 1271);

(B) areas of concern within the Great Lakes, as identified under section 118(f) of the Federal Water Pollution Control Act (33 U.S.C. 1268(f));

(C) estuaries of national significance identified under section 320 of the Federal Water Pollution Control Act (33 U.S.C. 1330);

(D) areas for which remedial action has been authorized under any of the Water Resources Development Acts; and

(E) as appropriate, any other areas where sediment contamination is identified by the Task Force.

(3) ACTIVITIES.—Remedial actions subject to reporting under this subsection include remedial actions under—

(A) the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) or other Federal or State law containing environmental remediation authority;

(B) any of the Water Resources Development Acts;

(C) section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344); or

(D) section 10 of the Act of March 3, 1899 (30 Stat. 1151, chapter 425).

(4) CONTENTS.—The report under paragraph (1) shall provide, with respect to each remedial action described in the report, a description of—

(A) the authorities and sources of funding for conducting the remedial action;

(B) the nature and sources of the sediment contamination, including volume and concentration, where appropriate;

(C) the testing conducted to determine the nature and extent of sediment contamination and to determine whether the remedial action is necessary;

(D) the action levels or other factors used to determine that the remedial action is necessary;

(E) the nature of the remedial action planned or undertaken, including the levels of protection of public health and the environment to be achieved by the remedial action;

(F) the ultimate disposition of any material dredged as part of the remedial action;

(G) the status of projects and the obstacles or barriers to prompt conduct of the remedial action; and

(H) contacts and sources of further information concerning the remedial action.

SEC. ___05. SEDIMENT QUALITY.

Not later than 1 year after the date of enactment of this Actand every 2 years thereafter, the Administrator and the Secretary shall jointly publish a report that provides the status of the development and implementation of—

(1) methods to determine the threat to human health and the environment posed by contaminated sediments;

(2) guidelines or regulations designed to protect human health and the environment from contaminated sediments;

(3) guidelines or regulations designed to reduce the volume or toxicity of contaminants that are deposited in aquatic sediments; and

(4) guidelines or regulations that will encourage the beneficial use of dredged material.

SEC. ___06. COST SHARE.

Section 401(a) of the Water Resources Development Act of 1990 (33 U.S.C. 1268 note; Public Law 101–640) is amended by striking paragraph (2) and inserting the following:

''(2) NON-FEDERAL SHARE.—Non-Federal interests shall contribute, in cash or by providing in-kind contributions, not less than 25 percent of costs of activities for which assistance is provided under paragraph (1).''.

SEC. ___07. ENVIRONMENTAL DREDGING AND REMEDIATION.

Section 312 of the Water Resources Development Act of 1990 (33 U.S.C. 1272) is amended—

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

''(b) REMOVAL NOT IN CONNECTION WITH A NAVIGATION PROJECT.—The Secretary may remove and remediate contaminated sediments from the navigable waters of the United States for the purpose of environmental enhancement and water quality improvement if—

''(1) removal and remediation is requested by a non-Federal sponsor; and

''(2) the non-Federal sponsor agrees to pay not less than 25 percent of the cost of the removal or remediation (including the costs of off-site disposal).'';

(2) by striking subsection (d); and

(3) by redesignating subsections (e) and (f) as subsections (d) and (e), respectively.

SEC. ___08. TECHNOLOGY GUIDANCE AND DEMONSTRATION.

(a) GUIDANCE.—

(1) IN GENERAL.—The Administrator, in consultation with the Task Force, shall develop guidance for selecting appropriate remedial actions for contaminated sediments on a facility-specific basis.

(2) PURPOSES.—The guidance shall assist in deciding whether off-site treatment, in-place treatment, in-place capping, or natural attenuation is an appropriate remedial action, consistent with statutory authorities that are commonly used for remediating contaminated sediments.

(b) DEADLINE.—The Administrator shall—

(1) not later than 18 months after the date of enactment of this Act, publish interim guidance under subsection (a); and

(2) not later than 5 years after the date of enactment of this Act, publish final guidance.

(c) TECHNOLOGY DEMONSTRATION.—The Administrator, in consultation with the Secretary, shall carry out technology demonstration projects related to the remediation of contaminated sediments to assist in developing guidance for remedial actions under subsection (a).

(d) TECHNOLOGY DEMONSTRATION AUTHORITIES.—The technology demonstration shall

include projects required to be identified under—

(1) section 401 of the Water Resources Development Act of 1990 (33 U.S.C. 1268 note; Public Law 101–640);

(2) section 312 of the Water Resources Development Act of 1990 (33 U.S.C. 1272);

(3) section 311(b) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9660(b)); and

(4) other appropriate authorities.

SEC. ___09. PILOT PROGRAM ON PREVENTION.

(a) FINDINGS.—Congress finds that—

(1) the costs of dredging for navigational purposes are increased by contamination, including contamination from ongoing activities;

(2) sediment quality problems are not solely the legacy of past discharges;

(3) the ''polluter pays'' principle has not been consistently applied to contamination of sediments, because parties contributing to the contamination have not necessarily been held responsible for their share of the increased costs of dredging or remediation attributable to the contamination;

(4) prevention measures that control the volume or toxicity of sedimentation should lower the costs of dredging that eventually becomes necessary;

(5) it may be easier and less expensive to prevent contamination of sediment than to remedy it;

(6) the relationship between prevention measures and remediation needs to be better understood;

(7) an improved understanding of the sources of contamination and an improved ability to link sedimentation and contamination to their sources are needed; and

(8) there should be a closer linkage between actions to prevent sediment contamination and the cost savings that can be attained when future remediation becomes unnecessary.

(b) PILOT PROGRAM.—The Task Force shall establish a pilot program to—

(1) improve the understanding of the relationship between upstream prevention and control measures; and

(2) provide incentives for upstream measures that can lower the costs of dredging, disposal, or treatment or reuse of dredged materials.

(c) COMPETITIVE GRANTS.—

(1) IN GENERAL.—The pilot program shall provide for competitive grants to be administered by agencies represented on the Task Force with experience in developing and managing programs that address upstream concerns.

(2) PURPOSES.—The grants shall provide assistance for—

(A) development of plans for reduction in sediment contamination;

(B) technical support for implementing those plans;

(C) measurement of impacts of implementation measures, in comparison to baselines; and

(D) coordinating the use of available authorities to reduce further contamination of sediments.

(3) ELIGIBILITY.—The grants shall be awarded to States or substate organizations that can develop and implement the plans described in paragraph (2) on a watershed basis.

(4) CRITERIA.—The Secretary and the Administrator shall develop criteria for evaluating grant proposals under this subsection.

(d) TECHNICAL ASSISTANCE.—Using the data gathered under section 516(e) of the Water Resources Development Act of 1996 (33 U.S.C. 2326b(e)), after entering into an interagency agreement with the Administrator, the Secretary of Agriculture, and the Secretary of the Interior, the Secretary may provide technical assistance to communities in reducing contamination of sediments.

SEC. ___10. AUTHORIZATION OF APPROPRIATIONS.

(a) TASK FORCE AND PRIORITY SETTING.—There are authorized to be appropriated such sums as are necessary to carry out section ___04.

(b) TECHNOLOGY DEMONSTRATION.—There is authorized to be appropriated to carry out section ___08 $50,000,000.

(c) PILOT PROGRAM.—There is authorized to be appropriated to carry out section ___09 $5,000,000.

● Mr. LEVIN. Mr. President, I am submitting for the RECORD and my colleagues' consideration an amendment to S. 2131, the Water Resources Development Act (WRDA) of 1998, which I hope will be included in that legislation. It is a relatively simple measure. Contaminated sediments are a serious problem in our nation's waterways and ports and a potential threat to human and environmental health. S. 2131 presents a long overdue and perfectly appropriate opportunity to begin addressing this problem.

The EPA submitted a report to Congress this year on the quality of sediments across the nation, pursuant to WRDA of 1992. The report shows that we have cause to worry. Ninety-six areas of probable concern are identified where public and environmental health may be threatened by contaminated sediments. Yet, we have at least six different Federal statutes with implementation responsibilities spread over seven Federal agencies, including a great many specific provisions regarding the Army Corps of Engineers' duties in recent WRDAs, two major programs—Superfund and Clean Water—within EPA, and numerous state and local governments coming at the problem of contaminated sediments in a variety of ways. The inefficiency of this setup and the lack of information exchange and data availability reduces the chances of an expeditious solution. My amendment is intended to improve communication and cooperation among agencies, affected parties and all levels of government, and motivate them to address the problem sooner rather than later.

My amendment requires the National Contaminated Sediment Task Force, as authorized in section 502 of WRDA of 1992 but never funded, to actually meet and make recommendations on how to improve contaminated sediment management practices. Also, this Task Force would have to report on the status of remedial actions on contaminated sediment sites across the nation, including Superfund sites, within one year. This report would also have to identify remediation status, programs and funding for cleanup, the nature and sources, etc. of contaminated sediments.

EPA and the Army Corps would jointly publish a recurring report on ways to assess the threat of contaminated sediment, on the status of any guidelines issued designed to protect human and environmental health or to reduce deposition of toxics into sediment, and on guidelines issued intended to encourage the beneficial use of dredged material.

Finally, the amendment makes modifications to cost-share provisions for environmental dredging, remediation technology assistance, and establishes a pilot program to give grants to communities that try to reduce contamination of downstream sediments.

Mr. President, there have been years of inaction on contaminated sediments. My amendment is primarily intended to gather information and stimulate the agencies with jurisdiction to take this matter seriously and begin working together. If the information I am seeking is prepared in a timely way, the reauthorizations of Superfund and the Clean Water Act will be greatly enhanced from an environmental perspective, insofar as my colleagues would like to truly address the multi-media threat posed by contaminated sediments.●

WENDELL H. FORD NATIONAL AIR TRANSPORTATION SYSTEM IMPROVEMENT ACT OF 1998

FAIRCLOTH (AND OTHERS) AMENDMENT NO. 3631

Mr. MCCAIN (for Mr. FAIRCLOTH for himself, Mr. HOLLINGS, and Mr. HELMS) proposed an amendment to the bill, S. 2279, supra; as follows:

At the appropriate place in title V, insert the following:

SEC. 5___. TO EXPRESS THE SENSE OF THE SENATE CONCERNING A BILATERAL AGREEMENT BETWEEN THE UNITED STATES AND THE UNITED KINGDOM.

(a) DEFINITIONS.—In this section:

(1) AIR CARRIER.—The term ''air carrier'' has the meaning given that term in section 40102 of title 49, United States Code.

(2) BERMUDA II AGREEMENT.—The term ''Bermuda II Agreement'' means the Agreement Between the United States of America and United Kingdom of Great Britain and Northern Ireland Concerning Air Services, signed at Bermuda on July 23, 1977 (TIAS 8641).

(3) CHARLOTTE-LONDON (GATWICK) ROUTE.—The term ''Charlotte-London (Gatwick) route'' means the route between Charlotte, North Carolina, and the Gatwick Airport in London, England.

(4) FOREIGN AIR CARRIER.—The term ''foreign air carrier'' has the meaning given that term in section 40102 of title 49, United States Code.

(5) SECRETARY.—The term ''Secretary'' means the Secretary of Transportation.

(b) FINDINGS.—Congress finds that—

(1) under the Bermuda II Agreement, the United States has a right to designate an air carrier of the United States to serve the Charlotte-London (Gatwick) route;

(2) the Secretary awarded the Charlotte-London (Gatwick) route to US Airways on September 12, 1997, and on May 7, 1998, US Airways announced plans to launch nonstop service in competition with the monopoly held by British Airways on the route and to provide convenient single-carrier one-stop service to the United Kingdom from dozens of cities in North Carolina and South Carolina and the surrounding region;

(3) US Airways was forced to cancel service for the Charlotte-London (Gatwick) route for the summer of 1998 and the following winter because the Government of the United Kingdom refused to provide commercially viable access to Gatwick Airport;

(4) British Airways continues to operate monopoly service on the Charlotte-London (Gatwick) route and recently upgraded the aircraft for that route to B–777 aircraft;

(5) British Airways had been awarded an additional monopoly route between London England and Denver, Colorado, resulting in a total of 10 monopoly routes operated by British Airways between the United Kingdom and points in the United States;

(6) monopoly service results in higher fares to passengers; and

(7) US Airways is prepared, and officials of the air carrier are eager, to initiate competitive air service on the Charlotte-London (Gatwick) route as soon as the Government of the United Kingdom provides commercially viable access to the Gatwick Airport.

(c) SENSE OF THE SENATE.—It is the sense of the Senate that the Secretary should—

(1) act vigorously to ensure the enforcement of the rights of the United States under the Bermuda II Agreement;

(2) intensify efforts to obtain the necessary assurances from the Government of the United Kingdom to allow an air carrier of the United States to operate commercially viable, competitive service for the Charlotte-London (Gatwick) route; and

(3) ensure that the rights of the Government of the United States and citizens and air carriers of the United States are enforced under the Bermuda II Agreement before seeking to renegotiate a broader bilateral agreement to establish additional rights for air carriers of the United States and foreign air carriers of the United Kingdom.

DEWINE AMENDMENT NO. 3632

Mr. MCCAIN (for Mr. DEWINE) proposed an amendment to the bill, S. 2279, supra; as follows:

At the appropriate place in title V, insert the following:

SEC. 5___. TO EXPRESS THE SENSE OF THE SENATE CONCERNING A BILATERAL AGREEMENT BETWEEN THE UNITED STATES AND THE UNITED KINGDOM.

(a) DEFINITIONS.—In this section:

(1) AIR CARRIER.—The term ''air carrier'' has the meaning given that term in section 40102 of title 49, United States Code.

(2) AIRCRAFT.—The term ''aircraft'' has the meaning given that term in section 40102 of title 49, United States Code.

(3) AIR TRANSPORTATION.—The term ''air transportation'' has the meaning given that term in section 40102 of title 49, United States Code.

(4) BERMUDA II AGREEMENT.—The term ''Bermuda II Agreement'' means the Agreement Between the United States of America and United Kingdom of Great Britain and Northern Ireland Concerning Air Services, signed at Bermuda on July 23, 1977 (TIAS 8641).

(5) CLEVELAND-LONDON (GATWICK) ROUTE.—The term ''Cleveland-London (Gatwick) route'' means the route between Cleveland, Ohio, and the Gatwick Airport in London, England.

(6) FOREIGN AIR CARRIER.—The term ''foreign air carrier'' has the meaning given that term in section 40102 of title 49, United States Code.

(7) SECRETARY.—The term ''Secretary'' means the Secretary of Transportation.

(8) SLOT.—The term ''slot'' means a reservation for an instrument flight rule takeoff or landing by an air carrier of an aircraft in air transportation.

(b) FINDINGS.—Congress finds that—

(1) under the Bermuda II Agreement, the United States has a right to designate an air carrier of the United States to serve the Cleveland-London (Gatwick) route;

(2)(A) on December 3, 1996, the Secretary awarded the Cleveland-London (Gatwick) route to Continental Airlines;

(B) on June 15, 1998, Continental Airlines announced plans to launch nonstop service on that route on February 19, 1999, and to provide single-carrier one-stop service between London, England (from Gatwick Airport) and dozens of cities in Ohio and the surrounding region; and

(C) on August 4, 1998, the Secretary tentatively renewed the authority of Continental Airlines to carry out the nonstop service referred to in subparagraph (B) and selected Cleveland, Ohio, as a new gateway under the Bermuda II Agreement;

(3) unless the Government of the United Kingdom provides Continental Airlines commercially viable access to Gatwick Airport, Continental Airlines will not be able to initiate service on the Cleveland-London (Gatwick) route; and

(4) Continental Airlines is prepared to initiate competitive air service on the Cleveland-London (Gatwick) route when the Government of the United Kingdom provides commercially viable access to the Gatwick Airport.

(c) SENSE OF THE SENATE.—It is the sense of the Senate that the Secretary should—

(1) act vigorously to ensure the enforcement of the rights of the United States under the Bermuda II Agreement;

(2) intensify efforts to obtain the necessary assurances from the Government of the United Kingdom to allow an air carrier of the United States to operate commercially viable, competitive service for the Cleveland-London (Gatwick) route; and

(3) ensure that the rights of the Government of the United States and citizens and air carriers of the United States are enforced under the Bermuda II Agreement before seeking to renegotiate a broader bilateral agreement to establish additional rights for air carriers of the United States and foreign air carriers of the United Kingdom, including the right to commercially viable competitive slots at Gatwick Airport and Heathrow Airport in London, England, for air carriers of the United States.

THOMPSON AMENDMENT NO. 3633

Mr. MCCAIN (for Mr. THOMPSON) proposed an amendment to the bill, S. 2279, supra; as follows:

At the appropriate place in title III, insert the following:

SEC. 3___. CRIMINAL PENALTY FOR PILOTS OPERATING IN AIR TRANSPORTATION WITHOUT AN AIRMAN'S CERTIFICATE.

(a) IN GENERAL.—Chapter 463 of title 49, United States Code, is amended by adding at the end the following:

''§ 46317. Criminal penalty for pilots operating in air transportation without an airman's certificate

''(a) APPLICATION.—This section applies only to aircraft used to provide air transportation.

''(b) GENERAL CRIMINAL PENALTY.—An individual shall be fined under title 18, imprisoned for not more than 3 years, or both, if that individual—

''(1) knowingly and willfully serves or attempts to serve in any capacity as an airman without an airman's certificate authorizing the individual to serve in that capacity; or

''(2) knowingly and willfully employs for service or uses in any capacity as an airman an individual who does not have an airman's certificate authorizing the individual to serve in that capacity.

''(c) CONTROLLED SUBSTANCE CRIMINAL PENALTY.—(1) In this subsection, the term 'controlled substance' has the same meaning given that term in section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802).

''(2) An individual violating subsection (b) shall be fined under title 18, imprisoned for not more than 5 years, or both, if the violation is related to transporting a controlled substance by aircraft or aiding or facilitating a controlled substance violation and that transporting, aiding, or facilitating—

''(A) is punishable by death or imprisonment of more than 1 year under a Federal or State law; or

''(B) is related to an act punishable by death or imprisonment for more than 1 year under a Federal or State law related to a controlled substance (except a law related to simple possession (as that term is used in section 46306(c)) of a controlled substance).

''(3) A term of imprisonment imposed under paragraph (2) shall be served in addition to, and not concurrently with, any other term of imprisonment imposed on the individual subject to the imprisonment.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 463 of title 49, United States Code, is amended by adding at the end the following:

''46317. Criminal penalty for pilots operating in air transportation without an airman's certificate.''.

ROBB (AND OTHERS) AMENDMENT NO. 3634

Mr. ROBB (for himself, Ms. COLLINS, Mr. GREGG, Mr. SMITH of New Hampshire, and Mr. GRAHAM) proposed an amendment to the bill, S. 2279, supra; as follows:

On page 41, line 22, strike the ''and''.

On page 41, line 23, strike the period and insert ''; ''.

On page 41, line 24, insert the following:

''(3) not reduce travel options for communities served by small hub airports and medium hub airports within the perimeter described in section 49109 of title 49, United States Code; and

''(4) not result in meaningfully increased travel delays.''

MOYNIHAN (AND OTHERS) AMENDMENT NO. 3635

Mr. MOYNIHAN (for himself, Mr. CHAFEE, Mr. KENNEDY, Mr. D'AMATO, Mr. KERRY, and Mr. LAUTENBERG) proposed an amendment to the bill, S. 2279, supra; as follows:

At the appropriate place in title V, insert the following:

SEC. 5___. ALLOCATION OF TRUST FUND FUNDING.

(a) DEFINITIONS.—In this section:

(1) AIRPORT AND AIRWAY TRUST FUND.—The term ''Airport and Airway Trust Fund'' means the trust fund established under section 9502 of the Internal Revenue Code of 1986.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of Transportation.

(3) STATE.—The term ''State'' means each of the States, the District of Columbia, and the Commonwealth of Puerto Rico.

(4) STATE DOLLAR CONTRIBUTION TO THE AIRPORT AND AIRWAY TRUST FUND.—The term ''State dollar contribution to the Airport and Airway Trust Fund'', with respect to a State and fiscal year, means the amount of

funds equal to the amounts transferred to the Airport and Airway Trust Fund under section 9502 of the Internal Revenue Code of 1986 that are equivalent to the taxes described in section 9502(b) of the Internal Revenue Code of 1986 that are collected in that State.

(b) REPORTING.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, and annually thereafter, the Secretary of the Treasury shall report to the Secretary the amount equal to the amount of taxes collected in each State during the preceding fiscal year that were transferred to the Airport and Airway Trust Fund.

(2) REPORT BY SECRETARY.—Not later than 90 days after the date of enactment of this Act, and annually thereafter, the Secretary shall prepare and submit to Congress a report that provides, for each State, for the preceding fiscal year—

(A) the State dollar contribution to the Airport and Airway Trust Fund; and

(B) the amount of funds (from funds made available under section 48103 of title 49, United States Code) that were made available to the State (including any political subdivision thereof) under chapter 471 of title 49, United States Code.

DORGAN (AND OTHERS) AMENDMENT NO. 3636

Mr. DORGAN (for himself, Ms. SNOWE, and Mr. WELLSTONE) proposed an amendment to the bill, S. 2279, supra; as follows:

At the appropriate place insert the following new section—

SEC. . NON-DISCRIMINATORY INTERLINE INTERCONNECTION REQUIREMENTS.

(a) IN GENERAL.—Subchapter I of chapter 417 of title 49, United States Code, is amended by adding at the end thereof the following:

''(a) NON-DISCRIMINATORY REQUIREMENTS.—If a major air carrier that provides air service to an essential airport facility has any agreement involving ticketing, baggage and ground handling, and terminal and gate access with another carrier, it shall provide the same services to any requesting air carrier that offers service to a community selected for participation in the program under section 41743 under similar terms and conditions and on a non-discriminatory basis with 30 days after receiving the request, as long as the requesting air carrier meets such safety, service, financial, and maintenance requirements, if any, as the Secretary may by regulation establish consistent with public convenience and necessity. The Secretary must review any proposed agreement to determine if the requesting carrier meets operational requirements consistent with the rules, procedures, and policies of the major carrier. This agreement may be terminated by either party in the event of failure to meet the standards and conditions outlined in the agreement.

(b) DEFINITINS—In this section:

''(1) ESSENTIAL AIRPORT FACILITY.—The term 'essential airport facility' means a large hub airport (as defined in section 41731(a)(3)) in the contiguous 48 states in which one carrier has more than 50 percent of such airport's total annual enplanements.''

(c) CLERICAL AMENDMENT.—The chapter analysis for chapter 417 of title 49, United States Code, is amended by inserting after the item relating to section 41715 the following:

''41716. Interline agreements for domestic transportation.''.

Between lines 13 and 14 on page 151, insert the following—

''(d) ADDITIONAL ACTION.—Under the pilot program established pursuant to subsection (a), the Secretary shall work with air carriers providing service to participating communities and major air carriers serving large hub airports (as defined in section 41731(a)(3)) to facilitate joint fare arrangements consistent with normal industry practice.''

SARBANES (AND OTHERS) AMENDMENTS NOS. 3637–3639

Mr. SARBANES (for himself, Ms. MIKULSKI, Mr. WARNER, and Mr. ROBB) proposed three amendments to the bill, S. 2279, supra; as follows:

AMENDMENT NO. 3637

Strike section 607(c), as included in the manager's amendment, and insert the following:

(c) MWAA NOISE-RELATED GRANT ASSURANCES.—

(1) IN GENERAL.—In addition to any condition for approval of an airport development project that is the subject of a grant application submitted to the Secretary of Transportation under chapter 471 of title 49, United States Code, by the Metropolitan Washington Airports Authority, the Authority shall be required to submit a written assurance that, for each such grant made to the Authority for fiscal year 1999 or any subsequent fiscal year—

(A) the Authority will make available for that fiscal year funds for noise compatibility planning and programs that are eligible to receive funding under chapter 471 of title 49, United States Code, in an amount not less than 10 percent of the aggregate annual amount of financial assistance provided to the Authority by the Secretary as grants under chapter 471 of title 49, United States Code; and

(B) the Authority will not divert funds from a high priority safety project in order to make funds available for noise compatibility planning and programs.

(2) WAIVER.—The Secretary of Transportation may waive the requirements of paragraph (1) for any fiscal year for which the Secretary determines that the Metropolitan Washington Airports Authority is in full compliance with applicable airport noise compatibility planning and program requirements under part 150 of title 14, Code of Federal Regulations.

(3) SUNSET.—This subsection shall cease to be in effect 5 years after the date of enactment of this Act, if on that date the Secretary of Transportation certifies that the Metropolitan Washington Airports Authority has achieved full compliance with applicable noise compatibility planning and program requirements under part 150 of title 14, Code of Federal Regulations.

AMENDMENT NO. 3638

In section 607(a)(2), as included the manager's amendment, in section 41716(c) of title 49, United States Code, as added by that section, strike paragraph (2) and insert the following:

''(2) GENERAL EXEMPTIONS.—The exemptions granted under subsections (a) and (b) may not increase the number of operations at Ronald Reagan Washington National Airport in any 1-hour period during the hours between 7:00 a.m. and 9:59 p.m. by more than 2 operations.''.

AMENDMENT NO. 3639

Strike the first subsection designated as subsection (d) in section 607, as included in the manager's amendment, and insert the following:

(d) NOISE COMPATIBILITY PLANNING AND PROGRAMS.—Section 47117(e) is amended by adding at the end the following:

''(3) Subject to section 47114(c), to promote the timely development of the forecast of cumulative noise exposure and to ensure a coordinated approach to noise monitoring and mitigation in the region of Washington, D.C., and Baltimore, Maryland, the Secretary shall give priority to any grant application made by the Metropolitan Washington Airports Authority or the State of Maryland for financial assistance from funds made available for noise compatibility planning and programs.''.

MCCAIN AMENDMENT NO. 3640

Mr. MCCAIN proposed an amendment to amendment No. 3639 proposed by Mr. SARBANES to the bill, S. 2279, supra; as follows:

On page 2, strike through line 10 and insert the following:

''(3) The Secretary shall give priority in making grants under paragraph (1)(A) to applications for airport noise compatibility planning and programs at and around airports where operations increase under title VI of the Wendell H. Ford National Air Transportation System Improvement Act of 1998 and the amendments made by that title.''.

BINGAMAN (AND DOMENICI) AMENDMENT NO. 3641

Mr. MCCAIN (for Mr. BINGAMAN for himself and Mr. DOMENICI) proposed an amendment to the bill, S. 2279, supra; as follows:

At the appropriate place in title V, insert the following:

SEC. 5 . TAOS PUEBLO AND BLUE LAKES WILDERNESS AREA DEMONSTRATION PROJECT.

(a) IN GENERAL.—Within 18 months after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall work with the Taos Pueblo to study the feasibility of conducting a demonstration project to require all aircraft that fly over Taos Pueblo and the Blue Lake Wilderness Area of Taos Pueblo, New Mexico, to maintain a mandatory minimum altitude of at least 5,000 feet above ground level.

REED AMENDMENT NO. 3642

Mr. MCCAIN (for Mr. REED) proposed an amendment to the bill, S. 2279, supra; as follows:

At the appropriate place in title V, insert the following:

SEC. 5 . AIRLINE MARKETING DISCLOSURE.

(a) DEFINITIONS.—In this section:

(1) AIR CARRIER.—The term ''air carriers'' has the meaning given that term in section 40102 of title 49, United States Code.

(2) AIR TRANSPORTATION.—The term ''air transportation'' has the meaning given that term in section 40102 of title 49, United States Code.

(b) FINAL REGULATIONS.—Not later than 90 days after the date of enactment of this Act, the Secretary of Transportation shall promulgate final regulations to provide for improved oral and written disclosure to each consumer of air transportation concerning the corporate name of the air carrier that provides the air transportation purchased by that consumer in issuing the regulations issued under this subsection the Secretary shall take into account the proposed regulations issued by the Secretary on January 17, 1995, published at 60 Red. Reg. 3359.

WARNER (AND OTHERS) AMENDMENT NO. 3643

Mr. WARNER (for himself, Mr. SARBANES, Mr. ROBB, and Ms. MIKULSKI) proposed an amendment to the bill, S. 2279, supra; as follows:

On page 47 of the manager's amendment, between lines 6 and 7, insert the following:

SEC. 607. (g) PROHIBITION.—Notwithstanding any other provisions of this Act, unless all of the members of the Board of the Metropolitan Washington Airports Authority established under section 49106 of title 49, United States Code, have been appointed to the Board under subsection (c) of that section and this is no vacancy on the Board, the Secretary may not grant exemptions provided under section 41716 of title 49, United States Code.

WARNER (AND OTHERS) AMENDMENT NO. 3644

Mr. WARNER (for himself, Mr. SARBANES, Ms. MIKULSKI, and Mr. ROBB) proposed an amendment to the bill, S. 2279, supra; as follows:

On page 43 of the manager's amendment beginning with line 21, strike through line 5 on page 44 and insert the following:

(D) ASSESSMENT OF SAFETY, NOISE AND ENVIRONMENTAL IMPACTS.—The Secretary shall assess the impact of granting exemptions, including the impacts of the additional slots and flights at Ronald Reagan Washington National Airport provided under subsections (a) and (b) on safety, noise levels and the environment within 90 days of the date of the enactment of this Act. The environmental assessment shall be carried out in accordance with parts 1500-1508 of title 40, Code of Federal Regulations. Such environmental assessment shall include a public meeting.

SPECTER (AND OTHERS) AMENDMENT NO. 3645

Mr. SPECTER (for himself, Mr. SANTORUM, and Mr. LOTT) proposed an amendment to the bill, S. 2279, supra; as follows:

SEC. . COMPENSATION UNDER THE DEATH ON THE HIGH SEAS ACT.

(a) IN GENERAL.—Section 2 of the Death on the High Seas Act (46 U.S.C. App. 762) is amended by—

(1) inserting ''(a) IN GENERAL.—'' before ''The recovery''; and

(2) adding at the end thereof the following:

''(b) COMMERCIAL AVIATION.—

''(1) IN GENERAL.—If the death was caused during commercial aviation, additional compensation for non-pecuniary damages for wrongful death of a decedent is recoverable in a total amount, for all beneficiaries of that decedent, that shall not exceed the greater of the pecuniary loss sustained or a sum total of $750,000 from all defendants for all claims. Punitive damages are not recoverable.

''(2) INFLATION ADJUSTMENT.—The $750,000 amount shall be adjusted, beginning in calendar year 2000 by the increase, if any, in the Consumer Price Index for all urban consumers for the prior year over the Consumer Price Index for all urban consumers for the calendar year 1998.

''(3) NON-PECUNIARY DAMAGES.—For purposes of this subsection, the term 'non-pecuniary damages' means damages for loss of care, comfort, and companionship.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies to any death caused during commercial aviation occurring after July 16, 1996.

MCCAIN (AND FORD) AMENDMENT NO. 3646

Mr. MCCAIN (for himself and Mr. FORD) proposed an amendment to the bill, S. 2279, supra; as follows:

On page 18 of the managers' amendment, line 17, strike ''11(4)'' and insert ''(4)''.

On page 34 of the managers' amendment, line 6, insert ''directly'' after ''person''.

On page 34, beginning in line 10, strike ''aircraft registration numbers of any aircraft; and'' and insert ''the display of any aircraft-situation-display-to-industry derived data related to any identified aircraft registration number; and''.

On page 34 of the managers' amendment, beginning in line 14, strike ''that owner or operator's request within 30 days after receiving the request.'' and insert ''the Administration's request.''

On page 34 of the managers' amendment, strike lines 16 through 21.

On page 34 of the managers' amendment, line 22, strike ''(c)'' and insert ''(b)''.

On page 36 of the managers' amendment, strike lines 16 and 17 and insert the following:

''(1) An airport with fewer than 2,000,000 annual enplanements; and

On page 39 of the managers' amendment, beginning in line 4, strike ''shall, in conjunction with subsection (f),'' and insert ''shall''.

On page 40 of the managers' amendment, strike lines 1 through 8 and insert the following:

''(i) REGIONAL JET DEFINED.—In this section, the term 'regional jet' means a passenger, turbofan-powered aircraft carrying not fewer than 30 and not more than 50 passengers.''.

On page 41 of the managers' amendment, beginning in line 9, strike ''In addition to any exemption granted under section 41714(d), the'' and insert ''The''.

On page 41 of the managers' amendment, beginning in line 24, strike ''In addition to any exemption granted under section 41714(d) or subsection (a) of this section, the'' and insert ''The''.

On page 42 of the managers' amendment, beginning in line 5, strike ''smaller than large hub airports (as defined in section 47134(d)(2))'' and insert ''with fewer than 2,000,000 annual enplanements''.

On page 42 of the managers' amendment, line 10, strike ''airports other than large hubs'' and insert ''such airports''.

On page 46, line 18, strike ''(d)'' and insert ''(f)''.

On page 46, line 24, after ''and the'' insert ''metropolitan planning organization for''.

On page 47, line 1, strike ''Council of Governments''.

On page 35 of the managers' amendment, between lines 2 and 3, insert the following:

SEC. 529. CERTAIN ATC TOWERS.

Notwithstanding any other provision of law, regulation, intergovernmental circular advisories or other process, or any judicial proceeding or ruling to the contrary, the Federal Aviation Administration shall use such funds as necessary to contract for the operation of air traffic control towers, located in Salisbury, Maryland; Bozeman, Montana; and Boca Raton, Florida, provided that the Federal Aviation Administration has made a prior determination of eligibility for such towers to be included in the contract tower program.

On page 114, insert:

SEC. 530. COMPENSATION UNDER THE DEATH ON THE HIGH SEAS ACT

(a) IN GENERAL.—Section 2 of the Death on the High Seas Act (46 U.S.C. App. 762) is amended by—

(1) inserting ''(a) IN GENERAL.—'' before ''The recovery''; and

(2) adding at the end thereof the following:

''(b) COMMERCIAL AVIATION.—

''(1) IN GENERAL.—If the death was caused during commercial aviation, additional compensation for non-pecuniary damages for wrongful death of a decedent is recoverable in a total amount, for all beneficiaries of that decedent, that shall not exceed the greater of the pecuniary loss sustained or a sum total of $750,000 from all defendants for all claims. Punitive damages are not recoverable.

''(2) INFLATION ADJUSTMENT.—The $750,000 amount shall be adjusted, beginning in calendar year 2000 by the increase, if any, in the Consumer Price Index for all urban consumers for the prior year over the Consumer Price Index for all urban consumers for the calendar year 1998.

''(3) NON-PECUNIARY DAMAGES.—For purposes of this subsection, the term 'non-pecuniary damages' means damages for loss of care, comfort, and companionship.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies to any death caused during commercial aviation occurring after July 16, 1996.

CONGRESSIONAL GOLD MEDAL TO GERALD R. AND BETTY FORD

D'AMATO AMENDMENT NO. 3647

Mr. MCCAIN (for Mr. D'AMATO) proposed an amendment to bill (H.R. 3506) to award a congressional gold medal to Gerald R. and Betty Ford; as follows:

At the end of the bill, add the following new sections:

SEC. 4. CONGRESSIONAL GOLD MEDALS FOR THE ''LITTLE ROCK NINE''.

(a) FINDINGS.—The Congress finds that—

(1) Jean Brown Trickey, Carlotta Walls LaNier, Melba Patillo Beals, Terrence Roberts, Gloria Ray Karlmark, Thelma Mothershed Wair, Ernest Green, Elizabeth Eckford, and Jefferson Thomas, hereafter in this section referred to as the ''Little Rock Nine'', voluntarily subjected themselves to the bitter stinging pains of racial bigotry;

(2) the Little Rock Nine are civil rights pioneers whose selfless acts considerably advanced the civil rights debate in this country;

(3) the Little Rock Nine risked their lives to integrate Central High School in Little Rock, Arkansas, and subsequently the Nation;

(4) the Little Rock Nine sacrificed their innocence to protect the American principle that we are all ''one nation, under God, indivisible'';

(5) the Little Rock Nine have indelibly left their mark on the history of this Nation; and

(6) the Little Rock Nine have continued to work toward equality for all Americans.

(b) PRESENTATION AUTHORIZED.—The President is authorized to present, on behalf of Congress, to Jean Brown Trickey, Carlotta Walls LaNier, Melba Patillo Beals, Terrence Roberts, Gloria Ray Karlmark, Thelma Mothershed Wair, Ernest Green, Elizabeth Eckford, and Jefferson Thomas, commonly referred to the ''Little Rock Nine'', gold medals of appropriate design, in recognition of the selfless heroism that such individuals exhibited and the pain they suffered in the cause of civil rights by integrating Central High School in Little Rock, Arkansas.

(c) DESIGN AND STRIKING.—For purposes of the presentation referred to in subsection (b) the Secretary of the Treasury shall strike a gold medal with suitable emblems, devices, and inscriptions to be determined by the Secretary for each recipient.

(d) AUTHORIZATION OF APPROPRIATION.—Effective October 1, 1997, there are authorized to be appropriated such sums as may be necessary to carry out this section.

(e) DUPLICATE MEDALS.—

(1) STRIKING AND SALE.—The Secretary of the Treasury may strike and sell duplicates in bronze of the gold medals struck pursuant to this section under such regulations as the Secretary may prescribe, at a price sufficient to cover the cost thereof, including labor, materials, dies, use of machinery, and overhead expenses, and the cost of the gold medal.

(3) RIMBURSEMENT OF APPROPRIATION.—The appropriation used to carry out this section shall be reimbursed out of the proceeds of sales under paragraph (1).

SEC. 5. COMMEMORATIVE COINS.

(a) IN GENERAL.—Section 101(7)(D) of the United States Commemorative Coin Act of 1996 (Public Law 104–239, 110 Stat. 4009) is amended to read as follows:

''(D) MINTING AND ISSUANCE OF COINS.—

The Secretary—

''(i) may not mint coins under this paragraph after July 1, 1998; and

''(ii) may not issue coins minted under this paragraph after December 31, 1998.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall be construed to have the same effective date as section 101 of the United States Commemorative Coin Act of 1996.

NOTICE OF HEARING

COMMITTEE ON RULES AND ADMINISTRATION

Mr. WARNER. Mr. President, I wish to announce that the Committee on Rules and Administration will reconvene on Friday, September 25, 1998 at 9:30 a.m. in Room SR–301 Russell Senate Office Building, to continue a hearing on Capitol security issues and to mark-up S. 2288, the Wendell H. Ford Government Publications Reform Act of 1998.

For further information concerning this meeting, please contact Ed Edens at the Rules Committee on 4–6678.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. MCCAIN. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Thursday, September 24, 1998, at 2:00 p.m. in open/closed session, to receive testimony on the report of the Commission to Assess the Ballistic Missile Threat to the United States.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MCCAIN. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Thursday, September 24, for purposes of conducting a full committee hearing which is scheduled to begin at 10:00 a.m. The purpose of this oversight hearing is to receive testimony on the recent midwest electricity price spikes.

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

COMMITTEE ON FINANCE

Mr. MCCAIN. Mr. President, the Finance Committee requests unanimous consent to conduct a hearing on Thursday, September 24, 1998 beginning at 10:00 a.m. in room 215 Dirksen.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. MCCAIN. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee to meet on Thursday, September 24, 1998, at 2:15 p.m. for a business meeting to considering pending Committee business.

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

COMMITTEE ON INDIAN AFFAIRS

Mr. MCCAIN. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet during the session of the Senate on Thursday, September 24, 1998 at 2:00 p.m. to conduct a hearing on H.R. 1805, the Auburn Indian Restoration Act. The hearing will be held in room 485 of the Russell Senate Office Building.

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

COMMITTEE ON JUDICIARY

Mr. MCCAIN. Mr. President, I ask unanimous consent that the Committee on the Judiciary, be authorized to hold an executive business meeting during the session of the Senate on Thursday, September 24, 1998, off the floor in the Presidents room, S–216 of the United States Capitol, immediately following the first vote.

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

COMMITTEE ON RULES AND ADMINISTRATION

Mr. MCCAIN. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Thursday, September 24, 1998 at 9:30 a.m. to receive testimony on Capitol Security issues.

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

COMMITTEE ON SMALL BUSINESS

Mr. MCCAIN. Mr. President, I ask unanimous consent that the Committee on Small Business be authorized to meet during the session of the Senate for a hearing entitled ''Can Small Businesses Compete With Campus Bookstores?'' The hearing will being at 10:00 a.m. on Thursday, September 24, 1998, in room 428A Russell Senate Office Building.

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

SUBCOMMITTEE ON READINESS

Mr. MCCAIN. Mr. President, I ask unanimous consent that the Readiness Subcommittee of the Committee on Armed Services be authorized to meet at 10:00 a.m. on Thursday, September 24, 1998, in open session, to received testimony regarding the readiness challenges confronting the U.S. Army and Marine forces and their ability to successfully execute the National Military strategy.

The PRESIDING OFFICER. Without objection it is so ordered.

SUBCOMMITTEE ON INVESTIGATIONS

Mr. MCCAIN. Mr. President, I ask unanimous consent on behalf of the Permanent Subcommittee on Investigations of the Governmental Affairs Committee to meet on Thursday, September 24, 1998, at 9:30 a.m. for a hearing on the topic of ''improving The Safety of Food Imports.''

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

ADDITIONAL STATEMENTS

CONSUMER BANKRUPTCY REFORM ACT OF 1998

● Mr. BAUCUS. Mr. President, I rise today to address an issue the Senate addressed yesterday, amendment #3616 by Senator HARKIN. While I cast my vote against tabling this Sense of the Senate, I must admit I did so with great personal reluctance. I respect the independence of the Federal Reserve Board, and I particularly respect the judgement and ability of its Chairman, Alan Greenspan.

Our country has experienced an unprecedented period of economic growth and stability. Congress took the politically difficult step of putting our financial house in order by enacting the 1994 budget reconciliation legislation. But the steady hand of the Federal Reserve Board and its Open Market Committee has helped that seed grow. With the able leadership of Alan Greenspan, the Fed has helped guide our country from the brink of recession to an unprecedented period of economic growth.

But even the Fed is looking at the current economic conditions and reevaluating its interest rate policies. We have a problem with liquidity of capital in this country, which makes it harder for other countries to stabilize their currencies. As they try to acquire dollars, two things happen.

First, our foreign trading partners find it increasing more difficult to purchase American goods. Just ask any farmer in Montana whether this has negative economic consequences for our country and you will get an earful. If farmers can't sell their products in the export market, they cannot survive economically. Communities that are economically dependent upon farmers find themselves in their own downward spiral, as businesses who rely on farmers to buy their goods are also squeezed economically. This same pattern can be repeated in other communities around the country, whether their economic health is tied into farm exports or any other kind of exports.

The second consequence of tight capital is that it can lead to what is known as deflation. It has been a long time since we have had to worry about a deflationary spiral in this country, but it certainly seems to me that this

time has regretfully arrived. Our foreign trading partners need dollars desperately because of the devaluation of their own currencies, so they try harder to sell their goods to American consumers. The lower price of these goods drives down the price of domestically produced goods too. American companies cut production, which forces them to also cut employment. As unemployment begins to edge up, consumer confidence and purchasing drops, which causes further drops in price.

So whether we can't sell our products abroad, or too many lower-priced foreign goods are being sold here, the result is the same—a deterioration of our own domestic economy.

I believe the signs all point to an inevitable lowering of interest rates by the Fed. Whether it is done at this next meeting or at some future one, I cannot see another alternative. So while this is a hard vote for me, because of my natural inclination to defer to Mr. Greenspan and the other members of the Federal Open Market Committee, I truly believe it is the right answer not only for our domestic economy but for our global economy as well.●

CONSUMER BANKRUPTCY REFORM ACT OF 1998

● Mr. DODD. Mr. President, I voted in favor of the Consumer Bankruptcy Act of 1998, but I did so with some reservations. I commend the efforts of the members of the Judiciary Committee, especially Senators DURBIN and GRASSLEY and Senators HATCH and LEAHY in taking on the challenge of reforming this important and highly complex area of our laws. They have made an important effort to bring about some badly needed reforms and hopefully reduce the number of bankruptcies in our country.

As many of you know, the most recent statistics from the Administrative Office of the U.S. Courts state that more than 1.4 million people filed for bankruptcy during the 12-month period ending June 30, 1998, an all-time high. This represents an 8.5% increase from the same period last year. Statistics also show that there has been a 400 percent increase in personal bankruptcies since 1980. Clearly we need to reform our bankruptcy laws.

This bill will provide enhanced procedural protections for consumers, and enhanced penalties for creditors who fail to obey the requirements of the bankruptcy code. It also will crack down on abusive and repeat Chapter 13 filings, discourage predatory home lending practices, and provide for the appointment of new bankruptcy judges.

Perhaps most importantly, this bill, as opposed to prior versions, provides stronger safeguards for children and families involved in bankruptcy proceedings. Several months ago, I and 30 of my colleagues wrote to the Chairman and Ranking Member of the Committee about the need for this legislation to include stronger safeguards for the children of people involved in bankruptcy proceedings. In simple terms, we voiced our concern that children should come before creditors, which essentially has been the law for the last 95 years. Under current law, outstanding spouse and child support, in addition to back taxes and educational loans, are debts that cannot be discharged in bankruptcy like other debts. This sound policy is premised on the belief that our laws should minimize the risk of impoverishment of our children and families.

In response to that letter, and my conversation with the Committee Chairman, the Committee Chairman acknowledged the potential adverse consequences the legislation could have upon child support recipients, and he offered an amendment at the full committee mark-up which addressed these problems. The amendment, which passed by a unanimous vote, would raise the legal priority of child support from number 7 to number 1; permit the conditioning of a Chapter 13 confirmation upon the payment of child support payments; allow the conditioning of a Chapter 13 discharge upon the payment of all post-petition child support obligations; and add other provisions that should help children and families collect child support debts.

I offered and had accepted 3 amendments on the Floor that, in my view, further strengthen this bill. The first amendment would: (1) protect income from sources legitimately dedicated to the welfare of children from being dissipated and misdirected to pay debts and expenses unrelated to the care and maintenance of these same children. Child support payments, foster care payments, or disability payments for a dependent child should go to that child and not to a creditor; and (2) ensure that in bankruptcy, children and families are able to keep certain household goods which typically have no resale value. I am speaking about items such as toys, swings sets, video cassette recorders or other items used to help them raise their children.

The second amendment would protect duly established college savings accounts which were set up for the benefit of children from being distributed to creditors. Just because a child's family has gone through a bankruptcy does not mean a child should not be able to go to college.

Lastly, the third amendment, which I co-authored with Senators SARBANES and DURBIN, contains an important new consumer protection regarding credit card debt. Today, many consumers are unaware of the implications of carrying credit card debt and making only the minimum monthly payment on that debt. For instance, assume a consumer has $3000 in credit card debt. Then assume the interest rate that the consumer is paying on that debt is 17½%, which is roughly the industry average. If the consumer makes only the monthly minimum payment on that debt, it will take 396 months or 33 years to pay it off. And with interest, the consumer will have paid a total of 9,658 dollars. This amendment, which I worked on with Senators SARBANES, DURBIN, GRASSLEY and HATCH will require credit card issuers to inform consumers on their monthly billing statement not only how long it will take them to pay off a debt at the minimum monthly rate, but also how much money they will have paid in interest and principal on that debt.

I thank Senators GRASSLEY and DURBIN and Senators HATCH and LEAHY who have worked with me to assure that these protections for children, families and consumers were included in the bill.

I am disappointed that my amendment regarding the extension of credit to young people under the age of 21 was tabled. This amendment was designed to curtail the most aggressive and abusive credit card marketing to people under the age of 21 by requiring that the credit card issuer obtain an application that either contained the signature of a parent or guardian willing to take financial responsibility for the debt, or information indicating an independent means of repaying any credit extended. Most responsible credit card issuers already obtain this information from their applicants. This amendment would have merely required that the less responsible credit card issuers follow the ''best practices'' already in place for much of the industry.

I am, at the same time, concerned that this legislation will force more debtors into Chapter 13 bankruptcy while eliminating several of the provisions that enabled debtors to meet the terms of their Chapter 13 payment plan considering the fact that two-thirds of the repayment plans under current law are not completed, this calls into question whether Chapter 13 really results in the repayment of debts, as advertised.

Moreover, I'm concerned, not withstanding strong objections by the National Partnership for Women and Families, more than 20 women's groups, the Leadership Conference on Civil Rights and a variety of other organizations, that new provisions regarding the non-dischargeability of certain types of unsecured debt remain in the bill. These groups expressed their concern that these provisions will impede the ability of debtors to pay both for their post-bankruptcy expenses and to care for their dependents. I hope the Conference looks into these issues more carefully so that we can truly accomplish balanced and effective bankruptcy reform.●

THE COMPREHENSIVE TEST-BAN TREATY: TWO YEARS AND COUNTING

●Mr. BIDEN. Mr. President, today is the second anniversary of the signing of the Comprehensive Nuclear Test-Ban Treaty. It is also nearly a year since

the President submitted that treaty to the Senate for its advice and consent to ratification.

Much has happened since then. For example, Congress funded the Department of Energy's Stockpile Stewardship program to ensure that U.S. nuclear weapons remain safe and reliable in the absence of nuclear testing.

We are building new state-of-the-art facilities that will enable scientists to replicate processes that occur in nuclear explosions. We are developing new computers to permit the complex modeling that is necessary to understand nuclear explosions and to test new component materials or designs. We are conducting sub-critical experiments that are permitted under the Test-Ban Treaty.

We are also inspecting annually each type of nuclear weapon in our arsenal, so that problems associated with the aging of those weapons can be identified and corrected without a need for nuclear weapons tests. These inspections and corrective actions enable our nuclear weapons establishment to certify on an annual basis that there are no problems that require renewed nuclear testing.

In short, then, the United States is showing the world that it is, indeed, possible to maintain nuclear deterrence under a test-ban regime.

We are also showing the world that it is possible to verify compliance with the Test-Ban Treaty. Verification is never perfect, but the nascent International Monitoring System has functioned well enough to severely limit what a nuclear power can learn from undetected testing.

Last May, India and Pakistan conducted nuclear weapons tests. Critics of the Test-Ban Treaty note that the International Monitoring System—some of which is already in place—did not predict those tests. Of course, the verification system was never intended to predict nuclear weapons tests, only to detect them and to identify the country responsible.

The International Monitoring System and other cooperating seismic stations did a fine job, in fact, of locating the Indian and Pakistani tests and estimating their yield. By comparing this year's data to those from India's 1974 nuclear test and from earthquakes in the region, seismologists have shown that this year's tests were probably much smaller—and less significant in military terms—than India and Pakistan claimed.

Most recently, the Senate voted to fund continued development of the International Monitoring System. The national interest requires that we learn all we can on possible nuclear weapons tests. I am confident that the Senate made the right choice in voting to restore these funds.

When it comes to the Test-Ban Treaty itself, however, the Senate has yet to speak. The Committee on Foreign Relations has yet to hold a hearing, let alone vote on a resolution of ratification.

In the great Sherlock Holmes mystery ''The Hound of the Baskervilles'' the crucial clue was the dog that did not bark. On this treaty, the Senate has been such a hound.

Now, why won't this dog bark? I think it's because the Senators who keep this body from acting on the Test-Ban Treaty know that it would pass. A good three-quarters of the American people support this treaty. In fact, support for the treaty has increased since the Indian and Pakistani nuclear tests, despite disparaging comments by some treaty opponents.

Worse yet, as far as some treaty opponents are concerned, India and Pakistan are talking about signing the Test-Ban Treaty. That would chip away mightily at the claim that this treaty will never enter into force, even if we ratify it. The fact is that with U.S. leadership, we can get the world to sign up to a ban on nuclear explosions. I am confident that we will do precisely that.

Treaty opponents have it within their power to stifle America's role in the world and diminish our ability to lead. They also have it within their power, however, to help foster continued American leadership in the coming year and the coming century. I believe that, in the end, their better instincts—and a sober recognition of where the American people stand—will prevail.

The Senate will give its advice and consent to ratification of this treaty—not this year, but next year. The Comprehensive Nuclear Test-Ban may be two years old today, but it is also the wave of the future.●

CTBT ANNIVERSARY

● Mr. BINGAMAN. Mr. President, today marks the two-year anniversary of the opening for signature of the Comprehensive Test Ban Treaty. On September 24, 1996, President Clinton was the first to the sign the CTBT at the United Nations in New York. A total of 150 nations have not signed the treaty, including all five declared nuclear weapons states, and 21 nations have ratified the CTBT.

This week also marks one year since the President transmitted the CTBT to the Senate for its advice and consent to ratification. Unfortunately, one year later the Senate Foreign Relations Committee has yet to hold its first hearing on this historic treaty.

Mr. President, this delay in considering the Treaty not only hinders the Senate from carrying out its constitutional duties; in light of the events in India and Pakistan, it is irresponsible for the Senate to continue to do nothing. It is irresponsible for the security of this nation and the world.

The Indian and Pakistani nuclear tests in May served as a wake up call for the world. We are confronted with the very risk of a nuclear arms race beginning in South Asia. India and Pakistan, as well as their neighbors, have emerged less secure as a result of these tests. I believe that these tests demonstrate the tragic significance of the Senate's failure to take action on the CTBT. We can no longer afford to ignore our responsibility to debate and vote on the treaty.

Today's press reports that both India and Pakistan have stated their intention to sign the CTBT by September 1999. I want to welcome these announcements by India and Pakistan. The steps are in part the result of an intensive U.S. diplomatic effort, and I congratulate the Administration on this success. India's and Pakistan's commitment to halt nuclear testing is critical to reducing tensions and preventing a nuclear arms race in South Asia.

The adherence of India and Pakistan to the CTBT will also enhance prospects for the treaty to enter into force sooner. According to its provisions the CTBT will enter into force when 44 countries have nuclear technology have ratified it. With India's and Pakistan's signatures, all 44 of these countries except one, North Korea, will have signed the CTBT. The addition of India and Pakistan as Treaty signatories marks a significant step toward making the CTBT a reality.

Now more than ever, it is imperative that the Senate begin its consideration of the Comprehensive Test Ban Treaty. Senate action on the CTBT would send a clear signal to India and Pakistan that nuclear testing must stop. It would strengthen U.S. diplomatic efforts to reduce tensions between these two countries and persuade them to give up their nuclear ambitions. But signature of the CTBT by India and Pakistan is only the first step in the process of bringing stability to South Asia. Senate action on the CTBT can help build momentum as additional measures are sought for defusing the violative situation.

Ratification of the CTBT is also critical to U.S. leadership in strengthening the international nonproliferation regime. The risk of nuclear proliferation remains a clear and immediate security threat to the international community as a whole.

Our efforts to reduce the threat of nuclear proliferation have produced significant successes this decade. Several countries, including South Africa, Brazil, and Argentina have abandoned nuclear weapons programs. Under the START Treaty nuclear weapons have been withdrawn from Belarus, Ukraine, and Kazakhstan.

The United States must continue to lead international efforts to halt and reverse the spread of nuclear weapons. For the United States to be effective in strengthening international nonproliferation measures, we need to demonstrate our own commitment to a universal legal norm against nuclear testing.

U.S. ratification of the CTBT is in our national security interest. The United States has observed a testing

moratorium since 1992. The other declared nuclear weapons states, Britain, France, Russia, and China, have joined us in halting their nuclear testing programs. It is in our interest for these countries to continue to refrain from such testing, which might otherwise contribute to their designing more advanced weapons that are smaller and more threatening.

The treaty would not prevent the United States from doing anything we otherwise would plan to do, There is no need for renewed U.S. nuclear testing. Nuclear weapons experts from my home State of New Mexico tell me that they have a high level of confidence in the reliability and safety of the U.S. nuclear stockpile.

We are committed through the Stockpile Stewardship Program to ensuring the future safety and reliability of our stockpile in the absence of nuclear testing. Our strong support for this program in the years ahead is critical for U.S. national security under a comprehensive test-ban regime.

Mr. President, the American people recognize the grave danger that a new nuclear arms race in South Asia would pose, not only to U.S. national security but also to the security of the international community. They understand that further nuclear testing threatens to undermine international efforts to prevent the proliferation of nuclear weapons. That's why a recent nationwide poll conducted by the Mellman Group found that 73 percent of the American public believe that the Senate should approve the CTBT, while only 16 percent believe we should disapprove the treaty (11 percent responded ''don't know''). This finding of overwhelming support for the treaty occurred after India conducted is nuclear tests.

Therefore, I urge the Senate to begin debate on the Comprehensive Test Ban Treaty. I have sent a letter to the Chairman of the Armed Services Committee requesting that the Committee begin holding hearings on this historic treaty. We need to bring in the experts from the military, intelligence, and scientific communities so we can hear what they have to say. I believe that through such hearings Senators' concerns will be resolved in favor of a CTBT.

For the sake of our security and that of future generations, we must not let this historic opportunity to achieve a global end to nuclear testing slipaway.●

RECOGNITION OF HISTORICALLY BLACK COLLEGES AND UNIVERSITIES IN GEORGIA

● Mr. CLELAND. Mr. President, as designated by the Senate, September 14–20, 1998, is celebrated as National Historically Black Colleges and Universities Week. I am pleased to take this opportunity to recognize the achievements of these fine institutions of higher education and to pay a special tribute to the ten Historically Black Colleges and Universities located in my home State of Georgia. The 104 historically black institutions of higher learning throughout the United States are cornerstones of African-American education and play an integral role in the lives of African-Americans and in American history.

Historically Black Colleges and Universities have set a high standard for providing quality instruction and valuable, lifelong experiences to students. Though sometimes faced with adversity, historically black colleges and institutions have provided students with the opportunity to broaden their horizons and to reach their fullest potential.

As I have mentioned, my state of Georgia has the privilege of being served by ten of these fine institutions: Albany State University, Clark Atlanta State University, Fort Valley State University, Interdenominational Theological Center, Morehouse College, The Morehouse School of Medicine, Morris Brown College, Paine College, Savannah State University, and Spelman College.

Albany State University, the previous Albany Bible and Manual Training Institute, Georgia Normal and Agricultural College and Albany State College, was ranked by U.S. News and World Report among the top colleges and universities in the South in September 1997. In a recent special report to Black Issues In Higher Education Magazine (July 9, 1998), ASU was ranked among the top 100 producers of degrees for African Americans in three key areas—education, health professions, and computer information Science.

Clark Atlanta State University is a comprehensive, private, urban, coeducational institution of higher education with a predominantly African American heritage. It offers undergraduate, graduate, and professional degrees as well as non-degree programs to students of diverse racial, ethnic, and socioeconomic backgrounds. U.S. News and World report lists Clark Atlanta among the best universities in the United States in its 1996 ''America's Best Colleges'' guide.

Fort Valley State University, founded in 1890, is a public, state and land-grant co-educational liberal arts institution located in central Georgia's Peach County. The Georgia Board of Regents designated Fort Valley State as a fully accredited University on June 12, 1996, continuing in its leadership role as the only senior college or university in the University System with a mission in all four disciplines—academics, research, extension and service.

Interdenominational Theological Center, established in 1958, maintains its position as the nucleus of theological education for African Americans in the world. Six historic African American seminaries comprise ITC. They are: Gammon Theological Seminary (United Methodist), Charles H. Mason Theological Seminary (Church of God in Christ), Morehouse School of Religion (Baptist), Phillips School of Theology (Christian Methodist Episcopal), Johnson C. Smith Theological Seminary (Presbyterian Church USA) and Turner Theological Seminary (African Methodist Episcopal).

Morehouse College, founded in 1867 as the Augusta Institute, is a small, liberal arts college with an international reputation for producing leaders who have influenced national and world history. The institution is best known for the work of graduates such as Nobel Peace Prize laureate Martin Luther King Jr., former Secretary of Health and Human Services Louis Sullivan, MacArthur Fellow Donald Hopkins, Olympian Edwin Moses, filmmaker Spike Lee, and a number of Congressmen, federal judges, and college presidents. These alumni, and a long list of other Morehouse men from one generation to the next, have translated the College's commitment to excellence in scholarship, leadership, and service into extraordinary contributions to their professions, their communities, the nation, and the world.

The Morehouse School of Medicine became independent of Morehouse College in 1981. The Morehouse School of Medicine is a predominantly black institution established to recruit and train minority and other students as physicians and biomedical scientists committed to the primary health care needs of the underserved and is fully accredited by the Liaison Committee on Medical Education and the Southern Association of Colleges and Schools.

Morris Brown College, founded in 1867, is a private, coeducational liberal arts college engaged in teaching and research in the arts, humanities, education, social and natural sciences. The College is committed to developing, through strong academic, continuing education and cultural enrichment programs, the skills needed to function as a literate citizen in society for persons of all socio-economic status.

Paine College, founded in 1880, has a history tied to the history of the Christian Methodist Episcopal Church and the United Methodist Church. The College was founded to establish an educational institute to train Black ministers and teachers. Throughout its history, Paine has been a distinctively Christian college. It has maintained deep concern for the quest for truth and has been resolute in blending knowledge with values and personal commitment. Paine has been historically dedicated to the preparation of holistic persons for responsible life in society.

Savannah State University, founded in 1890, is the oldest public historically black college in the state of Georgia. SSU offers 26 undergraduate and graduate degrees in three schools—the College of Business Administration, the College of Liberal Arts and Social

Sciences and the College of Sciences and Technology. Special programs at SSU include the Marine Sciences program and the Naval Reserve Officers Training Corps.

Spelman College was founded in 1881 as the Atlanta Baptist Female Seminary to increase educational opportunities for Black women in Atlanta. Spelman's mission is to help students to think objectively, critically and creatively within a moral framework and to use their talents to solve problems that are ever present in a rapidly changing and complex environment.

The extraordinary contributions of historically black colleges and universities in educating students and in enriching our communities cannot be overstated. They are a valuable national resource which are being rightly honored for their exemplary tradition in higher education. Mr. President, please join me and our colleagues in congratulating and celebrating a rich legacy and tradition of the excellence, determination, strength, and perseverance of historically black colleges and universities.●

25TH ANNIVERSARY OF ALCOHOL AND DRUG RECOVERY CENTERS, INC.

● Mr. LIEBERMAN. Mr. President, I rise today to pay tribute to Alcohol and Drug Recovery Centers, Inc. of Hartford, Connecticut, on its 25th Anniversary. ADRC provides much-needed services to the residents of 29 Greater Hartford communities: helping men and women first confront then overcome their addictions so they may live productive, substance free lives.

For a quarter of a century, the dedicated workers of ADRC have lent a helpful hand to their neighbors, regardless of race, sex, sexual orientation, disability, or economic circumstances. Their work has had a tangible impact on the community and I am proud to honor ADRC for its work on behalf of Hartford-area families.

This dynamic and proactive organization has continually blazed a trail for other community groups to follow. ADRC has worked hard to earn this praise on its silver anniversary and I am happy to wish all of its staff and friends continued success.●

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. MCCAIN. In executive session, I ask unanimous consent that the Senate proceed to the following nominations on the Executive Calendar: Nos. 648 and 649. I ask unanimous consent that the nominations be confirmed, the motion to reconsider be laid upon the table, any statements relating to the nominations be printed at this point in the RECORD, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

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

The nominations considered and confirmed en bloc are as follows:

REFORM BOARD (AMTRAK)

Linwood Holton, of Virginia, to be a Member of the Reform Board (AMTRAK) for a term of five years.

Amy M. Rosen, of New Jersey, to be a Member of the Reform Board (AMTRAK) for a term of five years.

NOMINATION OF AMY ROSEN TO THE AMTRAK REFORM BOARD

Mr. LAUTENBERG. Mr. President, I rise to strongly support Amy Rosen's nomination to the Amtrak Reform Board of Directors. Ms. Rosen has the right blend of business and financial knowledge, talent and creativity needed to lead Amtrak into the next century.

Mr. President, the next few years will be crucial for Amtrak. To increase ridership, modernize and cut costs while reducing its dependence on federal assistance, Amtrak needs Board members with demonstrated business and financial skills. I believe Amy Rosen is eminently qualified to serve on Amtrak's Board and can make that kind of contribution at this critical juncture in Amtrak's history. She has business acumen derived from extensive professional experience in the private sector, along with her work in the public sector.

Currently, Ms. Rosen is Managing Partner of Public Private Initiatives, a financial services and consulting firm that employs innovative financing techniques to benefit public sector, non-profit and private sector clients. At PPI, she is directly involved in applying creative financial tools, such as tax-advantaged leasing and asset securitization to enhance government services.

For example, under Ms. Rosen's tenure, New Jersey Transit has leverage-leased $1.8 billion worth of equipment and facilities, for a net benefit of $100 million to New Jersey Transit and its ridership. Prior to starting Public Private Initiatives, Ms. Rosen was Senior Vice President of Marketing and Managing Director of Lockheed-Martin IMS, where she was responsible for the oversight of all domestic and international marketing initiatives, and state and federal relations. She also was very involved in the Lockheed merger with Martin Marietta. Throughout her tenure, she worked to re-shape the corporation's marketing and acquisition needs in the midst of defense budget cuts. These positions required the kind of skills and expertise that can help Amtrak deal effectively with the challenges it faces today.

Ms. Rosen also has relevant and extremely valuable experience in the public sector. She served as Deputy Commissioner for the New Jersey Department of Transportation under Governor Byrne and currently serves as Vice Chair of the New Jersey Transit Board of Directors. As a result of her service in these posts, she has hands-on experience in state government and will be able to build strong relationships between Amtrak and the states it serves.

Mr. President, while professional experience and particular skills are important for effective service, Ms. Rosen also has the kinds of personal strengths and attributes that the Senate looks for in nominees to high posts. She is bright, energetic, extremely hard working and committed to the goals and mission the Congress has set out for Amtrak. I can also personally attest to her integrity and ability to work well within a group.

Mr. President, I strongly support Ms. Rosen's appointment and I urge my colleagues to do the same. I yield the floor.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

AWARDING THE CONGRESSIONAL GOLD MEDAL TO GERALD R. AND BETTY FORD

Mr. MCCAIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 3506 which was received from the House.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 3506) to award the Congressional Gold Medal to Gerald R. and Betty Ford.

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

AMENDMENT NO. 3647

(Purpose: To award congressional gold medals to Jean Brown Trickey, Carlotta Walls LaNier, Melba Patillo Beals, Terrence Roberts, Gloria Ray Karlmark, Thelma Mothershed Wair, Ernest Green, Elizabeth Eckford, and Jefferson Thomas, commonly referred to collectively as the ''Little Rock Nine,'' on the occasion of the 40th anniversary of the integration of the Central High School in Little Rock, Arkansas, and for other purposes)

Mr. MCCAIN. Mr. President, Senator D'AMATO has an amendment at the desk. I ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. MCCAIN], for Mr. D'AMATO, proposes an amendment numbered 3647.

Mr. MCCAIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

At the end of the bill, add the following new sections:

SEC. 4. CONGRESSIONAL GOLD MEDALS FOR THE "LITTLE ROCK NINE".

(a) FINDINGS.—The Congress finds that—

(1) Jean Brown Trickey, Carlotta Walls LaNier, Melba Patillo Beals, Terrence Roberts, Gloria Ray Karlmark, Thelma Mothershed Wair, Ernest Green, Elizabeth Eckford, and Jefferson Thomas, hereafter in this section referred to as the ''Little Rock Nine'', voluntarily subjected themselves to the bitter stringing pains of racial bigotry;

(2) the Little Rock Nine are civil rights pioneers whose selfless acts considerably advanced the civil rights debate in this country;

(3) the Little Rock Nine risked their lives to integrate Central High School in Little Rock, Arkansas, and subsequently the Nation;

(4) the Little Rock Nine sacrificed their innocence to protect the American principle that we are all ''one nation, under God, indivisible'';

(5) the Little Rock Nine have indelibly left their mark on the history of this Nation; and

(6) the Little Rock Nine have continued to work toward equality for all Americans.

(b) PRESENTATION AUTHORIZED.—The President is authorized to present, on half of Congress, to Jean Brown Trickey, Carlotta Walls LaNier, Melba Patillo Beals, Terrence Roberts, Gloria Ray Karlmark, Thelma Mothershed Wair, Ernest Green, Elizabeth Eckford, and Jefferson Thomas, commonly referred to the ''Little Rock Nine'', gold medals of appropriate design, in recogniztion of the selfless heroism that such individuals exhibited and the pain they suffered in the cause of civil rights by integrating Central High School in Little Rock, Arkansas.

(c) DESIGN AND STRIKING.—For purposes of the presentation referred to in subsection (b) the Secretary of the Treasury shall strike a gold medal with suitable emblems, devices, and inscriptions to be determined by the Secretary for each recipient.

(d) AUTHORIZATION OF APPROPRIATIONS—Effective October 1, 1997, there are authorized to be appropriated such sums as may be necessary to carry out this section.

(e) DUPLICATE MEDALS—

(1) STRIKING AND SALE.—The Secretary of the Treasury may strike and sell duplicates in bronze of the gold medals struck pursuant to this section under such regulations as the Secretary may prescribe, at a price sufficient to cover the cost thereof, including labor, materials, dies, use of machinery, and overhead expenses, and the cost of the gold medal.

(2) REIMBURSEMENT OF APPROPRIATION.—The appropriation used to carry out this section shall be reimbursed out of the proceeds of sales under paragraph (1).

SEC. 5. COMMEMORATIVE COINS.

(a) IN GENERAL.—Section 101(7)(D) of the United States Commemorative Coin Act of 1996 (Public Law 104–329, 110 Stat. 4009) is amended to read as follows:

''(D) MINTING AND ISSUANCE OF COINS.—The Secretary—

''(i) may not mint coins under this paragraph after July 1, 1998; and

''(ii) may not issue coins minted under this paragraph after December 31, 1998.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall be construed to have the same effective data as section 101 of the United States Commemorative Coin Act of 1996.

Mr. MCCAIN. I ask unanimous consent that the amendment be agreed to, the bill be read a third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the bill be printed at the appropriate place in the RECORD.

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

The amendment (No. 3647) was agreed to.

The bill (H.R. 3506), as amended, was read a third time and passed.

ORDERS FOR FRIDAY, SEPTEMBER 25, 1998

Mr. MCCAIN. I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m. on Friday, September 25. I further ask that when the Senate reconvenes on Friday, immediately following the prayer, the Journal of proceedings be approved, no resolutions come over under the rule, the call of the calendar be waived, the morning hour be deemed to have expired, the time for the two leaders be reserved and the Senate then resume consideration of the FAA reauthorization bill.

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

PROGRAM

Mr. MCCAIN. For the information of all Senators, tomorrow the Senate will reconvene at 9:30 a.m. and immediately resume consideration of the FAA reauthorization bill. There will be 20 minutes for closing remarks, followed by a rollcall vote on passage of the FAA reauthorization bill. Therefore, the first rollcall vote of Friday's session will occur at approximately 9:50 a.m. Following that vote, the Senate may consider any legislative or executive items cleared for action.

As a reminder to all Members, a cloture motion was filed today to the vacancies bill and therefore Members have until 1 p.m. on Friday to file first-degree amendments. The cloture vote has been scheduled to occur at 5:30 p.m. on Monday, September 28.

Mr. President, I would like to yield to the Senator from Kentucky if he would have any comments before I make a closing remark.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, I will have a few additional remarks tomorrow. I made a speech one night and read it, and going home that evening Mrs. Ford said, ''Did you ever think about just speaking from notes and off the cuff? It seems more sincere.'' So the next time we went out, I made this speech from just three or four notes, and I thought I did very well. We were going home, and I said, ''Well, how did I do tonight?'' There was a hesitation, and she said, ''I believe I'd go back to reading.'' And so I will be off the cuff tomorrow, with probably some prepared remarks. As you all know, this is probably the last piece of aviation legislation I will have any input into as a Senator.

I appreciate all the cooperation and good humor that has been displayed as we have moved along the way. I have been impressed by the staff that Senator MCCAIN has assembled to assist him. I have been amazed at the staff that we have, and how they work together and ultimately get it done. One of the things we worried about was having all the amendments maybe worked out before we got on the floor. And that came close.

But I remember something that Senator ROBERT BYRD told me a long time ago: If you cannot get an agreement, start, and it will create a vacuum. So I think that is exactly what has occurred here, along with the hard work on both sides of the aisle. It has been a good ride, and I look forward to the vote in the morning at 9:50, and then I will make some comments after that.

I am grateful to my colleague for his patience with me. We look forward to several more weeks of working together and accomplishing many things that he and I want to do. We are going to try. Whether we accomplish those things or not, only time will tell. But if there is anything in trying to get it done, Senator MCCAIN and I will accomplish our end purpose.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. I will have some more remarks tomorrow about my dear friend from Kentucky, because I would like to have more of my colleagues hear them. But hearing him speak in his own unique and frankly straightforward and candid fashion reminds me of all the years now, 12, that he and I have been working together. Perhaps that is not a long time in some areas of life, but it certainly is a long time when you consider the long, long list of issues concerning aviation that he and I have addressed together and the fact that I freely acknowledge, with great pride, that he has taught me an enormous amount, not only about aviation issues but how to achieve legislative results.

I will have more to say about that tomorrow. But as it is kind of quiet here in the Senate tonight, it makes one a bit nostalgic at this late hour.

Mr. FORD. Maybe it is the best time to say it.

Mr. MCCAIN. So I will stop before becoming maudlin.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. MCCAIN. If there is no further business to come before the Senate, I now ask the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:09 p.m., adjourned until Friday, September 25, 1998, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate September 24, 1998:

DEPARTMENT OF STATE

C. DONALD JOHNSON, JR., OF GEORGIA, FOR THE RANK OF AMBASSADOR DURING HIS TENURE OF SERVICE AS CHIEF TEXTILE NEGOTIATOR.

MISSISSIPPI RIVER COMMISSION

WILLIAM CLIFFORD SMITH, OF LOUISIANA, TO BE A MEMBER OF THE MISSISSIPPI RIVER COMMISSION FOR A TERM EXPIRING OCTOBER 21, 2005, VICE FRANK H. WALK, TERM EXPIRED.

CONFIRMATIONS

Executive Nominations Confirmed by the Senate September 24, 1998:

REFORM BOARD (AMTRAK)

LINWOOD HOLTON, OF VIRGINIA, TO BE A MEMBER OF THE REFORM BOARD (AMTRAK) FOR A TERM OF FIVE YEARS.

AMY M. ROSEN, OF NEW JERSEY, TO BE A MEMBER OF THE REFORM BOARD (AMTRAK) FOR A TERM OF FIVE YEARS.