are designed to restore the confidence of airline customers and industry investors and provide a bridge of assistance to the new environment in which the industry will need to operate.

I am pleased that the bill states that the U.S. Department of Transportation Secretary shall take appropriate action to ensure that all communities, both rural and urban communities, that had scheduled air service before September 11, 2001, continue to receive adequate air transportation service and that essential air service to small communities continues without interruption. In addition, the bill authorized an appropriation of $120 million for a Essential Air Service program. This additional funding in the EAS program will greatly benefit the rural communities in Wyoming.

Resolution of normal air travel is essential for commerce and the mobility for our way of life. We have to act to keep our airlines flying without throwing the free market out of the window. These businesses need to show that their requests for assistance are tied to the recent terrorist attacks and not debts incurred prior to September 11, 2001. They also need to show that the financial assistance they receive will be used wisely, keeping their planes flying and their employees working.

I believe that the airlines should submit a business plan to the U.S. Department of Transportation to justify why they need the grant funding and loan guarantees and what the funds will be used for. Within the business plan, the airlines should state specific provisions that executive management of the airlines should not receive pay increases greater than the cost-of-living adjustment and they should not receive any bonuses due to the funding allocated to them. I also believe that the emergency funding for the airlines should help all airline employees, not just the executive management.

I have been assured there will be specific criteria when directing federal funding to the airlines in the form of a loan guarantee. For example, the bill gives the President the authority to issue the $10 billion in loan guarantees to the airline industry subject to terms and conditions as he seems necessary. We must be sure there is no abuse and that the bill protects the federal government who is the U.S. taxpayer from incurring costs from the possible defaulting on the loans.

Traditionally, loan guarantee programs run by the General Accounting Office, GAO, can exercise its authority by auditing the business that receives a loan guarantee. The administration should include a provision that mandates the GAO act as the auditor of the business that receives the guarantee. At present, an audit may be conducted by the GAO and U.S. Department of Transportation if the Controller General and Transportation Secretary deem necessary. We have to ensure that the funds are spent accordingly in relation to the intended purpose of this bill.

Furthermore, the bill should more directly address the higher costs incurred by commuter and short-haul carriers and issues arising from recent changes in air transportation available to small and medium-sized communities. These regional airlines provide the only air service between the major airports and the more than a hundred small- and medium-sized communities in the West.

I am committed to supporting an economically strong airline industry for the West and the nation. Due to last week's tragic events, we have realized that interdependence is key to keeping our economy strong, if planes are flying, then the motels are being occupied and the restaurants are being utilized. I look forward to supporting my colleagues in restoring public confidence in the fact that the United States has the strongest and safest airline system in the world.

Mr. REID. I ask unanimous consent that on Monday, September 24, at 2 p.m., the Senate proceed to executive session to consider Calendar No. 385, the nomination of Kirk Van Tine to be general counsel of the Department of Transportation; that the Senate vote immediately on confirmation of the nomination; that the motion to reconsider be laid on the table, and the Senate return to legislative session.

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

Mr. REID. As in executive session, I ask for the yeas and nays on that nomination.

The PRESIDING OFFICER. Is there a sufficient second?
There is a sufficient second. The yeas and nays were ordered.

Mr. REID. I ask unanimous consent on Monday, September 24, at 12 noon, the Finance Committee be discharged from further consideration of H.R. 2603 and that the Senate then proceed to its immediate consideration under the following provisions: That no amendments or motions be in order; the debate be limited to 2 hours, with 1 hour under the control of Senator Gramm of Texas and 1 hour under the control of Senator Baucus or his designee; following the use or yielding back of the time, the bill be read a third time and passed out of the Senate. Mr. Baucus or his designee shall have 30 minutes to lay the bill on the table, all with no intervening action or debate.

Mr. NICKLES. We yield back the remainder of our time.

Mr. REID. I yield 1 minute to the Senator from Washington.

Ms. CANTWELL. Madam President, I do appreciate the time before the vote. I thank the leadership of Senator DASCHLE, Senator KENNEDY, Senator CARNAHAN, and Senator MURRAY for working on what is part of this package that we will discuss next week and that is worker compensation.

Last week's terrorist attacks murdered thousands of innocent Americans, and left thousands more grieving for friends and loved ones. Those people are the first and most visible victims of the unprovoked terrorist attacks—but they are not the only ones.

Already tens of thousands of workers at major U.S. airlines have lost their jobs due to the economic fallout of the terrorist attacks on September 11. Current projections are for a total of 100,000 airline jobs to be cut this year—nearly 10 percent of the industry workforce. Boeing, America's leading aircraft manufacturer, has announced it will lay off up to 30,000 employees by the end of 2002.

These workers and their families are secondary victims of the terrorists who attacked the World Trade Center and the Pentagon, and Congress should not leave them to bear a disproportionate share of the economic burden of terrorism.

I am supportive of the overall intent of this bill and the need to shore up the airline industry, but I still have some concerns.

The current airline relief package is good as far as it goes—but it does not go far enough.

The airline relief package does nothing to ensure that airlines will uphold their contractual obligations and other commitments to employees. Those should be fundamental qualifications for any airline seeking government assistance.

The airline relief package does nothing to directly benefit the thousands of airline and aircraft manufacturing workers who are left with the result of the recent terrorist attacks.

In this speech to the nation last night, President Bush told the American people “justice will be done.” If Congress passes an airline relief package without addressing worker assistance, we will have done a grave injustice to thousands of American workers

Mr. REID. I ask unanimous consent that the Senate, General Counsel for the Department of Transportation—Nomination of Kirk Van Tine, of Virginia, to be General Counsel for the Department of Transportation—Continued.
The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 96, nays 1, as follows:

[Rollcall Vote No. 284 Leg.]

**YEAS—96**

Akaka             Doran           Lagar
Allard            Durbin          McCain
Allen             Edwards         McConnell
Baucus            Ensminger       Mikulski
Bayh              Enzi            Miller
Bennett           Feingold        Murkowski
Biden             Feinstein       Murray
Bingaman          Frist           Nelson (FL)
Boxer             Graham          Nelson (WA)
Breaux            Grassley        Nickles
Brownback         Hagel           Reed
Bunning           Harkin          Roberts
Burns             Hatch           Rockefeller
Byrd              Himes           Santorum
Cantwell          Hollings        Sarbanes
Carnahan          Hutto           Schumer
Casper            Inhofe           Shelby
Chafee            Inouye           Sinnott (HI)
Clinton            Jeffords        Smith (OR)
Coehorn            Johnson        Snowe
Collins            Kennedy        Speckter
Conrad             Kerry           Stabenow
Corzine           Kohl            Stevens
Craige             Kyle           Thune
Crapo             Landrieu        Thornburg
Daschle            Leahy           Torricelli
Dayton             Levin           Vincent
DeWine             Lieberman       Warner
Domenici          Lincoln         Wellstone
                NAY—1

**FITZGERALD**

Campbell          Gramm          Thomas

**NOT VOTING—3**

The bill (S. 1450) was passed, as follows:

S. 1450

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 "Air Transportation Safety and System Stabilization Act."
terms and conditions and contain such cov-

CONGRESSIONAL RECORD—SENATE

ensants, representatives, warrants, and re-

17523

quirements (including more payments up to

mpanies the amount authorized by this title.

mment on certain employee

sion 101(a)(2) in 1 or more payments up to

compensation, (a) in general—The President

compensation to air carriers under section

SEC. 104. LIMITATION ON CERTAIN EMPLOYEE

compensation under section 101(a)(1) to an

air carrier after the air carrier enters into a

legally binding agreement with the President

that, during the 2-year period beginning Sep-

tember 11, 2001, and ending September 11, 2003,

no officer or employee of the air carrier whose

total compensation exceeded $300,000 in calendar

year 2000 (other than an employee whose com-

pensation is determined through an existing

collective bargaining agreement entered into

prior to September 11, 2001),

(1)will receive from the air carrier total

compensation which exceeds, during any 12

consecutive months of such 2-year period,

the total compensation received by the offi-

er or employee from the air carrier in cal-

endar year 2000; and

(2) will receive from the air carrier sever-

ance or other financial benefits provided by an

air carrier to an officer or employee of the

air carrier.

SEC. 105. CONTINUATION OF CERTAIN AIR SER-

vices—(a) Subject to subsection (b), the amount of compensation payable to an air carrier under section 101(a)(2) may not exceed the amount of losses described in section 101(a)(2) that the air carrier demonstrates to the satisfaction of the President, using sworn financial statements or other appropriate data, that the air carrier participated in the providing of air transportation and the Comptroller General of the United States may audit such statements and may request any information that the Secretary and the Comptroller General deems necessary to conduct such audit.

(b) Maximum amount of compensation payable per air carrier—The maximum total amount payable per air carrier under section 101(a)(2) may not exceed the lesser of—

(1) the amount of such air carrier's direct and incremental losses described in section 101(a)(2); or

(2) in the case of—

(A) flights involving passenger-only or combined passenger and cargo transportation, the product of—

(i) $1,500,000,000; and

(ii) the ratio of—

(I) the total available seat miles of the air carrier for the month of August 2001 as reported to the Secretary; to

(II) the total available seat miles of all such air carriers for such month as reported to the Secretary; and

(B) flights involving cargo-only transportation, the product of—

(i) §500,000,000; and

(ii) the ratio of—

(I) the revenue ton miles or other auditable measure of the air carrier for cargo for the latest quarter for which data is available as reported to the Secretary; to

(II) the total revenue ton miles or other auditable measure of all such air carriers for cargo for such quarter as reported to the Secretary.

(c) Payments.—The President may provide compensation to air carriers under section 101(a)(2) in more payments up to the amount authorized by this title.

SEC. 106. REPORTS—(a) In general.—Not later than February 1, 2001, the President shall transmit to the Committee on Transportation and Infrastructure, the Committee on Appropriations, and the Committee on Commerce, Science, and Transportation, the report on the Budget of the United States Government for fiscal year 2001, and the report on the financial status of the air carrier industry and the amounts of assistance provided under this title to each air carrier.

(b) Update.—Not later than the last day of the 7-month period following the date of enactment of this Act, the President shall update and transmit the report to the Committee on Transportation and Infrastructure, the Committee on Appropriations, and the Committee on Commerce, Science, and Transportation.

SEC. 107. DEFINITIONS—In this title, the following definitions apply:

(1) Air carrier.—The term "air carrier" has the meaning such term has under section 40102 of title 49, United States Code.

(2) Federal credit instrument.—The term "Federal credit instrument" means any bond, note, debenture, guarantee or other pledge by the Board issued under section 101(a)(1) to pledge the full faith and credit of the United States to pay all or part of any of the principal of and interest on a loan or other debt obligation issued by an obligor and funded by a lender.

(3) Incremental loss.—The term "incremental loss" does not include any loss that the President determines would have been incurred if the terrorist attacks on the United States that occurred on September 11, 2001, had not occurred.

TITLE II—AVIATION INSURANCE

SEC. 201. DOMESTIC INSURANCE AND REIM-

BURSEMENT OF INSURANCE COSTS—(a) In general.—Section 44302 of title 49, United States Code, is amended—

(1) in subsection (a)(1)—

(A) by striking "subsection (b)" and insert-

ing "subsection (c)";

(B) by striking "foreign-flag aircraft" and all that follows through the period at the end of subparagraph (B) and inserting "foreign-flag aircraft";

(2) by redesigning subsections (b), (c), and (d) as subsections (c), (d), and (e), respec-

itively;

(3) by inserting after subsection (a) the fol-

lowing:

"(b) Reimbursement of insurance cost in-

creases.—";

(4) in subsection (c) as so redesignated—

(A) in the first sentence by inserting "or, re-

burse an air carrier under subsection (b) of this section," before "only with the ap-

proval;" and

(B) in the second sentence—

(i) by inserting "or the reimbursement" be-

fore "only after deciding;" and

(ii) by inserting "in the interest of air

commerce or national security or" before "to
carry out the foreign policy;" and

(5) in subsection (d) as so redesignated by inserting "or reimbursing an air carrier be-

fore "under this chapter";

(c) Secretary.—"; and

(b) Reimbursement of insurance cost in-

creases.—The Secretary may re-

burse an air carrier for the increase in the cost of insurance, with respect to a premium for coverage ending before October 1, 2002, secu-

rity losses, or damage to property, to the extent that the increased cost is directly attributable to the risk from the operation of an American air-

craft over the insurance premium that was in effect for a comparable operation during February 1, 2001, and ending September 10, 2001, as the Secretary may determine. Such reimbursement is subject to subsections (a)(2), (c), and (d) of this section.

"(2) Payment from revolving fund.—A re-

bursement under this subsection shall be paid from the revolving fund established by section 4387.

"(3) Further conditions.—The Secretary may impose such further conditions on insur-

ance for which the increase in premium is subject to reimbursement under this subsection as the Secretary may deem appropriate in the interest of air commerce.

"(4) Termination of authority.—The au-

thority to reimburse air carriers under this subsection shall expire 180 days after the date of enactment of this paragraph;":

(4) in subsection (c) as so redesignated—

(A) in the first sentence by inserting "or," and

(section b) of this section," before "only with the ap-

proval;" and

(B) in the second sentence—

(i) by inserting "or the reimbursement" be-

fore "only after deciding;" and

(ii) by inserting "in the interest of air

commerce or national security or" before "to
carry out the foreign policy;" and

(5) in subsection (d) as so redesignated by inserting "or reimbursing an air carrier be-

fore "under this chapter";

"(b) Reimbursement of insurance cost in-

creases.—"; and

(b) Reimbursement of insurance cost in-

in respect of their claims. For purposes of this subsection, the term “eligible air carrier” means any domestic corporation engaged in the trade or business of transporting (for hire) persons by air if such transportation is available to the general public.

(3) AIRLINE-RELATED DEPOSITS.—For purposes of this subsection, the term “airline-related deposit” means any deposit of—

(A) taxes imposed by chapter 49 of such Code relating to transportation by air, and

(B) taxes imposed by chapters 21, 22, and 24 of such title.

SEC. 401. SHORT TITLE.

This title may be cited as the “September 11th Victim Compensation Fund of 2001.”

SEC. 402. DEFINITIONS.

In this title, the following definitions apply:

(1) AIR CARRIER.—The term “air carrier” means any domestic corporation engaged in the care of persons by air.

(2) AIR TRANSPORTATION.—The term “air transportation” means air transportation, interstate air transportation, or the transportation of passengers, property, or crew by air.

(3) CLAIM.—The term “claim” means any claim for compensation under section 405 of this Act.

(4) COLLATERAL SOURCES.—The term “collateral sources” means all sources of compensation for which the claimant is or has been entitled, including any economic and noneconomic losses that the claimant received or is entitled to receive as a result of such crashes.

(5) ECONOMIC LOSS.—The term “economic loss” means any pecuniary loss resulting from harm (including the loss of earnings or other benefits related to employment, medical expense loss, replacement services loss, and loss of business or employment opportunities) to the extent recovery for such loss is allowed under applicable State law.

(6) ELIGIBLE INDIVIDUAL.—The term “eligible individual” means an individual determined to be eligible for compensation under section 405(c).

(7) NONECONOMIC LOSSES.—The term “noneconomic losses” means losses for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, and other noneconomic losses of life, society and companionship, loss of consortium (other than loss of domestic service), hedonic damages, injury to reputation, and all other noneconomic losses of any kind or nature.

(8) SPECIAL MASTER.—The term “Special Master” means the Special Master appointed under section 405(a).
(c) DETERMINATION.—Not later than 120 days after that date on which a claim is filed under subsection (a), the Special Master shall complete a review, make a determination, and provide written notice to the claimant, with respect to the matters that were the subject of the claim under review. Such a determination shall be final and not subject to judicial review.

(4) RIGHTS OF CLAIMANT.—A claimant in a review under paragraph (1) shall have—

(A) the right to be represented by an attorney;

(B) the right to present evidence, including the presentation of witnesses and documents; and

(C) any other due process rights determined appropriate by the Special Master.

(5) NO PUNITIVE DAMAGES.—The Special Master may not include amounts for punitive damages in any compensation paid under a claim under this title.

(6) COLLATERAL COMPENSATION.—The Special Master shall reduce the amount of compensation determined under paragraph (1)(B)(ii) by the amount of the collateral source obligations.

SEC. 405. PAYMENTS TO ELIGIBLE INDIVIDUALS.

(a) IN GENERAL.—Not later than 20 days after the date on which a determination is made by the Special Master regarding the amount of compensation due a claimant under this title, the Special Master shall authorize payment to such claimant of the amount determined with respect to the claimant.

(b) PAYMENT AUTHORITY.—This title constitutes budget authority in advance of appropriations Acts and represents the obliga-
tion of the Federal Government to provide for the payment of amounts for compensa-
tion under this title.

(c) ADDITIONAL FUNDING.—

(1) IN GENERAL.—A claimant shall be deemed to be an eligible individual for purposes of this subsection if the Special Master determines that such claimant—

(A) is an individual described in paragraph (2); and

(B) meets the requirements of paragraph (3).

(2) INDIVIDUALS.—A claimant is an individual described in this paragraph if the claimant is—

(A) an individual who—

(i) was present at the World Trade Center, (New York, New York), the Pentagon (Arlington, Virginia), or the site of the aircraft crashes in Pennsylvania, at the time, or in the immediate aftermath, of the terrorist-related aircraft crashes of September 11, 2001; and

(ii) suffered physical harm or death as a result of such an aircraft crash;

(B) an individual who was a member of the flight crew or a passenger on American Airlines flight 11 or United Airlines flight 93 or 175, except that an individual identified by the Attorney General to have been a participant or conspirator in the terrorist-related aircraft crashes of September 11, 2001, or a representative of such individual shall not be eligible to receive compensation under this title; or

(C) in the case of a decedent who is an individual described in subparagraph (A) or (B), the personal representative of the decedent who files a claim on behalf of the decedent.

(3) REQUIREMENTS.

(A) SINGLE CLAIM.—Not more than one claim may be submitted under this title by an individual or on behalf of a deceased individual.

(B) LIMITATION ON CIVIL ACTION.—

(i) IN GENERAL.—Upon the submission of a claim under this title, the claimant waives the right to institute any future action (or to be a party to an action) in any Federal or State court for damages sustained as a result of the terrorist-related aircraft crashes of September 11, 2001. The preceding sentence does not apply to a civil action to recover collateral source obligations.

(ii) PENDING ACTIONS.—In the case of an individual who is a party to a civil action described in clause (i), such individual may not submit a claim under this title unless such individual withdraws from such action by May 30, 2001. The date of the withdrawal of a claim under this Act shall be the date on which regulations are promulgated under section 407.

(d) EXCLUSION.—Nothing in this section shall in any way limit any liability of any person who is a knowing participant in any conspiracy to hijack any aircraft or commit any terrorist act.

SEC. 406. LIMITATION OF AIR CARRIER LIABILITY.

Not later than 90 days after the date of enactment of this Act, the Attorney General, in consultation with the Special Master, shall promulgate regulations to carry out this title, including regulations with respect to—

(1) forms to be used in submitting claims under this title;

(2) the information to be included in such forms;

(3) procedures for hearing and the presentation of evidence;

(4) procedures to assist an individual in filing a claim under this title; and

(5) other matters determined appropriate by the Attorney General.

SEC. 407. LIMITATION ON AIR CARRIER LIABILITY.

(a) IN GENERAL.—Notwithstanding any other provision of law, liability for all claims, whether for compensatory or punitive damages, arising from the terrorist-related aircraft crashes of September 11, 2001, against any air carrier shall not be in an amount greater than the limits of the liability coverage maintained by the air carrier.

(b) FEDERAL CAUSE OF ACTION.—

(1) AVAILABILITY OF ACTION.—There shall exist a Federal cause of action for damages arising out of the hijacking and subsequent crashes of American Airlines flights 11 and 12, and United Airlines flights 93 and 175, on September 11, 2001. Notwithstanding section 40120(c) of title 49, United States Code, this cause of action shall be the exclusive remedy for damages arising out of the hijacking and subsequent crashes of such flights.

(2) SUBSTANTIVE LAW.—The substantive law for decision in any such suit shall be derived from the law, including choice of law principles, of the State in which the crash occurred unless inconsistent with or preempted by Federal law.

(3) JURISDICTION.—The United States District Court for the Southern District of New York shall have original and exclusive jurisdic-
tion over all actions brought for any claim (including any claim for loss of prop-
erty, personal injury, or death) resulting from or relating to the terrorist-related air-

ORDER OF BUSINESS

Mr. DASCHLE. Madam President, for the interest of all Senators, I want to make sure people understand what the purpose is for today.

We will convene at 12 noon. From 12 o’clock to 2 o’clock, we will take up the Jordan free trade agreement. That has already been established by unanimous consent. There will be a 2-hour debate and, by agreement, a voice vote.

At 2 p.m., there will be a rollcall vote on the Kirk Van Tine nomination. Mr. Van Tine to be general counsel of the Department of Transportation.

Following that vote, we will resume consideration of the Defense authorization bill.

I appreciate very much the tremendous cooperation of all Senators. I know this bill was extremely difficult and very complex, very controversial in many respects. I appreciate the work on both sides of the aisle to get us to the point we are now.

I know there are a lot of Senators who would have appreciated the opportunity to offer amendments. It is not our intent to deny Senators the right to offer amendments. Under these circumstances, I am grateful for the acknowledgment that we are in a very difficult time and that cooperation, as