in doing so I would like to take a moment to address a concern that was recently brought to my attention by the gentlewoman from Colorado [Mrs. SCHROEDER]. She wanted to make clear that this bill does not authorize an agency or any other employer to require its employees to submit to binding arbitration as a condition of employment, or to relinquish rights they may have under title 7 of the Civil Rights Act of 1964 or any other statute. I want to assure her that she has no reason to worry about this bill and that the decision to engage in binding arbitration must be voluntary by all parties, as provided in sections styled 72(a) and (c) of the ADR act, and in fact would like if the gentleman could confirm that understanding.

Mr. GEKAS. Mr. Speaker, will the gentleman yield?

Mr. REED. I yield to the gentleman from Pennsylvania.

Mr. GEKAS. Mr. Speaker, I assert for the record and for the gentleman's confirmation that indeed this bill does not in any way change the current law, the current system for handling binding arbitration of the type that has been described by the gentleman in his hypothetical. We remain nongermane in this bill as to the current situation on binding arbitration.

Mr. REED. Mr. Speaker, I thank the gentleman from Pennsylvania, and reclaiming my time once again, I do want to commend him for his leadership on the committee and to commend all of my colleagues on the committee, both the members of the minority and majority parties and the staffs who have done an excellent job. I, too, second the chairman's determination that this has been a committee I think marked by collegiality and cooperation, and at times when we did disagree it was done based upon principle, in a very civil and constructive manner, and I thank the chairman for that atmosphere that he has created.

I have no more speakers, Mr. Speaker, and I would reserve the balance of my time pending other comments by the gentleman from Pennsylvania.

Mr. GEKAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, one other item: I made it the point throughout the entire 2-year period in which I chaired this committee to begin the each meeting and each hearing on time. When we said 10 o'clock or 9:30 or 11 o'clock, the gavel actually rapped every single time that we had a hearing or meeting throughout the course of the 2 years.

Now many times we had to recess immediately upon convening the hearing because of the absence of a quorum, but I want the record to show that every single meeting or hearing that was conducted in the Subcommittee on Commercial and Administrative Law of the Committee on the Judiciary began on time. I believe, unless someone can contravene it, that that is a record.

Mr. MOAKLEY. Mr. Speaker, will the gentleman yield?

Mr. GEKAS. I yield to the gentleman from Massachusetts (Mr. MOAKLEY) to see if he can challenge that assertion on my part. Seeing that he is rising, that worries me, but I will yield to the gentleman.

Mr. MOAKLEY. Mr. Speaker, actually I cannot affirm whether or not that is true, but the only thing is I know that presently, right now, I am waiting for a Republican member of the Committee on Rules to show up who is not on time.

Mr. GEKAS. Mr. Speaker, I thank the gentleman for his non-comment.

Another matter that I wanted to bring before the CONGRESSIONAL RECORD is my personal thanks to Ray Smietanka, to Roger Fleming, to Charles Kern, who are staff attorneys in the subcommittee, and of course Susan Guttierez and Becky Ward who are visible most of the time, but invisible another part-time, but who very boldly and carefully helped the process of the committee.

Now I want to speak some more, and the gentleman from Georgia (Mr. LINDER) is here, but I refuse to end my discourse because I am getting warm now. But I think I am going to have to do so.

Mr. Speaker, I yield back the balance of my time.

Mr. REED. Mr. Speaker, I have no further speakers, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania [Mr. GEKAS] that the House suspend the rules and pass the bill, H.R. 4194.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 3539, FEDERAL AVIATION AUTHORIZATION ACT OF 1996

Mr. LINDER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 540 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 540

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 3539) to amend title 49, United States Code, to reauthorize programs of the Federal Aviation Administration, and for other purposes. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read.

The SPEAKER pro tempore. The gentleman from Georgia [Mr. LINDER] is recognized for 1 hour.

Mr. LINDER. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Massachusetts [Mr. MOAKLEY], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. LINDER. Mr. Speaker, I yield myself such time as I may consume.

(Mr. LINDER asked and was given permission to revise and extend his remarks and to include extraneous material)

Mr. Speaker, House Resolution 540 provides for the consideration of the conference report for H.R. 3539, Federal Aviation Reauthorization. House Resolution 540 is a typical House rule for a conference report. The rule waives all points of order against the conference report and against its consideration, and the conference report shall be considered as read.

The House understands the importance of the timely consideration of this bill, and the Rules Committee favorably approved this rule yesterday. It is imperative that this bill be enacted into law soon so that airport improvement funds can be released across the country by the end of the month. We are close to completing the work of the 104th Congress, and the House cannot delay sending the President this legislation for his signature; therefore, I urge adoption of this rule so that we can get on with debate and passage of this essential legislation.

As a conferee on the section of this legislation under the jurisdiction of the Rules Committee, I want to commend Chairman BUD SHUSTER, and BILL CLINGER, and JOHN DUNCAN for their hard work in resolving the differences that remained between the House and the Senate legislation. The conferees had to balance an assortment of concerns, and the resulting product closely resembles the FAA reauthorization bill that passed the House.

The conference report authorizes the Federal Aviation Administration's major program for 2 years and provides about $19 billion dollars for FAA operations, airport grants, and FAA facilities, equipment, and research. This legislation reforms the FAA, authorizes the necessary funding to increase aviation safety and security, and assures expanded aircraft inspection. These are provisions that are vital to provide the effective services and protection that the American public deserves.

I also want to comment on a number of notable items in the bill. First, the conference report authorizes an airport privatization pilot program that will allow five airports to be either sold or to enter into long term leases. The pilot program gives us an opportunity to observe the ability of the private sector to introduce the necessary capital and efficiencies that may help to advance our current airport system into the 21st century.

Another significant provision in the conference report is a requirement that the National Transportation Safety Board serve as the responsible contact following an accident. Under these requirements, the NTSB would designate an independent, non-profit entity to

provide emotional care and support for the families of any passenger involved in an accident. It is crucial that we provide family members with information about their loved ones, and this provision helps provide the care that is needed under the most horrible of circumstances.

Finally, this Nation has seen a disturbing rise in the practice of lawyers immediately harassing the grieving families of victims following an accident. I am particularly pleased this bill protects passengers and family members by prohibiting unsolicited contacts from lawyers until 30 days after an accident. It is a compassionate provision that deserves our support.

Mr. Speaker, I urge my colleagues to support the rule so that we may proceed with the debate and consideration of a conference report that contains these meaningful FAA reforms, vital transportation resources and significant safety and security protections for American families across the nation.

Mr. Speaker, I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank my colleague, the gentleman from Georgia [Mr. LINDER], for yielding me the customary half-hour.

Mr. Speaker, most of the things that this bill does are excellent.

It authorizes $10.4 billion for the next 2 fiscal years for our Federal Aviation Administration. These are people in charge of our air traffic control, air routes and airline safety.

It also authorizes $4.6 billion in airport grants.

It authorizes funding for airline safety and inspection programs which will improve the safety of air travel in the United States.

It improves the notification process for families of airline accident victims to end confusion and to speed the transfer of information during that very, very difficult time.

And if that were all that this bill would do, Mr. Speaker, I would happily support it, and so would many of my colleagues. But that is not all that is in this bill.

This bill contains a direct attack on working Americans. This bill contains a provision that was not part of either the House or Senate bill. This provision will resurrect the term ''express carrier'' solely on behalf of the Federal Express Co. No other company is categorized as an express carrier.

In fact, Mr. Speaker, the term ''express carrier'' was dropped with the passage of the ICC Termination Act in 1995, but this bill pulls that term out of the trash heap, and in doing so will effectively prohibit the employees of Federal Express from unionizing.

The supporters of this provision, this blatant attack on American workers, call it a technical correction. The person testifying before the committee said it was inadvertently left out of the House bill. It was inadvertently left out of the Senate bill. But somehow it showed up in the conference committee report.

I would argue that for the 130,000 employees of Federal Express this change is hardly a correction, it is more like a misdirection.

If Federal Express employees cannot unionize locally, Mr. Speaker, they cannot unionize at all, and the powerful people at the top of Federal Express know it.

So, I urge my colleagues to stand up for those 130,000 employees of this company and defeat the rule and defeat the bill. Despite all of the progress this bill will make towards improving air travel and airline safety, it should be defeated because of that one provision.

Mr. Speaker, I reserve the balance of my time.

Mr. LINDER. Mr. Speaker, I have no further speakers, and I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I yield 5 minutes to the gentleman from Illinois [Mr. LIPINSKI].

Mr. LIPINSKI. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, H.R. 3539 is a good bipartisan bill except for one horrible extraneous provision which was beyond the scope of the conference. We should be passing a conference report today in order to fund airport improvement program grants, reform the FAA, address the security needs of our aviation system, restructure the Washington Airport Authority, and deal with the ways that pilot records are shared, accident victim families are treated, and children are allowed to fly. But I cannot ask my colleagues to vote for this bill because the Republican leadership has chosen to sabotage this important legislation with a big favor for the Federal Express Corp.

In case my colleagues have not heard, the history of this controversial so-called Fed Ex provision is as follows:

There has never been a hearing on it, not in a subcommittee in the House, not in a full committee of the House, not in a subcommittee of the Senate, not in a full committee of the Senate. They attempted to attach this provision to the fiscal year 1996 omnibus appropriations bill and failed. They tried to attach it to the NTSB reauthorization bill and failed.

□ 1215

They tried to attach it to the Railroad Unemployment Act amendments and failed. They attempted to attach it to the amendments to the DOT appropriations and failed. I understand that they even tried to attach it to the CR that we will be voting upon today, tomorrow, Sunday, Monday, Tuesday, whenever it comes to pass. Now they have stuck it on this very important aviation bill, threatening everything in it.

Defeating the rule will enable us to have this terrible special interest provision removed so that the product of 2 years of effort of the Aviation Subcommittee will not be sacrificed to Federal Express.

Mr. Speaker, I hate to see the progress that we have made in improving virtually every aspect of aviation for the American people thrown away to cater to one powerful corporation. We have had splendid, outstanding cooperation on all aviation matters here in the House, principally because of the nature of the chairman of the Aviation Subcommittee, the gentleman from Tennessee [Mr. DUNCAN]. He and I have worked splendidly together throughout the entire process of this bill and many other bills.

The ranking member, the gentleman from Minnesota [Mr. OBERSTAR], and the gentleman from Pennsylvania [Mr. SHUSTER], chairman of the committee, have worked in tremendous cooperation to improve the aviation industry in this country, with all the legislation that is included in this bill.

Now, unfortunately, at the last moment, when everything else was done in conference, when we had worked everything else out between the House and Senate, at the 11th hour, an amendment is brought forward to aid and assist one giant corporation against the American middle class, a provision for Federal Express.

Mr. Speaker, I say to one and all in this House, this is an opportunity for Members to stand up and do something for American middle class people, and vote against this rule.

For the arguments that people will put forth that we do not want to defeat this very important piece of legislation because so many things will be adversely impacted in the aviation industry, I simply say to them, the very distinguished chairman of the Committee on Rules, the gentleman from New York [Mr. SOLOMON], has stated in several publications if the rule is defeated, if the bill is defeated, they will simply put it on the continuing resolution, or they will bring it back without this provision and pass a clean aviation bill.

Mr. Speaker, I say to the Members, vote against this terrible rule.

Mr. LINDER. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Pennsylvania [Mr. SHUSTER], chairman of the Committee on Transportation.

Mr. SHUSTER. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in support of the rule. The issue which my friend, the gentleman from Illinois, brings up will, of course, be debated after this rule has passed, and we can address it at that point. Our view is that it is simply a technical correction that needs to be made.

But beyond that, let me emphasize that the provision was offered by the Senate. Indeed, it was offered by Senator HOLLINGS, a Democrat. The Senate conferees unanimously, Republican and Democrat alike, including Senator WENDELL FORD, supported this provision. So this is certainly not simply

something, it is not something that we have proposed, it is something that the Senate has proposed. It is something that we accept, because we think it is a technical correction.

But, indeed, that can be debated, and I am sure it will be debated at length when we get into the conference report itself. I simply rise and urge my colleagues to vote in favor of this rule so we can get to the debate, to the substance of the conference report.

Mr. MOAKLEY. Mr. Speaker, I yield myself such time as I may consume.

I have heard certain people in the Republican party do not want this bill. I wanted to ask my dear friend, the gentleman from Pennsylvania [Mr. SHUSTER], who just sat down, if he really wants this proviso in the bill.

Mr. SHUSTER. Mr. Speaker, will the gentleman yield?

Mr. MOAKLEY. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Speaker, I would be happy to respond. Absolutely.

It is outrageous, it is outrageous that we even have to deal with this issue this way, because it is nothing more than a technical correction. Indeed, if we were the ones who were involved in putting something in here which inadvertently hurt labor, we would be down there in the well saying it should be taken out.

We think it is fundamentally wrong, it is outrageous that this issue is even contentious, because this is nothing more than a technical fix. In the gentleman's heart of heart, he knows it.

Mr. MOAKLEY. Mr. Speaker, I do not know how anybody could say that something that affects 130,000 working people, that has not had one minute of hearing in the House committees or the Senate committees, that was put into the conference committee, is a technical correction. I would like to take a look at that dictionary to see what technical correction really means.

Mr. Speaker, this is a terrible thing. This is a terrible affront to the working men and women of America, that this type of proviso could be inserted into this otherwise great bill. For anybody to jeopardize the millions of Americans that fly every year, the protections that are put in this bill are jeopardized by putting this proviso in there.

I think we would do best to defeat the rule, then extract this amendment, and I am sure that the conference committee, it probably would go through without a negative vote.

I just think that the stakes are too high. Regardless of what party the gentleman is in who inserted this amendment in the Senate, I just think it is the wrong place. This should be debated before it gets to the conference committee report. This should have been debated in the House. This should have been debated in the Senate. This should not end up on our doorstep, at the 11th hour, when we are trying to get out of this place.

Mr. Speaker, I would hope my colleagues would join me in voting against the rule, so we can strip out this terrible provision.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. LINDER. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MOAKLEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 222, nays 187, not voting 24, as follows:

[Roll No. 445]

YEAS—222

Allard	Duncan	Knollenberg
Archer	Dunn	Kolbe
Armey	Ehlers	LaHood
Bachus	Ehrlich	Latham
Baker (CA)	Ensign	LaTourette
Baker (LA)	Everett	Laughlin
Ballenger	Ewing	Lazio
Barr	Fawell	Leach
Barrett (NE)	Fields (TX)	Lewis (CA)
Bartlett	Foley	Lewis (KY)
Barton	Fowler	Lightfoot
Bass	Fox	Lincoln
Bateman	Franks (CT)	Linder
Bereuter	Franks (NJ)	Livingston
Bilbray	Frelinghuysen	LoBiondo
Bilirakis	Funderburk	Longley
Bliley	Gallegly	Lucas
Blute	Ganske	Manzullo
Boehner	Gekas	McInnis
Bonilla	Geren	McKeon
Bono	Gilchrest	Meyers
Brownback	Gillmor	Mica
Bryant (TN)	Goodlatte	Miller (FL)
Bunn	Goodling	Molinari
Bunning	Gordon	Montgomery
Burr	Goss	Moorhead
Burton	Graham	Morella
Buyer	Greene (UT)	Myers
Callahan	Greenwood	Myrick
Calvert	Gunderson	Nethercutt
Camp	Gutknecht	Neumann
Canady	Hall (TX)	Ney
Castle	Hancock	Norwood
Chabot	Hansen	Nussle
Chambliss	Hastert	Orton
Chenoweth	Hastings (WA)	Oxley
Christensen	Hayworth	Packard
Chrysler	Hefley	Parker
Clement	Herger	Paxon
Clinger	Hilleary	Payne (VA)
Coble	Hobson	Petri
Coburn	Hoekstra	Pombo
Collins (GA)	Hoke	Portman
Combest	Horn	Pryce
Cooley	Hostettler	Radanovich
Cox	Houghton	Rahall
Crane	Hunter	Ramstad
Crapo	Hutchinson	Regula
Cremeans	Hyde	Riggs
Cubin	Inglis	Roberts
Cunningham	Istook	Rohrabacher
Deal	Johnson (CT)	Ros-Lehtinen
DeLay	Johnson, Sam	Roth
Diaz-Balart	Jones	Roukema
Dickey	Kasich	Royce
Dixon	Kelly	Salmon
Doolittle	Kim	Sanford
Dornan	Kingston	Saxton
Dreier	Klug	Scarborough
Schaefer	Stearns	Vucanovich
Schiff	Stenholm	Walker
Seastrand	Stockman	Walsh
Sensenbrenner	Stump	Wamp
Shadegg	Talent	Watts (OK)
Shaw	Tanner	Weldon (FL)
Shays	Tate	Weldon (PA)
Shuster	Tauzin	Weller
Skeen	Taylor (MS)	White
Smith (MI)	Taylor (NC)	Whitfield
Smith (NJ)	Thomas	Wicker
Smith (TX)	Thornberry	Young (AK)
Smith (WA)	Tiahrt	Young (FL)
Souder	Torkildsen	Zeliff
Spence	Upton	Zimmer

NAYS—187

Abercrombie	Frisa	Mollohan
Ackerman	Furse	Moran
Andrews	Gejdenson	Murtha
Baesler	Gephardt	Nadler
Baldacci	Gibbons	Neal
Barcia	Gilman	Oberstar
Barrett (WI)	Gonzalez	Obey
Becerra	Gutierrez	Olver
Beilenson	Hall (OH)	Ortiz
Bentsen	Hamilton	Owens
Berman	Harman	Pallone
Bevill	Hastings (FL)	Pastor
Bishop	Hefner	Payne (NJ)
Blumenauer	Hilliard	Pelosi
Boehlert	Hinchey	Peterson (MN)
Bonior	Holden	Pickett
Borski	Hoyer	Pomeroy
Brewster	Jackson (IL)	Poshard
Browder	Jacobs	Quinn
Brown (CA)	Jefferson	Rangel
Brown (FL)	Johnson (SD)	Reed
Brown (OH)	Johnson, E. B.	Rivers
Bryant (TX)	Kanjorski	Roemer
Cardin	Kaptur	Roybal-Allard
Clay	Kennedy (MA)	Rush
Clayton	Kennedy (RI)	Sabo
Clyburn	Kennelly	Sanders
Coleman	Kildee	Sawyer
Collins (IL)	King	Schroeder
Collins (MI)	Kleczka	Schumer
Condit	Klink	Scott
Conyers	LaFalce	Serrano
Costello	Lantos	Sisisky
Coyne	Lewis (GA)	Skaggs
Cramer	Lipinski	Skelton
Cummings	Lofgren	Slaughter
Danner	Lowey	Spratt
Davis	Luther	Stark
de la Garza	Maloney	Stokes
DeFazio	Manton	Studds
DeLauro	Markey	Stupak
Deutsch	Martinez	Tejeda
Dicks	Martini	Thornton
Dingell	Mascara	Thurman
Doggett	Matsui	Torres
Dooley	McCarthy	Torricelli
Doyle	McCollum	Towns
Durbin	McDade	Traficant
Edwards	McDermott	Velazquez
Engel	McHale	Vento
English	McHugh	Visclosky
Eshoo	McKinney	Volkmer
Evans	McNulty	Ward
Farr	Meehan	Waters
Fattah	Meek	Watt (NC)
Fazio	Menendez	Waxman
Fields (LA)	Metcalf	Williams
Filner	Millender-McDonald	Wise
Flake	Miller (CA)	Wolf
Flanagan	Minge	Woolsey
Forbes	Mink	Wynn
Ford	Moakley	Yates
Frank (MA)		

NOT VOTING—24

Boucher	Jackson-Lee (TX)	Quillen
Campbell	Johnston	Richardson
Chapman	Largent	Rogers
Dellums	Levin	Rose
Foglietta	McCrery	Solomon
Frost	McIntosh	Thompson
Green (TX)	Peterson (FL)	Wilson
Hayes	Porter	
Heineman		

□ 1243

The Clerk announced the following pair:

On this vote:

Mr. Porter for, with Ms. Jackson-Lee of Texas against.

Messrs. DAVIS, ENGLISH of Pennsylvania, and MCHUGH changed their vote from ''yea'' to ''nay.''

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

□ 1245

Mr. SHUSTER. Mr. Speaker, pursuant to House Resolution 540, I call up the conference report on the bill (H.R. 3539) to amend title 49, United States Code, to reauthorize programs of the Federal Aviation Administration, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. KINGSTON). Pursuant to House Resolution 540, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of September 26, 1996, at page H11289.)

The SPEAKER pro tempore. The gentleman from Pennsylvania [Mr. SHUSTER] and the gentleman from Illinois [Mr. LIPINSKI] will each control 30 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. SHUSTER].

Mr. SHUSTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this conference report is an omnibus aviation bill that includes many important issues that the Subcommittee on Aviation has considered during the 104th Congress. This conference report incorporates many bills and issues, including the FAA reauthorization, aviation safety, FAA reform passed by the House this March, the child pilot safety bill passed by the House this July, the pilot record sharing bill, passed by the House this July, the aviation security bill, passed by the House this August, assistance to families of passengers involved in aircraft accidents, passed by the House earlier this month, and the Metropolitan Washington Airports Authority bill.

It is a good bill. It is a must piece of legislation, because if this is not passed and signed into law, our airports across America will get no funding for their airport improvement programs. Therefore, it is absolutely imperative that we pass this legislation.

As far as I know, there is only one issue which has been made controversial, an issue which many of us believe should not be controversial, because it is a technical correction. It is an issue which was offered by Senator HOLLINGS, a Democrat, in conference in the Senate, supported by all of the Senate conferees, Republicans and Democrats, and supported by the Republicans in the House.

Therefore, the provision is a technical correction to correct a provision in the bill in which we eliminated the ICC. It is referred to as the Fed-Ex provision. We believe that this should not be controversial at all, because, as a matter of good faith, it is simply correcting something that was inadvertently left out of the legislation when the ICC bill was passed. Nevertheless, it has become controversial, and I am sure it will be debated as we move along here this afternoon.

Mr. Speaker, I would urge my colleagues to support this conference report, because if we do not support it, if it goes down, there will be no funding for America's airports in the coming years.

Mr. Speaker, I include the following letters for the RECORD:

CONGRESS OF THE UNITED STATES,
JOINT COMMITTEE ON TAXATION,
Washington, DC, September 18, 1996.

Hon. BUD SHUSTER,
Chairman, Committee on Transportation and Infrastructure, House of Representatives, Washington, DC.

DEAR MR. SHUSTER: This is in response to your letter of September 3, 1996, requesting our opinion as to whether certain proposed changes to the Federal approving legislation for the Metropolitan Washington Airports Authority (the ''Authority'') would result in the Authority being viewed as a Federal instrumentality under the Internal Revenue Code (the ''Code'') rules governing issuance of tax-exempt bonds. The Authority is established as an interstate compact by laws of Virginia and the District of Columbia. The compact was approved by Congress in the Metropolitan Washington Airports Act of 1986 (P.L. 99–591, the ''Act''); the Act also provided for a lease of Washington National and Dulles International Airports to the Authority. The Authority has been viewed as a political subdivision of Virginia during past periods when it was permitted to incur debt because it was created by Virginia law, operates in Virginia with respect to property located in the Commonwealth, and possesses the power of eminent domain and the police power, two of the three principal indicia of governmental status under the Code's tax-exempt bond rules.[1]

Your proposed legislation would reverse several limitations currently placed on the Authority as a result of a court determination that a Congressional Review Board is unconstitutional. The proposed legislation also would (1) expand the Authority's Board of Directors to include two additional directors appointed by the President and (2) sunset certain reinstated powers and benefits after five years. The concerns about future issuance of tax-exempt bonds for the Authority arise from the latter proposed amendments to the Act.

The Code exempts interest on debt of States and local governments from the regular income tax when the debt is incurred to finance activities conducted by those governmental entities or to finance certain private activities specified in the Code. One such private activity is financing for airport facilities. Interest on both debt of the Federal Government and debt issued by any other entity (including States or local governments) for the benefit of the Federal Government is taxable. Further, under longstanding Treasury Department rules, if a beneficiary of tax-exempt bonds ceases to qualify for this subsidized financing, interest on the bonds (in certain cases) becomes taxable retroactive to the date the bonds are issued (referred to as ''change in use'' rules). A prohibited change in use could occur, for example, if the Authority were to become a Federal instrumentality during the term of any previously issued debt as a result of sunset provisions in relevant authorizing legislation. If the possibility of such a change in use were specified in legislation when bonds were issued, required certifications of tax-exemption could not be made. An unqualified opinion from the bond counsel of the issuer as to the tax-exempt nature of interest is required at the time of bond issuance as part of industry marketing requirements, and certain information reports must be made to the Internal Revenue Service (the ''IRS'') that debt which purports to be tax-exempt has been issued.

The relevant Code tax-exempt bond rules do not provide specific guidance on when an entity is treated as a Federal instrumentality. Rather, that determination is made by the IRS based on all relevant facts and circumstances. The IRS has issued no guidance directly on point to your inquiry. As a result, the only manner in which a binding determination could be made would be either revenue legislation enacted by the Congress or a ruling letter issued to the Authority by the IRS. Because of the absence of clear present-law authority on the effect of your proposal, we recommended to your Aviation Subcommittee staff that the Authority and its bond counsel be contacted to discuss in detail the source of the concerns which had been expressed to you about the proposed legislation. A conference call was held with your staff and Authority counsel on September 11, 1996. At the request of the Aviation Subcommittee staff, this letter outlines the matters discussed in that conference call.

The Authority counsel concurred with the Joint Committee staff that there is no tax guidance directly on point to the questions raised by your proposed legislation. We discussed with the counsel the factors which might lead them to conclude that they could obtain a favorable ruling from the IRS, if requested, and therefore issue a favorable tax opinion on future bonds of the Authority if your proposals were enacted. The counsel stated that such a determination would be based on whether the Authority remained as valid political subdivision of Virginia. They cautioned that any final legislation would have to be reviewed in its totality to determine whether the Authority continued to be a political subdivision of Virginia before making such a determination; however, they did state that the two changes you propose, viewed standing alone, would not in all cases lead them to opine that the Authority had become a Federal instrumentality.

Specifically, the counsel stated that the mere expansion of the Authority's Board of Directors from 11 directors to 13, with the two additional directors being appointed by the President, would not preclude their giving a favorable tax opinion for future bond issuances based on their belief that they would receive a favorable ruling from the IRS, if requested. This statement was conditioned upon any such expansion being drafted to preserve the existing procedures whereby directors are appointed pursuant to the Virginia statute creating the Authority, rather than pursuant to Federal law. On the other hand, if Virginia law were overridden in providing for the additional directors, the counsel stated that they would decline to give a favorable opinion. The counsel noted that amendment of the relevant Virginia statutes is limited by the State legislature's rules and schedule, and that any legislation that is enacted should take into account at least minimum time periods needed to comply with those requirements.

Your legislation also proposes a sunset of certain Authority powers, including the power to issue additional debt, after a five-year period. Unlike similar provisions which we understand to have been included in some past versions of this proposal, however, this

[1] The third principal factor is the power to tax, which has not been granted to the Authority.

sunset would not affect the status of the Authority as a continuing entity. Provided that the powers subject to the sunset provision are not essential to the Authority's continued status as a political subdivision of Virginia, both we and bond counsel concur that the provision should not preclude continued eligibility of Authority debt for tax-exemption. However, if the legislation were drafted to terminate the Authority or powers essential to its status as a political subdivision, as opposed to limiting certain of its other powers, we and the Authority's counsel agree that the change in use rules described above would preclude future issuance of Authority debt as tax-exempt.

In conclusion, while certain additional Federal restrictions may be imposed on the Authority without precluding tax-exemption for its debt, there is no direct legal authority on how pervasive those restrictions may be. Any such restrictions must be carefully structured to avoid adversely affecting the Authority's continued status as a political subdivision of Virginia.

I hope this information is helpful as you finalize your proposed legislation.

Sincerely,

KENNETH J. KIES.

COMMITTEE ON WAYS AND MEANS,
HOUSE OF REPRESENTATIVES,
Washington, DC, September 26, 1996.

Hon. BUD SHUSTER,
Chairman, Committee on Transportation and Infrastructure, Rayburn House Office Building, Washington, DC.

DEAR CHAIRMAN SHUSTER: I am writing to you regarding the pending conference report on H.R. 3539, the Federal Aviation Reauthorization Act of 1996. As I stated in an earlier letter, I remain opposed to any provisions to create a ''fast-track'' procedure in the House for considering possible tax legislation in the future.

The Committee on Ways and Means has always been cooperative in giving Administration proposals their due consideration. I want to reassure you and the other conferees that my opposition to legislative mandates does not preclude expeditious consideration of recommendations of the Administration by the Committee on Ways and Means as appropriate. With best personal regards,

Sincerely,

BILL ARCHER,
Chairman.

Mr. Speaker, I reserve the balance of my time.

Mr. LIPINSKI. Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota [Mr. OBERSTAR], the ranking member of the full committee.

Mr. OBERSTAR. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, this is, on the whole, with one glaring exception, an excellent and bipartisan piece of legislation. Beginning with the work in the subcommittee, throughout the hearing process, the chairmanship of the gentleman from Tennessee [Mr. DUNCAN] and the leadership on our side of the gentleman from Illinois [Mr. LIPINSKI], the subcommittee worked together, ironed out many contentious issues, others of lesser significance, but worked through all of the fundamental aviation issues, to produce a truly fine piece of legislation.

In full committee we did again the same thing. Working together with the gentleman from Pennsylvania, Chairman SHUSTER, we were able to come to accommodation on major issues. We have already discussed these previously on the floor when the bill passed the House.

The conference report largely reflects the House position on most of the significant aviation issues concerning structure and formula for the Aviation Improvement Program. All airports are going to receive their full formula allocation. The allocations for general aviation airports are streamlined and improved in many respects.

We placed more emphasis on the need for a strong discretionary fund in the airport improvement program, and the reason for that discretionary fund is to underscore the role of the Secretary of Transportation in ensuring that we have a national system of airports.

Mr. Speaker, the reason for the role of the secretary is to ensure that we integrate our national airports in the spirit of the national system of integrated airports. That is the concept of the airport improvement program.

The conference report provides for a minimum discretionary fund of $300,000 for fiscal year 1997. That is an important provision. It means that in the future, emphasis will be able to be placed on those airports that truly contribute in a very special way to the movement of people and goods throughout the Nation's air space.

The conference report also supports an important letter of intent program. That is important for major mega projects, to ensure that the revenue stream will be available over the period of several years needed to complete these large airports, like improvement of Hartsfield airport in Atlanta, and of DFW, O'Hare, of Los Angeles, of JFK, where you have major aviation traffic and projects that cannot be done overnight, that take years of planning and years to complete.

So the letter of intent is vitally important to ensure there will be sufficient funds, and that provision provides about $150 million for high priority projects that offer expansion in capacity and improvement in safety.

At the beginning of our process, there was a lot of pressure to eliminate the noise setaside program, the so-called part 150 program of FAA. The bill rejects that rather ill-conceived notion. Noise funding is a capacity issue. If people living near the airport or within the noise footprint of the airport object to increased traffic, then you cannot flow more traffic into that airport. If you can abate the noise, calm neighbors' concerns, you really have, in effect, increased the capacity of the airport.

By the end of the decade, thanks to the 1990 aviation bill, we will cut in half the number of people impacted by noise, and this legislation continues that commitment.

The bill also includes legislation previously passed in the House to require airlines to share pilot training records so bad pilots can be weeded out of the system, to ensure the tragedy that befell the 7-year-old child pilot trying to set a cross-country record is not going to happen again, to ensure that families of aircraft accidents, victims, are getting the proper consideration and care and sensitive treatment and the information and the prompt response that they require in the aftermath of an aviation tragedy.

The bill will also remove the constitutional problems associated with the Metropolitan Washington Airport Commission and a bill that we passed in the House in August concerning anti-terrorism measures.

The bill also brings small commuter airports up to the higher standards of major airports and inaugurates a pilot program to review the privatization of airports, whether this privatization program might be a good way to attract additional capital investment airports need that they otherwise cannot achieve in order to expand capacity.

Mr. Speaker, for these and a host of other reasons, other provisions of the bill that I need not go into at this time, I think we ought to pass that part of the bill, the part that is offensive, which I shall address in later remarks.

Mr. SHUSTER. Mr. Speaker, I am pleased to yield 5 minutes to the distinguished gentleman from Tennessee [Mr. DUNCAN], chairman of the Aviation Subcommittee.

Mr. DUNCAN. Mr. Speaker, I rise in strong support of the conference report to H.R. 3539, the Federal Aviation Reauthorization Act.

First, let me congratulate the chairman of the Transportation and Infrastructure Committee, the gentleman from Pennsylvania [Mr. SHUSTER], for his outstanding leadership on this bill and throughout the entire 104th Congress.

He has been, in my opinion, one of the, if not the most effective and hardest working chairmen in the entire Congress.

I also want to thank the ranking member of the full committee, Mr. OBERSTAR, and the ranking member of the Aviation Subcommittee, Mr. LIPINSKI, for their expertise in aviation matters and for their bipartisanship throughout this entire Congress.

We have certainly accomplished significant improvements to aviation in this Nation by working together.

Mr. Speaker, the Federal Aviation Reauthorization Act conference report, H.R. 3539, is a comprehensive measure that this House can be proud of. It is must pass legislation. If we do not pass this conference report, no airport in this Nation will receive any Federal grants to make much needed improvements to their respective airports.

No Federal funds can be spent to improve our aging air traffic control equipment, which so desperately needs to be updated. Mandated airport security requirements will go unfunded.

We just cannot afford to let these things go unfinished. We must pass this conference report.

Mr. Speaker, by the end of this year, there will have been well over 500 million passengers boarding planes all across this country. Experts predict that this number will increase to more than 800 million in just 10 years time.

I cannot stress enough the urgency of this legislation.

We have addressed many important issues in this conference report in a very bipartisan manner and I think members on both sides and staff have done an outstanding job.

We have worked throughout this entire process in a bipartisan manner and we have also worked closely with our colleagues in the Senate.

This conference report is very similar to the House passed bill. Although we had a 3-year authorization, the Senate had a 1-year authorization. So we split the difference in conference and agreed to a 2-year authorization.

□ 1300

Mr. Speaker, this legislation will bring needed and additional reforms to the personnel and procurement systems at the FAA, very similar to the FAA reforms that were included in H.R. 2276, that the House passed unanimously in March. It helps move the FAA into the 21st century in a very businesslike manner.

It also incorporates and improves upon several of the aviation security measures that the House passed just 1 month ago. We have required criminal background checks for certain airport employees, required standards for airport security personnel, called for improvements to passenger profiling, to help detect bombs and terrorists, allowed bomb sniffing dogs to be used at our largest airports, and several other security improvements.

In addition, the conference report also includes the pilot record sharing bill, the Child Pilot Safety Act, and the Aviation Disaster Family Assistance Act, all of which were overwhelmingly passed by the House this year.

It expands the State block grant program, so that two additional States can be more involved in the allocation of Federal dollars to airports in their respective States.

The conference report includes a scaled back version of the Metropolitan Washington Airport Authority legislation that the Transportation Committee favorably reported.

I am very pleased that this conference report includes a new and innovative privatization pilot program, developed in our subcommittee, that will allow at least five airports across the Nation to become private.

With scarce Federal dollars we need to be looking at new ways of doing things. And I think this pilot program will be very successful just as other privatization efforts have been in several other countries.

It will be good for the taxpayers and the flying public.

And Mr. Speaker, this conference report establishes a Commission to review alternative financing methods that will enable us to develop a stabilized funding system for the FAA in the near future.

Finally, Mr. Speaker, this legislation will help every airport in the Nation.

We have adjusted the formulas under the airport improvement program so that the entitlements for all but I think four airports across the Nation will be increased, and those are the four largest airports and they wanted a larger discretionary fund for the FAA and so we have take care of all of the smaller- and medium-sized airports in this bill.

Mr. Speaker, the flying public pays for much of our aviation system and infrastructure through a 10-percent ticket tax. These taxes are placed in the aviation trust fund. So we have a system that is mainly payed for by those who use the system.

And I hope that we can push forward again in the next Congress, like we did here in the House earlier this year, by approving Chairman SHUSTER's trust funds-off budget legislation.

This will also enable us to make aviation security and safety improvements. And it will be mainly payed for by those who use the aviation system in this Nation.

Mr. Speaker, we have an outstanding conference report that I believe every Member of the House can and should support.

We need to improve aviation security and aviation safety in this Nation—and we should do it as soon as possible.

We must pass this conference report today. The American people deserve nothing less.

Mr. Speaker, I urge passage of this bill.

Mr. LIPINSKI. Mr. Speaker, how much time do we have remaining on our side?

The SPEAKER pro tempore (Mr. KINGSTON). The gentleman from Illinois [Mr. LIPINSKI] has 23½ minutes remaining and the gentleman from Pennsylvania [Mr. SHUSTER] has 22½ minutes remaining.

Mr. LIPINSKI. Mr. Speaker, I yield 2 minutes to the gentleman from Oregon [Mr. DEFAZIO

Mr. DEFAZIO. Mr. Speaker, I thank the ranking member for yielding me this time. There are, indeed, many important parts to this legislation, those that go to security, those that go to the infrastructure of the air traffic system in this country, and a provision which I worked hard to get in my decade here in Congress; that is, to finally say that the FAA's business is to regulate in the public interest and regulate for safety and not promote the airlines.

Those are the good parts of this bill. They have merit and they should be enacted into law.

Unfortunately, what we have here is one last attempt at the very last moment to put in an extraneous matter, voted on by neither committee of jurisdiction, voted on neither by the House or the Senate, to benefit one very large multinational corporation who has generously filled many campaign coffers of Members of this House and the other body.

This is not a technical correction. It is not a technical correction. Do trucks run on rails? No. Well, we are going to classify Federal Express for the purposes of this bill as a rail carrier.

Now, Mr. Speaker, there is one very simple reason for that. It makes it a lot harder to organize. So, once again, the working people of this country are going to be screwed by a large corporation, screwed behind the closed doors of a conference committee. Special interest provisions are being put into what is an otherwise meritorious must-pass bill for this Congress.

We can defeat this bill and send a message to the big corporations: It is not business as usual here in Washington anymore.

What happened to the changes in the revolution? Is this the revolution? Special interest for one large corporation stuck into a bill that otherwise benefits the people of America generally and would not hurt the working people. It is not too much to ask.

Reject this bill. If we do not reject it, the President may well veto it. Let us reject it, send it back to conference, get the special interest provision, this provision for one large company, taken out and get a clean bill.

Mr. SHUSTER. Mr. Speaker, I yield 3 minutes to the distinguished gentlewoman from New York [Ms. MOLINARI] chairman of the Subcommittee on Railroads of the Committee on Transporation.

Ms. MOLINARI. Mr. Speaker, I thank the chairman for yielding me this time, and perhaps at the risk of trying to restore some sense of order, sanity and, hopefully, some reasonableness back into this House, I would like to explain, in fact, without the political hysteria that has just gone on, exactly what happened here.

Mr. Speaker, we are talking about, and there has been references made with some very colorful language, to the Hollings amendment that is included in this conference report has drawn far more controversy than it should have. A careful review of the facts, as opposed to the rhetoric, should bear this out.

To begin with, the Interstate Commerce Commission Termination Act, which was enacted last December, removed the term ''Express Company'' from the I.C.C. statute. This was done at the suggestion of the then ICC—now the Surface Transportation Board—because the staff believed the term no longer had any meaning. The ICC bill also included many conforming amendments to other laws. One of these conforming amendments removed the term ''Express Company'' from the Railway Labor Act, again under the assumption that the term was obsolete and had no meaning.

The assumption, that ''Express Company'' no longer had any meaning, was true for ICC purposes. What no one realized at the time, however, is that the

term does have meaning for National Mediation Board purposes in determining who is and who is not covered by the Railway Labor Act. In fact, as recently as 1993, the National Mediation Board has used the term ''Express Company'' standard in deciding Railway Labor Act cases.

So the effect of the drafting error in the ICC Termination Act is possibly to jeopardize certain entities' existing status under the Railway Labor Act. This ambiguity flies in the face of the stated intent of the ICC legislation—made explicit at labor's request—not to ''expand nor contract coverage of employees and employers under the Railway Labor Act.''

The Hollings amendment would simply correct the mistake that was made in the ICC Termination Act by restoring the Railway Labor Act legal standards that existed before the ICC Termination Act was enacted. It would not make it more difficult to organize, as some critics have claimed, since no one's status is being altered. It would not affect trucking companies, since trucking companies are explicitly excluded by statute from the Railway Labor Act. What it would do is correct an honest mistake that certain groups are trying to exploit to their own advantage.

I urge my colleagues to consider the facts of this issue and vote ''yes'' on the conference report.

Mr. LIPINSKI. Mr. Speaker, I yield 2 minutes to the gentleman from New York, [Mr. NADLER].

(Mr. NADLER asked and was given permission to revise and extend his remarks.)

Mr. NADLER. Mr. Speaker, as a member of the Subcommittee on Aviation, I was expecting to support this conference report. The gentleman from Tennessee, Chairman DUNCAN, the gentleman from Pennsylvania, Chairman SHUSTER, the gentleman from Minnesota, Ranking Member OBERSTAR, and the gentleman from Illinois, Ranking Member LIPINSKI, and the other members of the committee as well as the staff put in countless hours crafting a bill that was bipartisan in nature and would easily have passed this House.

That is why I am so disappointed. We now find ourselves in a heated debate over one provision in this bill, a provision that is beyond the scope of the conference report.

The majority has inserted language to reinstate the language ''express carrier'' as a recognized term in the Railway Labor Act, a term that was deleted by the majority in the ICC Termination Act just a few months ago. It was not done by accident, it was not an oversight on the part of some clerk. It was deliberate and reasonable because, according to the ICC and its successor, the Surface Transportation Board, there are no companies left that fall into that classification. But we know the real reason why this is being done.

With this language, the Federal Express Corporation, a large source of campaign contributions for lots of people, will be able to apply to be reclassified as a so-called express carrier. If the Federal Express were successful, it would be able to deny to its truck drivers the protections afforded by the National Labor Relations Act of their right to organize a labor union, should they wish to do so.

Why has Federal Express suddenly found the need to be classified as an express carrier? The classification has been around for more than 20 years. What has changed? Why is it suddenly so important? It is obvious: to keep out the union. This is a union-busting provision, pure and simple. If, as was stated, this is simply a technical correction being made, why was it not done at the committee level? Why was it not done at the House? Why was it not done at the Senate? Why this last minute secret addition in the conference report? Why does the Committee on Rules have to waive the point of order to make this nonconferenceable provision admissible into the conference report?

It is terrible that we are now perhaps jeopardizing billions of dollars in airport construction funds in order to carry out some secret promise to one company. If this is a reasonable request, let us have hearings, let us have some debate about this. This is the wrong time to be doing this. It is the wrong bill to be doing this in.

I urge a no vote on this conference report as long as it contains this nefarious ''FEDEX'' amendment.

Mr. SHUSTER. Mr. Speaker, I reserve the balance of my time.

Mr. LIPINSKI. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. DINGELL], the distinguished ranking member of the Committee on Commerce.

(Mr. DINGELL asked and was given permission to revise and extend his remarks.)

Mr. DINGELL. Mr. Speaker, I thank my good friend and colleague for yielding me this time.

Mr. Speaker, there are a number of good reasons to oppose this bad legislation, but let me tell my colleagues about another less publicized provision. This is a Republican special interest fix which was so bungled we are not in this legislation about to eliminate a key airline safety provision.

The tale starts with some airline companies that were concerned that EPA may be overly aggressive in regulating airplane emissions from engines. I, too, frequently have criticized the EPA for its ovezealousness but I cannot support the solution that this conference has advised.

I would also point out that existing law, the Clean Air Act, forbids this action from being taken by EPA where it would jeopardize the health and the safety of the traveling public.

As passed out of the Senate committee, the measure included a provision which stripped EPA of its power to regulate aircraft engine emissions. When the measure got to the Senate floor, an amendment was adopted that basically stated EPA could not change aircraft emission standards where the change would impact engine noise or aviation safety.

Unfortunately, this was translated into legislative language on the Senate floor and as adopted by the conference, from which the Committee on Commerce, which has jurisdiction and expertise on clean air, was excluded, the result was that the provision literally only applies to EPA emission standards, which both significantly increases engine noise and harms engine safety.

In other words, as passed by the Senate, the safety concerns alone are not enough to stop EPA engine emission standards. Bungling. Incompetence.

Worse, because this new language was placed by the conferees, over my strong objections, directly into the Clean Air Act, this provision now conflicts with existing provisions of the law in the Clean Air Act which allowed FAA to prevent implementation of EPA airplane emission standards where airline safety may be compromised. The result is a thoroughly screwed up, incompetently done statute, which risks the safety of our traveling public.

We can resolve this whole problem by rejecting the bill and going about our business in a more sensible fashion.

Mr. SHUSTER. Mr. Speaker, I yield myself such time as I may consume to respond to my good friend from Michigan as well as my colleagues on our side of the aisle on this issue, that it was the Senate bill that included this provision. Indeed, both Republicans and Democrats.

So when my good friend from Michigan calls it a Republican provision; the Democrats in the Senate supported this as well as the Republicans, I am told. And it gave the FAA a greater role in setting aircraft emission standards. It is important because emission standards can affect aviation safety as well as aircraft noise.

☐ 1315

Currently, aircraft emissions are controlled by EPA and the House Committee on Commerce. We acknowledge that. We agreed with this provision in conference for the sake of safety, not committee, jurisdiction. The provision was changed in conference, indeed, to make it more acceptable to the Committee on Commerce. Our staffs worked with the Committee on Commerce to try to make it more acceptable.

We would be happy to continue to work with that committee on this issue and we certainly acknowledge their jurisdiction on this issue, and we have already committed to put that in writing, that we will indeed acknowledge that this is their jurisdiction on this issue. It was a Senate provision which we found in the course of negotiating in the conference we had to accept in order to get on with the legislation.

Mr. LIPINSKI. Mr. Speaker, I yield 15 seconds to the gentleman from Michigan [Mr. DINGELL].

Mr. DINGELL. Mr. Speaker, the answer is the Committee on Transportation and Infrastructure thoroughly bollixed up and botched this matter. Airline safety is adversely affected because the committee did not talk to the Committee on Commerce and because the Committee on Commerce was excluded. The result is that the traveling public is going to be much less safe under this legislation than they are under existing law.

Mr. LIPINSKI. Mr. Speaker, I yield 2 minutes to the gentleman from Tennessee [Mr. CLEMENT].

Mr. CLEMENT. Mr. Speaker, I rise in support of the conference report on H.R. 3539, the Federal Aviation Administration Authorization Act of 1996. We must pass this bill without delay. The time is way overdue.

This year the FAA has been the target, and rightfully so in many cases, of public concern over aviation security and airline safety. In this crucial time when we are asking the FAA to secure our airports and ensure the safety of our planes, this is no time to let a partisan squabble over a technical amendment threaten the future of the FAA, our airports, and our airline passengers.

For the last 2 years of this Congress, I have been a strong advocate of FAA reform. In fact, I introduced my own FAA reform bill, H.R. 2403, just 1 year ago this month.

Mr. Speaker, this bill takes the final steps to set these reforms in motion. We can all rest easier when we fly knowing that the FAA will be able to place qualified and satisfied air traffic controllers in towers and cities across our Nation. This bill also ensures that the FAA can begin replacing its outdated air traffic control computer with reliable and updated computer systems that will guarantee the safety of our Nation's skies.

Finally, this bill requires airlines and airports to implement security screening standards and bomb detection equipment. Again, are we going to hold up this bill in the final hour? I think not.

Mr. Speaker, it is time to pass the FAA Authorization Act. Just this morning a major airline experienced a security threat at the Nashville International Airport, which serves my district. This bill, ensuring new safety and security for our Nation's airports, airlines, and passengers cannot be delayed. I call on my colleagues to support H.R. 3539.

Mr. SHUSTER. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Florida [Mr. BILIRAKIS].

(Mr. BILIRAKIS asked and was given permission to revise and extend his remarks.)

Mr. BILIRAKIS. Mr. Speaker, as chairman of the Health and Environment Subcommittee, I must rise in opposition to section 406 of H.R. 3539.

This new section changes current law respecting the promulgation of aircraft emission standards. Although the changes are specifically made to the Clean Air Act, and not to the underlying bill, I believe this is a matter which is properly addressed through the normal legislative process and not through last minute legislating in a conference which was closed to the committee of jurisdictional interest in this matter.

The new section 406 is not a radical departure from current law. It maintains the present requirements of the Clean Air Act for consultation between the Environmental Protection Agency and the Federal Aviation Administration regarding aircraft emission standards.

However, the new section is duplicative at best and troublesome at worst for its attempt to alter standards affecting the promulgation of new emission standards. While I do not personally object to considering noise and safety as part of developing new emission standards—I do object when my subcommittee, which has jurisdiction over the Clean Air Act, is allowed neither time nor opportunity to assess recommended changes to the law.

Section 406 has not been subject to proper review by the Health and Environment Subcommittee and there is no legislative record to support its inclusion in H.R. 3539. This section was added without the consent of the Commerce Committee or the Subcommittee on Health and Environment.

Years ago, I objected when such provisions were added by the former majority in various bills and conference reports—most often late in the session and very often late at night. I do not believe the new majority should fall into the same trap of ignoring bona fide interest and expertise of the committee of jurisdiction. As we all know, what may appear to be simple and innocuous legislative language often can have an impact far beyond that which is apparent in the initial review. Aircraft emission standards are an important subject for consideration within the Clean Air Act and within the committee given explicit authority over the act. And so, Mr. Speaker, this is a protest against doing business in this manner.

Mr. LIPINSKI. Mr. Speaker, I yield myself 6 minutes.

Mr. Speaker, let us focus on what this debate is really about. This provision for FedEx is another assault on the American middle class, the American middle class that has been attacked for over 15 years by our Nation's terrible trade policies, technology, profit driven downsizing, profit-driven deregulation, and systematic sinister weakening of unions. How, you ask? Let me explain.

During the debate on the rule, I outlined the history of this dubious Federal Express provision. Let us take a closer look at what my colleagues are calling a technical correction.

The last express carrier, as defined by the ICC, went out of existence 20 years ago, so at the ICC's suggestion the classification was removed from statute because it was obsolete.

But suddenly, after the ICC bill is signed into law, one company and its countless consultants decided that it might want to be an express carrier some day and started knocking on doors up here.

I have already outlined the five other times FedEx has tried to get this provision into law. Judging by the consistent effort and expense they have gone to, it must really be important for them to remove this dead classification.

But why? Federal Express would not go through all this trouble if they were not going to get something out of it. The fact is that it is much more difficult for a union to organize under the Railway Labor Act than under the National Labor Relations Act.

Under the RLA a unit of the company would have to be organized companywide, while under the NLRA it can be done facility by facility.

Why is this relevant for a company like Federal Express, which is currently classified as an air carrier and already subject to the RLA? Federal Express' operations have changed. No longer does every package get on a plane. Often it just goes on a truck to its destination.

I understand that Federal Express' long-term plan is to truck in packages less than 400 miles away from their hubs around the country. Why would an airline like Federal Express rely so much upon trucks? Because it is cheaper. To their credit, Federal Express is planning for the future to remain competitive. It sure seems to be working. In fiscal year 1996, Federal Express had revenues of $10.3 billion. That is $10.3 billion revenues in 1996. It has headquarters in Memphis, Miami, Hong Kong, and Brussels, with offices in hundreds of cities around the world. And yet, it is afraid of middle-class Americans coming together in a union to improve their way of life, improve their children's way of life, and expand the American middle class.

Managers at FedEx get a labor law book which states in large print: ''Our corporation goal is to remain union free.'' Sections in that document are titled: ''What are indications of union activity and what can I do?'' ''What can I do to prevent union intervention?'' I have that documented right here in my hands at the present time, if anyone would like to look at it. No wonder they want to be an express carrier.

Mr. Speaker, there are no express carriers and have not been any for two decades. Federal Express is pushing this provision so it will be prepared in the future to meet its corporate objective: Remain union free. That is why they have tried to attach this provision to six bills in the last 9 months.

The Republican leadership has decided even though the airports need funding, the FAA needs to be reformed

and aviation security needs to be addressed, as well as the other four areas this bill addresses, it is more important to do FedEx a favor.

Today we have an opportunity to take a stand for the American middle class, a small but very significant stand. We can strip from this bill the 11th hour, no hearings in subcommittee or full committee, Federal Express amendment that makes it much, much more difficult for middle-class Americans to organize into unions so that they can improve their standard of living with better salaries, wages, and benefits.

Mr. Speaker, I reserve the balance of my time.

Mr. SHUSTER. Mr. Speaker, I yield myself such time as I may consume.

We may disagree and have different opinions, but I am sure my good friend would not want to misstate the facts. When we hear that Federal Express is not an express company, that simply is factually incorrect. There is no reclassification here. According to the National Mediation Board findings of law, it is very clearly spelled out that they are recognized as an express company. They have been for as many years as they have been in business. So this is a matter of fact, and I am sure my friend would not want to mislead the body. I think the fact needs to be stated.

Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Texas [Mr. DELAY.]

Mr. DELAY. Mr. Speaker, I rise in support of this conference report, but I am disturbed by the kinds of things that are being said on this floor with regard to what is frankly a simple technical correction that was made by the conferees of this committee. FedEx is not trying to get something that they have not had for many, many years. FedEx is not trying to get something new. FedEx is not union bashing. FedEx understands that we made a mistake in the Interstate Commerce Commission Termination Act, and they are trying to regain and correct that mistake. It is fairness here. And I am very disturbed that like the ads that are being run against us time and time again out in the country and almost $100 million misrepresenting what we have been doing in this, once again the facts are being misrepresented in this regard.

When the Interstate Commerce Commission Termination Act was signed into law last year, a drafting error in a conforming amendment created an ambiguity concerning the status of express companies under the Railroad Labor Act, which is the sole statute governing labor relations in the rail and the airline industry. That is fact. Prior to the enactment of the ICC Termination Act, the Railway Labor Act had jurisdiction over carriers which were defined as ''any express company, sleeping car company, carrier by railroad.''

□ 1330

Due to a drafting error, express companies were inadvertently dropped from the scope of the Railway Labor Act, and that is fact. The result is that an ambiguity was created.

The ICC Termination Act states that the enactment of the ICC Termination Act of 1995 shall neither expand nor contract coverage of the employees and employers by the Railway Labor Act.

Now clearly, Congress did not intend to change the status of express companies with regard to the Railway Labor Act in any way, and unfortunately that is the result of this error. So I certainly would hope that those Members expressing concerns about this provision are not trying to take advantage of an unintended mistake for their own gain. This bill simply corrects an error to restore what was the status quo in this country.

So I urge my colleagues to support this bill and oppose any motion to recommit that would strip out this provision.

Mr. VOLKMER. Mr. Speaker, will the gentleman yield?

Mr. DELAY. I yield to the gentleman from Missouri.

Mr. VOLKMER. I would ask the gentleman, why, if this is just a technical thing, was it not put in the House bill back originally?

The SPEAKER pro tempore (Mr. KINGSTON). The gentleman's time has expired.

Mr. DELAY. Could I have 15 seconds to respond?

Mr. SHUSTER. I just do not have any more time.

Mr. DELAY. I hope someone will answer that.

Mr. SHUSTER. Mr. Speaker, I yield 2 minutes to the gentleman from Tennessee [Mr. TANNER].

(Mr. TANNER asked and was given permission to revise and extend his remarks.)

Mr. TANNER. Mr. Speaker, I thank the gentleman for yielding this time to me, and I want to reiterate and adopt what the previous speaker said, the gentleman from Texas [Mr. DELAY]. This is nothing more than an issue of fairness. As he said and as others have said, there was an ambiguity unintentionally created, and I want to read again what we said in the bill.

The enactment of the ICC Termination Act of 1995 shall neither expand nor contract coverage of the employees and employers by the Railway Labor Act.

These are not my words; these are the words of Congress. Some of the people who are opposing the conference report for this reason are the very ones that drafted it. These are not our words; these are the words of Congress.

And to say this is any way antilabor is simply untrue. As a matter of fact, there are a higher percentage of workers unionized under the National Railway Labor Act than there are under the National Labor Relations Act, and I see it as a basic matter of fairness to correct an unintended error made in drafting.

Mr. Speaker, I want to say something else about FedEx. I represent part of Memphis, TN. Federal Express has dedicated 100 percent of their aircraft to the civil patrol. They flew more missions in Desert Storm than any other civilian aircraft company in this country. Fred Smith is a dedicated patriot who served in Vietnam, crawled through the rice paddies, and I resent this attack on one company because of a drafting error that is clearly the intent of Congress to correct today, and that is all this matter is about.

Mr. LIPINSKI. Mr. Speaker, I yield 4 minutes to the gentleman from Missouri [Mr. VOLKMER].

(Mr. VOLKMER asked and was given permission to revise and extend his remarks.)

Mr. VOLKMER. Mr. Speaker, I not only am a lover of cats, but I love flowers, and flowers are very beautiful, and what I saw developing as this bill passed through the House, passed through the Senate, started in the conference up to Wednesday was a beautiful bouquet of flowers that smelled just beautifully. And then Wednesday night, something happened. Wednesday night, a skunk snuck in a beautiful flower garden and smelled up the whole thing, and this bill now just smells, smells, smells terribly.

Why? Because of one special interest provision that was put in there for Federal Express. That is all. The rest of the bill is fine.

I would like to ask the gentleman from Illinois who worked so hard on this legislation to get all the good points in, and I want to commend him and also the gentleman from Minnesota, the ranking member of the full committee.

As my colleagues know, this provision which we have heard here, this leadership, and I will talk about that leadership in a minute, that leadership calls it a technical thing. Did we ever have any hearings on it?

Mr. LIPINSKI. Mr. Speaker, if the gentleman would yield, no, there were never any hearings on it in the House.

Mr. VOLKMER. In the subcommittee?

Mr. LIPINSKI. Not in the subcommittee.

Mr. VOLKMER. Full committee?

Mr. LIPINSKI. Not in the full committee.

Mr. VOLKMER. How about the Senate? Did they have any in subcommittee or full committee?

Mr. LIPINSKI. No hearings in the subcommittee or full committee in the Senate.

Mr. VOLKMER. That explains why it was not in the bill when it passed the House and the Senate.

Mr. LIPINSKI. Absolutely.

Mr. VOLKMER. Because it really did not need to be in this bill, but all of a sudden—now it was not in either bill when it passed through the House or the Senate; is that correct?

Mr. LIPINSKI. That is correct.

Mr. VOLKMER. Now how many times has Fed Ex tried to get this provision in other bills unsuccessfully before this bill?

Mr. LIPINSKI. At least five and perhaps six. I cannot confirm the sixth one, but I certainly can confirm five occasions.

Mr. VOLKMER. Now if this was purely a technical little provision that really did not harm anybody or do anything, they would not have that problem; would they?

Mr. LIPINSKI. It is my opinion that they would not, no.

Mr. VOLKMER. Now, as my colleagues know, I have been reading about this, and I admire the gentleman from Pennsylvania, and up to Wednesday night I would say he helped grow that beautiful bouquet of flowers.

But I would like to quote the gentleman from Pennsylvania when this came up in conference. It says:

Representative SHUSTER: I am told by my staff that this is clean language to accomplish what the Senator stated. I am instructed by our leadership to accept it from my perspective.

That is what I find, that the gentleman from Pennsylvania, from the leadership, and I find that leadership down on the floor, but I also find that leadership has raised all kinds of dollars all through this political process through this whole Congress from special interests.

And I would like to ask anybody in this body, ethics, I think somebody should take a look at the Federal Election Commission reports and let us see where Fed Ex money is going to. How much is the Republican National Committee getting from Fed Ex? How much is the Republican Congressional Campaign Committee getting from Fed Ex? How much are the members of the leadership on that side getting from Fed Ex?

I think there is our answer right there, Members. That is what this is all about. It is a payoff; that is all it is, is a payoff.

Now even the gentleman from Tennessee, the subcommittee chairman, and he is up at the Committee on Rules, he did not say he wanted this. And I admire that gentleman greatly. He said in answer to the chairman's question in the Committee on Rules, ''It would have suited me if it was not in there.'' That is what he said. Now, that is the truth. It is better not to be in here.

The best thing we can do to get this skunk out of the flower bed is to defeat this bill, and if the bill is not defeated, I think we all should urge the President to veto this smelly, skunky bill.

Mr. SHUSTER. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Ohio, [Mr. BOEHNER].

Mr. BOEHNER. Mr. Speaker, I thank my colleague from Pennsylvania for yielding the time.

Let me congratulate Members on both sides of the aisle for bringing this bill to the floor and the job that they have done in reauthorizing the FAA and in furthering many projects that need to be done to improve the Nation's airports.

Now we all know that there has been a great change in this Congress. We have just not restored common sense back to Congress, but we have also brought an awful lot of accountability back to Congress, and when we make a mistake, we have had the courage to stand up and to correct that mistake. That is why we are here today, fighting over one small provision of this bill.

When we eliminated the ICC last year, we made a drafting mistake, and I think every Member of this body understands it was truly a mistake. And since then, we have lawyers around America trying to exploit the mistake that was made when we eliminated the ICC.

What we are trying to do today is to have the courage and the guts to stand up to do what is right and to fix the mistake that we made and to stop those from exploiting this innocent mistake for their own professional good or, frankly, for their own livelihood.

Now the outrageous claims that were just made by the previous speaker, I am not going to even provide enough dignity to what was said to respond to it, other than no person's name, no company's name ever ought to be uttered on the floor of this House.

We know we made a mistake. Let us stand up and do the right thing.

We know in the Senate, where this provision came from, that the Senate Members unanimously agreed to put it in the bill. That means all of the Democrat Senators and all of the Republican Senators in the other body unanimously argued to put this provision in this bill.

That is where it came from, that is why it is here, and that is why we are dealing with it today. But more importantly, we are dealing with it because it is the right thing to do, to admit we made a mistake and correct it.

Mr. SHUSTER. Mr. Speaker, I yield 1 minute to the gentleman from Tennessee [Mr. BRYANT].

Mr. BRYANT of Tennessee. Mr. Speaker, let me just say this is being painted as a union vote, and it seems incredible to me that it could be cast in those terms. It is simply correcting a technical error that was made when the ICC Regulation Termination Act was passed.

Someone having firsthand knowledge of this, actually having facts in this case, will understand that while Federal Express was under the Railway Labor Act, that in fact its pilots did unionize. So I am not sure I understand the facts that this is an antiunion vote.

I might also cite the national statistics on this, that folks under the National Labor Relations Act in the private sector are unionized about 11 percent, whereas under the Railway Labor Act they are unionized 65 to 70 percent.

So, again, I fail to see how this could possibly be, under any circumstances, an antiunion or a union vote.

I urge my colleagues to do the right thing to correct this mistake and give the relief sought.

Mr. SHUSTER. I yield 1 minute to the gentleman from Virginia [Mr. WOLF].

(Mr. WOLF asked and was given permission to revise and extend his remarks.)

Mr. WOLF. Mr. Speaker, I rise in very strong opposition to this bill. Let me just talk to the Members on our side.

This bill expands the essential air service that our Committee on the Budget voted to phase out. I thought we had abolished all the ice buckets on Capitol Hill. We have created a massive ice bucket with regard to this bill. We are expanding essential air service.

There are so many other things, Mr. Speaker, I am just going to revise and extend. I strongly urge my colleagues on this side to vote against this bill, because when they read this bill later on next week, they will be very regretful that they voted to spend all this additional money.

Mr. Speaker, I wish I could vote for the conference report to H.R. 3539, the Federal Aviation Authorization Act of 1996. This bill funds airport improvements, air traffic control facilities and equipment, and salaries and expenses to operate the FAA.

But the bill includes amendments to the Metropolitan Washington Airports Act which I find unacceptable. Colleagues who were serving in the mid-1980's may recall the legislation to turn control of the two metropolitan Washington airports—National and Dulles—from the Federal Government to a local authority.

We got the Federal Government out of the airport management business and established an authority made up of a majority of local residents to run these two airports located in Virginia. And what has happened since the 1986 act establishing the Metropolitan Washington Airports Authority? I believe everyone would agree that it's been a true success story. I submit here for the RECORD a copy of statistics on the success of the two airports.

Both airports have had major renovation and expansion projects underway and are serving more passengers more efficiently than ever before in modern and safe facilities.

If there has been one ongoing source of contention, though, in this almost decade-long process of having the local authority operate these airports, it has been the Congressional Board of Review which was set up in tandem with the Airports Authority as a way to keep congressional oversight and even, some would say, control over the airports.

I never believed the Review Board was necessary because Congress already has a built-in mechanism for oversight and that's the committee hearing process. Court challenges also were made to the Review Board and twice the U.S. Supreme Court struck down the Review Board as unconstitutional.

Legislation was then introduced to try to keep Congress involved with the airports and get around the constitutional challenges. What has emerged in this Congress as provisions in the FAA conference report are changes to the make-up of the Airports Authority board of directors which I find incongruous with one of the primary changes this Congress has tried to make in the area of Federal mandates and turning back control to State and local governments of what should be State and local government decisions.

This conference report mandates two additional directors to the MWAA board appointed by the President and specifically mandates that the two additional appointments "shall be registered voters of States other than Maryland, Virginia, and the District of Columbia." Furthermore, provisions in the conference report for the two additional Presidentially appointed board members state that "in carrying out their duties on the board, members of the board appointed by the President shall ensure that adequate consideration is given to the national interest."

That is wholly unacceptable and defies what this Congress has tried to accomplish in turning back control of program and decisionmaking to the local and State levels.

Another provision in his conference report is merely a job protection provision for a former employee of the Congressional Board of Review. Even though the Board of Review is terminated, this bill provides that this employee will continue to have a position with the Department of Transportation serving "to assist the Secretary in carrying out this Act."

Mr. Speaker, I am a strong supporter of aviation programs but am convinced that the provisions in the conference report to H.R. 3539 relating to the Metropolitan Washington Airports Authority are unnecessary and regret that these provisions are included in legislation I would like to support. I thought we got rid of ice buckets.

There are other bad provisions in this bill and I therefore oppose H.R. 3539.

YOU CAN ONLY TRADE AS FAR AS YOU CAN TRAVEL

Prepared for the Washington Initiative's European Mission.

WASHINGTON ENJOYS EXCELLENT AIR SERVICE

In today's global market the efficiency of a region as a business location is a function of its air service availability. The Washington region's businesses work with local governments, the airports, and the federal government to attract new air services and to represent the travelers' and the shippers' interests. As a result, Washington's air service choices have more than doubled in ten years and Washington Dulles is projected to be one of the top five international gateways to the U.S. by 2002.

Washington's excellent demographics form one of the nation's largest domestic and international aviation markets. Combined with the city's strategic geographic location, this market gives Washington based companies a very wide choice of competitive services from a choice of airports, including:

238 international flights a week operated by 20 carriers, provide direct service in 32 markets principally from Washington Dulles, including nonstop service to all major European gateways and Tokyo.[1] (Canadian services also operate from National.)

More than 600 daily domestic flights from Dulles and National serve 77 U.S. destinations nonstop and provide single plane or one stop connecting service to virtually every community in the United States receiving scheduled air service.

New low-fare services saved travelers from Washington Dulles and National $97 million in 1995.

In 1995, Washington Dulles was the 7th largest intercontinental gateway to the United States and ranked 4th as a transatlantic gateway behind New York's JFK, Los Angeles International and Chicago Airports.

On the east coast, Dulles ranked second only to New York's JFK as a transatlantic and Asian gateway.

Washington Dulles serves the 3rd largest international market in the United States.

Washington Dulles is strategically located:

1. Within a two-hour flight or a day's truck journey of two-thirds of the U.S. and Canadian populations—the world's largest market.

2. On the Great Circle air routes between the Far East and South America and between Europe and Southern NAFTA.

Washington Dulles and National Airports, 36 airlines provide:

1. Nonstop daily service in 77 domestic markets and one-stop service to virtually every airport served by scheduled airline service.

2. Nonstop or single-plan service in 32 international markets, including nonstop service to Tokyo and all major European gateways.

Washington Dulles Airport European services include:

1. A choice of three daily nonstop services to Frankfurt with United, Lufthansa and Delta Airlines.

2. Six daily nonstop flights to London by British Airways, United Airlines, and Virgin Atlantic.

3. Daily service to Amsterdam by United and Northwest/KLM.

For air cargo shipments Washington offers:

1. 141 airlines and companies providing freight forwarding, customs brokerage, trucking, warehouse and bonded space, foreign-trade zone, cold storage, and other services with reliable, 24-hour operations.

2. Modern cargo facilities and a vibrant growing cargo industry.

3. Paperless, electronic interfaces with U.S. Customs, allowing prompt service and clearance of cargo, in some instances before the plane lands.

4. Uncongested airport access through the Washington Dulles Access Road and an uncongested extensive road feeder trucking network.

5. A high standard of secure, rapid and responsive cargo services with extremely low loss and damage levels.

THE REGION'S AIRPORTS

Washington is served by three airports which provides the traveler and shipper with an unusually side competitive choice for fares and services. American cities with only one airport which is predominantly served by one or two carriers typically have fares 18 percent higher than the national norm.

Washington Dulles International and Washington National Airports are part of the National Capital Region and operated by the Metropolitan Washington Airports Authority—a regional self-funding government agency.

Baltimore Washington International Airport is located between Washington and Baltimore and operated by the state of Maryland. BWI and Washington Dulles are located approximately 40 minutes from downtown Washington. National Airport is located on the Potomac River in the downtown area.

National Airport is a physically limited facility offering a controlled number of flights to U.S. and Canadian destinations without 1,250 miles. Washington Dulles is the region's full service growth airport with a design capacity of 50 million passengers and 750,000 flights per year with 320,424 flights handled over the 12 months ending with July 1996. BWI provides a wide range of North American service, including transcontinental, Canadian and Caribbean flights, and transatlantic service principally to the U.K. and Scandinavian countries.

The Smithsonian plans to open a 720,000 sq. ft. expansion of the National Air & Space Museum at Washington Dulles in 2001.

[1] Summer 1996 Schedule.

Mr. LIPINSKI. Mr. Speaker, we at the present time only have two speakers remaining. I do not know how many speakers the gentleman from Pennsylvania has. He still has more time than we have, so I would like to try to balance this out, Mr. Speaker.

Mr. SHUSTER. Mr. Speaker, I am still attempting scientifically to determine how many speakers I would have, I would say to my friend, but I yield myself such time as I may consume.

Mr. Speaker, I would respond to my friend from Virginia, who was in the well a moment ago, two points. First of all, the authorized levels in this bill are below previous authorized levels; and, second, it is easy for someone from a large metropolitan area, indeed, the Nation's Capital, to not care about essential air service for rural America. But rural America cares about essential air service. Indeed, many of our communities are dependent upon it.

So for those Members on both sides of the aisle who care not only about supporting our major metropolitan areas, and we do, but also care about supporting rural America, the essential air service provision is an important provision.

□ 1345

Mr. OBERSTAR. Mr. Speaker, will the gentleman yield?

Mr. SHUSTER. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. Mr. Speaker, in 1978, if we had not had an agreement that created essential air service, we likely would not have had deregulation. Continuing EADS is continuing the commitment we made to small towns and communities and rural areas across this country, that they, too, would be served by aviation.

Mr. LIPINSKI. Mr. Speaker, I yield 3½ minutes to the gentleman from Minnesota, [Mr. OBERSTAR] the ranking member of the Committee on Transportation and Infrastructure.

Mr. OBERSTAR. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, let us just get the record straight on this express issue. The reason for ending ICC regulation and oversight of express carriers was that the concept of express carrier had become obsolete. The ICC staff itself recommended the elimination of express carrier status.

It was not an oversight, it was not something that someone forgot to do, it was not something that was neglected in drafting. It was not a drafting error. It was done for good reason. The last express carrier went out of business in the mid-1970's.

Federal Express purchased that carrier's operating certificates. The Surface Transportation Board, successor to ICC, advised us in writing, "Federal Express apparently never engaged in the operations authorized by these certificates."

Subsequently, Federal Express obtained and operated new certificates

which, according to the Surface Transportation Board, were ''different from the licenses typically issued to motor common carriers to provide express service.''

In short, Mr. Speaker, and factually, without hyperbole, Federal Express has never been an express carrier. There have been no other express carriers since the 1970's.

The change in the Railway Labor Act does not deprive Federal Express or anyone else of rights they held in 1995. Whether you are an express carrier or not is going to be determined on the basis of the nature of your operations as a carrier.

If express carriers continue to be covered by the Railway Labor Act, then we will be in an Alice in Wonderland situation. Supposing a trucking company is formed in the year 2000 and claims to be an express carrier under the Railway Labor Act. How will its case be decided? Will the National Mediation Board have to decide whether the ICC would have issued to this company an express carrier certificate? It just creates a lot of problems.

Whether Federal Express is an express carrier within the meaning, or is a carrier within the meaning of the Railway Labor Act, is determined on the basis of the dollar volume of its operations and whether the preponderance of its operations are as an air carrier or as a truck carrier, motor carrier. They are an air carrier.

We should not, on the thin thread of a nonexistent operation of a dormant authority purchased and never used, lock this carrier into a statutorily established position within the meaning of the Railway Labor Act forever and ever. That is simply wrong.

If Federal Express wants to make its case, we can hold hearings in the ordinary course of events and attempt to find a way, but we should not use the subterfuge of dormant authority, never used, never undertaken by this carrier, to give them a very special and privileged status.

Mr. SHUSTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, counsel informs me that Federal Express is indeed an express carrier, and refers very specifically to findings of law in 1993, three different cases, instances before the National Mediation Board, in which they state ''Federal Express corporation has been found to be a common carrier as defined in 45 U.S.C. 151, First;'' and it goes on. The important point is 45 U.S.C. 151, First is the express carrier statute. So very clearly, Mr. Speaker, in these findings of law Federal Express has been identified as an express carrier.

Mr. Speaker, I reserve the balance of my time.

Mr. LIPINSKI. Mr. Speaker, I yield myself the balance of my time.

The SPEAKER pro tempore (Mr. KINGSTON). The gentleman from Illinois [Mr. LIPINSKI] is recognized for 2½ minutes.

Mr. LIPINSKI. Mr. Speaker, first of all I want to say that the cooperation I have had with the gentleman from Minnesota has been outstanding, and I sincerely thank him for that, in regard to all these aviation bills.

I also want to thank the gentleman from Pennsylvania [Mr. SHUSTER], the chairman of the committee, for the excellent cooperation we have had with him, and the majority staff on the Republican side has worked extremely well with the minority staff on the Democratic side. They have all worked enormously hard on these pieces of legislation.

They are very, very good pieces of legislation. Mr. Speaker, none of us want to see them fail. But, unfortunately, we do have this Federal Express provision in this bill. It was not ever talked about in any hearing in the subcommittee or a full committee, in the House or in the Senate.

In fact, there were no discussions between the conferees in regard to this particular provision until at the absolute end of the conference, when everything else was decided, a Senator brought forth this provision. It prevailed. I understand that. But just because it prevailed in a conference committee among 10 Members, it should not mean that this House has to accept it. Mr. Speaker, this House has a right to reject it.

As I have said before, we all give lipservice to protecting, strengthening the American middle class. This is an opportunity to do it. This is a $10.7 billion corporation. They can afford to have their employees unionized. They can afford to have their employees come together for a better way of life, a better way of life for their family, a better way of life for themselves.

If Members truly support the American middle class, if they want to see it grow, vote ''no'' on this bill, and we will come back and pass this bill without this terrible provision.

Mr. SHUSTER. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I happen to agree with my friends that we should not have to be here today on this floor debating this particular issue. This issue should have been easily resolved many months ago, and of course, as my friends know, we tried to resolve it but they blocked it. We were unable to.

Then, of course, we did not bring this issue to the floor in our conference report. Rather, it was offered by our colleagues in the Senate, and indeed by Senator HOLLINGS, and passed unanimously by the Senate conferees, Republicans and Democrats, and supported by the Republican conferees because we believe and are absolutely convinced that the evidence is overwhelming that this is nothing more than a correction of a mistake, an honest mistake that was made at the time we eliminated the ICC.

Mr. Speaker, we have had a lot of rhetoric on the floor here today, everything from flowers to skunks, but I would hope we could set the rhetoric aside and look at the facts. Mr. Speaker, let us look at the facts. There are certain facts that are incontrovertible. Perhaps the most significant, the most overwhelming fact of all is that there is labor-requested language included in the ICC Termination Act. Let me quote what is in the law.

''The enactment of the ICC Termination Act of 1995 shall neither expand nor contract coverage of employees and employers by the Railway Labor Act.'' That was the quote. Let me emphasize it again, that is the law: ''It shall neither expand nor contract coverage of employees and employers by the Railway Labor Act.'' I do not see how anybody can misinterpret that. It is there. It is a fact. It is the law.

Then we discovered we had made a mistake. By making that honest mistake on both sides of the aisle, we find that this term of the law is not met, so we simply are attempting to correct it.

Mr. Speaker, it is very clear to everybody, I think, that our friends in labor saw this as a windfall opportunity, the opportunity to capitalize on an honest mistake that was made in drafting the legislation, so they are attempting to capitalize on this windfall.

I believe, from the bottom of my heart, that had we discovered an unintentional provision of the law which inadvertently hurt labor, I would be down in the aisles today, as would many of my colleagues, supporting the removal of that unintended provision that hurt labor. But, so be it, everybody must make their own judgment.

The evidence is overwhelming. Indeed, the technical correction contained in this report is entirely neutral. It does not predetermine the actual status of any company, either in the present or in the future. It simply restores the legal standards that were in place before the ICC Termination Act was passed.

So I hope we would set aside the rhetoric, I hope we would set aside the misinformation, I hope we would deal with the facts. Indeed, the facts are very clear. The law spells out, there is no advantage or disadvantage. We are simply correcting a mistake which was made in the law. For that reason, I urge my colleagues to support this legislation. It is must legislation.

I regret that something that should have been handled routinely much earlier has not been handled routinely much earlier, but at bottom, what we are doing here is fair. What we are doing here is correcting a mistake. Very importantly, what we are doing here is bringing to the floor of this House vital aviation legislation so we can continue to build and improve the airports of America, the United States of America's aviation system, and provide for the safety and security of the pension.

For all of those reasons, I would urge my colleagues to support this legislation.

Mr. ARCHER. Mr. Speaker, I rise in support of the conference report to accompany H.R.

3539, the Federal Aviation Reauthorization Act of 1996. The bill, as introduced, was referred to the Committee on Ways and Means, and the Committee on Ways and Means was named as conferees on this bill. The bill is necessary to extend the expenditure authority of the aviation trust fund contained in the Internal Revenue Code, ensuring needed funding for the operation of our aviation system, and to enhance air safety and security.

I am very pleased to inform my colleagues that the conference report does not include Senate amendments which would have required a fast-track procedure for House consideration of future administration recommendations on aviation financing, including taxes. Legislative mandates of this nature only serve to limit the input of congressional committees of jurisdiction and to circumscribe consideration of a proposed financing package. I what to thank my colleague, Rules Committee Chairman SOLOMON, who helped us oppose this legislative straight jacket for the House.

I will also note that section 273 of the conference report and accompanying statement of managers contains language to clarify the method by which the Federal Aviation Administration may establish and collect fees on aircraft that overfly the United States but do not take off or land here. These clarifications have been included to ensure that these overflight fees are true user fees and not new taxes on air carriers.

Specifically, the statement of managers on this section states:

The user fee imposed on any flight must be based on the FAA's actual cost of service and not on any non-cost based determination of the ''value'' of the service provided. Further, assuming similar costs of serving different carrier and aircraft types, the user fee may not vary based on factors such as aircraft seating capacity or revenues derived from passenger fares.

Any interpretation of these fees by the FAA to the contrary would be a clear violation of congressional intent. Furthermore, the Committee on Ways and Means will continue to exercise vigorous oversight on any proposed fees which could be viewed as inconsistent with this statement of congressional intent or as a delegation of congressional taxing authority.

The lion's share of this bill is the product of enormous work and effort by Chairman SHUSTER and his committee to develop a bipartisan agreement for strengthening and improving our Nation's aviation programs. The bill before us accomplishes those goals, and it deserves the support of the House.

Mr. ROEMER. Mr. Speaker, one of the important accomplishments of this bill is that it focuses the FAA exclusively on safety, a matter of renewed concern in this country.

The conference report includes a number of provisions similar to the Vice President's Aviation Security and Antiterrorism Commission. These include requiring airlines and airports to conduct background checks—in some cases, criminal background checks—of all personnel who would screen passengers, baggage, or cargo; and requires the FAA to certify companies that provide security screening, and to develop uniform performance standards for the training and testing of security screeners.

While these steps are welcome and needed, they should be considered a beginning. The FAA should establish performance milestones that are attached to the development of technology. They should conduct a classified review of which airports are the safest, and immediately take steps to bring other airports up to speed using the safest airports as working models. The FAA should be implementing a long-term strategy taking into consideration all of the Vice President's recommendations, including any followup report that the Commission may have in the coming months.

Although the bill requires the FAA to use existing technology for explosives detection even if the technology has not been perfected, the FAA gets to decide whether such technology provides a benefit. The FAA should accept technology even of minimal benefit. Even if a device can only detect explosives or weapons 30 percent of the time, it will improve safety.

In addition, Mr. Speaker, in privatizing some airports, the Congress and the FAA should consider what this will do to the uniform standards that the bill is working to implement. There is a lot of promise in new technology: in explosive detection machines to explosion-proof cargo holds. These will augment traditional procedures such as well-trained staff, bomb-sniffing dogs, x-ray devices, and others. These needs provide a clear mandate for Government-sponsored research and development of technology.

All of these efforts should be looked at as milestones toward a single goal: that no airport should be less safe than another. We must achieve a single standard of high security for American airports; a standard that every airport in this country meets at the same level.

Mr. POMEROY. Mr. Speaker, I rise in reluctant opposition to the conference report on the FAA Authorization Act (H.R. 3539).

The legislation before the House contains many vitally important provisions to enhance the efficiency and safety of air travel in this country. I supported the bill when it passed the House, and I fully expected to be able to support the conference report. However, regrettably, in the 11th hour, a positively poison pill was added to the bill that was not part of either the House or the Senate bill, has not been the subject of a single congressional hearing, and represents a serious setback for the interests of working people.

This provision is textbook special-interest legislation added in conference to aid a single, powerful company—Federal Express. The effect of the provision, which would reinstate an outdated classification under the Railway Labor Act, would be to make it much more difficult for Federal Express employees to unionize. This is precisely the wrong step to take in this time of corporate downsizing and financial insecurity. Instead, we must work to safeguard worker protections.

Mr. Speaker, because of this provision, I am forced to oppose an otherwise outstanding bill. However, I am confident that this objectionable provision will ultimately be deleted and the FAA legislation passed before the 104th Congress adjourns.

Mr. CLAY. Mr. Speaker, I rise in opposition to the conference report accompanying H.R. 3539. This legislation includes a blatant effort to deny workers the right to form and join unions. While I support other provisions of the bill, I will not vote for this legislation so long as it includes the express carrier provision.

The express carrier provision was not a part of this legislation as passed by either the House or the Senate. Rather it is a wholly extraneous provision that was inserted into the conference report at the behest of a single company. The sole purpose of the provision is to deny employees of that company any realistic means of being able to form a union and bargain on their own behalf.

This is a measure of the lengths antiunion Members of Congress will go on behalf of the rich and powerful to undermine the rights of ordinary citizens.

The express carrier provision is intended to accomplish a single end—to ensure that employees will not be protected by the National Labor Relations Act, but by the weaker protections of the Railway Labor Act instead. If this transfer of jurisdiction is accomplished, employees would be required to organize on a national basis before they would be able to exercise any voice in the determination of their wages and working conditions. In effect, the express carrier provision is intended to make it impossible for employees to engage in collective bargaining.

That some are willing to jeopardize passage of the Federal Aviation Reauthorization Act in order to deny workers the ability to have a voice in their working conditions demonstrates once again the antiworker animus of this Congress. I urge Members to defeat the conference report.

Mr. BLILEY. Mr. Speaker, I must reluctantly rise to report that the House Commerce Committee does not agree with provisions contained in section 406 of H.R. 3539 which affect the promulgation of aircraft emission standards.

These provisions were added in the other body and adopted in conference with some modification to reflect the fact that aircraft emission standards are established under the authority of the Clean Air Act. However, the Commerce Committee did not assent to the inclusion of these provisions in the conference agreement and was not allowed an opportunity to make changes to the legislative language of this conference report.

The Commerce Committee has an undisputed jurisdictional interest in section 406. In essence, this section amends the Clean Air Act to alter the current provisions under which aircraft emission standards may be set. Section 406 creates a new legislative hurdle to changing any existing regulation requiring the consideration of factors unrelated to health or environmental protection.

To be sure, these new factors are not unreasonable considerations. The new language bars changing existing standards if such change would significantly increase noise and adversely affect safety. But now is not the time—in this bill—to advance new legislative standards for aircraft engines. Present statutory authority has stood—unamended—for nearly 20 years. Such standards should not be altered in an unrelated bill.

I recognize the long labors of my colleagues to bring this bill to the House floor. I know that members of the Transportation and Infrastructure Committee and other House committees which were allowed to be part of the conference have labored long and hard to produce a good bill. But I repeat—section 406 in its present form should not be part of this legislation.

I thank the Speaker for the opportunity to address the House on this most important legislation and this most important concern of the Commerce Committee.

Mrs. MORELLA. Mr. Speaker, I rise today in support of H.R. 3539, the Federal Aviation Authorization [FAA] Act of 1996. I would like to thank Chairman WALKER and the Technology Subcommittee ranking member, Congressman JOHN TANNER for their work in crafting title XI of the H.R. 3539.

Title XI is the FAA Research, Engineering, and Development [RD&E] Management Reform Act of 1996. I originally introduced the RD&E Act on May 16, 1996. Its major provisions were subsequently incorporated into H.R. 3322, the Omnibus Civilian Science Authorization Act of 1996 which passed the House on May 30, 1996.

The language in title XI is taken from H.R. 3322. It has been modified slightly to increase the authorization for aviation security research by just over $21 million. This increase should allow the FAA to step up its efforts to develop effective antiterrorism technologies for U.S. airports.

In total, title XI authorizes $208 million for FAA research and development activities in fiscal year 1997—an increase of $21 million over the fiscal year 1996 appropriated level. The title further directs the FAA research advisory committee to annually review the FAA research and development funding allocations and requires the Administrator of the FAA to consider the advisory committee's advice in establishing its annual funding priorities. Finally, title XI streamlines the requirements of the national aviation research plans and shortens the timeframe the plans must cover from 15 to 5 years.

Mr. Speaker, title XI strengthens an already good bill, and I would like to thank Transportation Committee Chairman SHUSTER and Aviation Subcommittee Chairman DUNCAN along with full Committee Ranking Member OBERSTAR and Subcommittee Ranking Member LIPINSKI for their support and assistance in including the FAA RD&E Act in H.R. 3539.

Also included in H.R. 3539 are provisions to restore the operating authority of the Metropolitan Washington Airports Authority [MWAA]. MWAA, which oversees operations at National and Dulles Airports, has been functioning with limited powers under a court order for more than 1 year.

I firmly believe that the only flaw in the original legislation creating the airport authority is the unconstitutionality of the congressional board of review. I maintain that the best remedy would be to amend this legislation by eliminating the congressional review board.

However, I recognize that there is a strong interest to preserve the federal interest, and I have expressed my willingness to accept the compromise provisions included in this conference report. Two additional Federal appointments to the MWAA board of directors surely would ensure that the two airports remain attentive to Federal concerns.

I am pleased that the provisions protect the high density rule at Washington National Airport. Any change in the hourly limits would impose serious social and economic consequences on Maryland and the entire metropolitan Washington region. The primary safety and economic concerns, as well as the impact of noise generated by additional flights on the airport's neighbors, make the high density rule imperative for this heavily traveled metropolitan airport.

I urge all of my colleagues to vote to suspend the rules and pass H.R. 3539.

The SPEAKER pro tempore. All time has expired.

Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. VOLKMER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 218, nays 198, not voting 17, as follows:

[Roll No. 446]

YEAS—218

Allard	Fawell	Manzullo
Archer	Fields (TX)	McCollum
Armey	Foley	McCrery
Bachus	Ford	McInnis
Baker (CA)	Fowler	McIntosh
Baker (LA)	Franks (CT)	McKeon
Ballenger	Franks (NJ)	Meyers
Barrett (NE)	Frelinghuysen	Mica
Bartlett	Funderburk	Miller (FL)
Barton	Gallegly	Molinari
Bass	Ganske	Montgomery
Bateman	Gekas	Moorhead
Bereuter	Geren	Morella
Bilbray	Gilchrest	Myrick
Bilirakis	Gillmor	Nethercutt
Bliley	Goodlatte	Norwood
Blute	Goodling	Nussle
Boehner	Gordon	Oxley
Bonilla	Goss	Packard
Bono	Graham	Parker
Brewster	Greene (UT)	Paxon
Browder	Greenwood	Payne (VA)
Brownback	Gunderson	Petri
Bryant (TN)	Gutknecht	Pickett
Bunn	Hall (TX)	Pombo
Bunning	Hancock	Porter
Burr	Hansen	Portman
Burton	Hastert	Pryce
Buyer	Hastings (WA)	Radanovich
Callahan	Hayworth	Rahall
Calvert	Hefley	Ramstad
Camp	Herger	Riggs
Campbell	Hilleary	Roberts
Castle	Hobson	Rogers
Chabot	Hoekstra	Rohrabacher
Chambliss	Horn	Roth
Chenoweth	Hostettler	Roukema
Christensen	Houghton	Salmon
Chrysler	Hunter	Saxton
Clement	Hutchinson	Scarborough
Clinger	Hyde	Schaefer
Coble	Inglis	Schiff
Coburn	Istook	Seastrand
Collins (GA)	Johnson (CT)	Shadegg
Combest	Johnson, Sam	Shaw
Condit	Jones	Shays
Cox	Kasich	Shuster
Cramer	Kelly	Skeen
Crane	Kim	Smith (MI)
Crapo	Kingston	Smith (TX)
Cremeans	Klug	Souder
Cubin	Knollenberg	Spence
Cunningham	Kolbe	Stearns
Deal	LaHood	Stenholm
DeLay	Largent	Stockman
Dickey	Latham	Stump
Doggett	LaTourette	Talent
Dooley	Laughlin	Tanner
Doolittle	Lazio	Tate
Dornan	Leach	Tauzin
Dreier	Lewis (CA)	Taylor (MS)
Duncan	Lewis (KY)	Taylor (NC)
Dunn	Lightfoot	Thomas
Ehlers	Lincoln	Thornberry
Ehrlich	Linder	Tiahrt
Ensign	LoBiondo	Torkildsen
Everett	Longley	Upton
Ewing	Lucas	Vucanovich
Walker	Weldon (PA)	Young (AK)
Walsh	Weller	Young (FL)
Wamp	White	Zeliff
Watts (OK)	Whitfield	Zimmer
Weldon (FL)	Wicker	

NAYS—198

Abercrombie	Gutierrez	Oberstar
Ackerman	Hall (OH)	Olver
Andrews	Hamilton	Ortiz
Baesler	Harman	Orton
Baldacci	Hastings (FL)	Owens
Barcia	Hefner	Pallone
Barr	Hilliard	Pastor
Barrett (WI)	Hinchey	Payne (NJ)
Becerra	Hoke	Pelosi
Beilenson	Holden	Peterson (MN)
Bentsen	Hoyer	Pomeroy
Berman	Jackson (IL)	Poshard
Bevill	Jacobs	Quinn
Bishop	Jefferson	Rangel
Blumenauer	Johnson (SD)	Reed
Boehlert	Johnson, E. B.	Regula
Bonior	Johnston	Richardson
Borski	Kanjorski	Rivers
Brown (CA)	Kaptur	Roemer
Brown (FL)	Kennedy (MA)	Ros-Lehtinen
Brown (OH)	Kennedy (RI)	Roybal-Allard
Bryant (TX)	Kennelly	Royce
Canady	Kildee	Rush
Cardin	King	Sabo
Clay	Kleczka	Sanders
Clayton	Klink	Sanford
Clyburn	LaFalce	Sawyer
Coleman	Lantos	Schroeder
Collins (IL)	Levin	Schumer
Conyers	Lewis (GA)	Scott
Cooley	Lipinski	Sensenbrenner
Costello	Livingston	Serrano
Coyne	Lofgren	Sisisky
Cummings	Lowey	Skaggs
Danner	Luther	Skelton
Davis	Maloney	Slaughter
de la Garza	Manton	Smith (NJ)
DeFazio	Markey	Smith (WA)
DeLauro	Martinez	Spratt
Diaz-Balart	Martini	Stark
Dicks	Mascara	Stokes
Dingell	Matsui	Studds
Dixon	McCarthy	Stupak
Doyle	McDade	Tejeda
Durbin	McDermott	Thornton
Edwards	McHale	Thurman
Engel	McHugh	Torres
English	McKinney	Torricelli
Eshoo	McNulty	Towns
Evans	Meehan	Traficant
Farr	Meek	Velazquez
Fattah	Menendez	Vento
Fazio	Metcalf	Visclosky
Fields (LA)	Millender-McDonald	Volkmer
Filner	Miller (CA)	Ward
Flake	Minge	Waters
Flanagan	Mink	Watt (NC)
Foglietta	Moakley	Waxman
Forbes	Mollohan	Williams
Fox	Moran	Wilson
Frank (MA)	Murtha	Wise
Furse	Myers	Wolf
Gejdenson	Nadler	Woolsey
Gephardt	Neal	Wynn
Gibbons	Neumann	Yates
Gilman	Ney	
Gonzalez		

NOT VOTING—17

Boucher	Frost	Obey
Chapman	Green (TX)	Peterson (FL)
Collins (MI)	Hayes	Quillen
Dellums	Heineman	Rose
Deutsch	Jackson-Lee (TX)	Solomon
Frisa		Thompson

☐ 1418

The Clerk announced the following pair:

On this vote:

Mr. Quillen for, with Ms. Jackson-Lee of Texas against.

Messrs. BARR of Georgia, STUPAK, ROYCE, WATT of North Carolina, and Mrs. KENNELLY changed their vote from ''yea'' to ''nay.''

Mrs. KELLY changed her vote from ''nay'' to ''yea.''

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SHUSTER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the conference report just agreed to.

The SPEAKER pro tempore (Mr. KINGSTON). Is there objection to the request of the gentleman from Pennsylvania.

There was no objection.

ANNOUNCEMENT OF LEGISLATION TO BE CONSIDERED UNDER SUSPENSION OF THE RULES TODAY

Mr. LINDER. Mr. Speaker, pursuant to House Resolution 525, the following suspensions are expected to be considered today, September 27:

H.R. 4000, POW/MIA; H.R. 4041, Dos Palos Land Conveyance; H.R. 3219, Native American Housing; S. 1004, Coast Guard Reauthorization Conference Report; S. 1505, Pipeline Safety; H.R. 2779, Metric Conversion (if/when Senate sends over); and S. 1972, Older American Indian Tech. Amdts.

PRIVILEGES OF THE HOUSE—RETURNING TO THE SENATE S. 1311, NATIONAL PHYSICAL FITNESS AND SPORTS FOUNDATION ESTABLISHMENT ACT

Mr. ARCHER. Mr. Speaker, I rise to a question of privileges of the House.

Mr. Speaker, I offer a privileged resolution (H. Res. 545) returning to the Senate the bill S. 1311 and I ask for its immediate consideration.

The SPEAKER pro tempore. The Clerk will report the resolution.

The Clerk read as follows:

H. Res. 545

Resolved, That the bill of the Senate (S. 1311) entitled the ''National Physical Fitness and Sports Foundation Establishment Act'', in the opinion of this House, contravenes the first clause of the seventh section of the first article of the Constitution of the United States and is an infringement of the privileges of this House and that such bill be respectfully returned to the Senate with a message communicating this resolution.

The SPEAKER pro tempore. The resolution constitutes a question of privilege under rule IX.

Under the rule, the gentleman from Texas [Mr. ARCHER] and the gentleman from Florida [Mr. GIBBONS] will each be recognized for 30 minutes.

The Chair recognizes the gentleman from Texas [Mr. ARCHER].

Mr. ARCHER. Mr. Speaker, I yield myself such time as I may consume.

(Mr. ARCHER asked and was given permission to revise and extend his remarks.)

Mr. ARCHER. Mr. Speaker, this resolution is necessary to return to the Senate the bill S. 1311. S. 1311 contravenes the constitutional requirement that revenue measures shall originate in the House of Representatives. It would override current tax law and direct a particular tax treatment for a certain newly established foundation, and therefore contravenes this constitutional requirement.

Section 2 of S. 1311 would establish the National Physical Fitness and Sports Foundation. Subsection (a) provides that the foundation shall be a charitable and not-for-profit corporation and shall not be an agency or establishment of the United States. In particular, it dictates that the foundation shall be established as an organization described in section 501(c)(3) of the Internal Revenue Code and that it shall be presumed for tax purposes to be a 501(c)(3) organization until the Secretary of the Treasury determines that the foundation fails to meet the requirements of section 501(c)(3). The final sentence of the subsection explicitly waives the requirements of subsection (a) of section 508 of the Internal Revenue Code, which generally requires new organizations to notify the Secretary that they are applying for recognition of section 501(c)(3) status.

This provision explicitly overrides the Federal income tax rules governing recognition of tax-exempt status. The Internal Revenue Code has specific rules that govern tax-exempt organizations and that specify the application for 501(c)(3) status and the tax treatment of entities applying for 501(c)(3) status. S. 1311 supersedes those rules in this instance and grants special Federal income tax treatment to the newly established National Physical Fitness and Sports Foundation.

The provision would have a direct effect on tax revenues. The proposed change in our tax laws in a ''revenue affecting'' infringement on the House's prerogatives, which constitutes a revenue measure in the constitutional sense. Therefore, I am asking that the House insist on its constitutional prerogatives.

There are numerous precedents for the action I am requesting. For example, on October 7, 1994, the House returned to the Senate S. 2126, containing Internal Revenue Code provisions regarding exemption from taxation. On July 21, 1994, the House returned to the Senate S. 1030, containing a provision exempting certain veteran payments from taxation. On June 15, 1989, the House returned to the Senate S. 774, conferring tax-exempt status to two corporations. Finally, on September 25, 1986, the House returned to the Senate S. 638, containing numerous provisions relating to the tax treatment of the sale of Conrail.

I want to emphasize that this action does not constitute a rejection of the Senate bill on its merits. Adoption of this privileged resolution to return the bill to the Senate should in no way prejudice its consideration in a constitutionally acceptable manner.

The proposed action today is procedural in nature, and is necessary to preserve the prerogatives of the House to originate revenue matters. It makes it clear to the Senate that the appropriate procedure for dealing with revenue measures is for the House to act first on a revenue bill, and for the Senate to accept it or amend it as it sees fit.

Mr. Speaker, on a personal note, I'd like to say that this is probably the last time that my friend, SAM GIBBONS, and I will be working together on a legislative matter on the floor of the House of Representatives. As our colleagues know, SAM is retiring at the end of this Congress.

In a way, it's only fitting that we are standing here shoulder to shoulder defending the constitutional prerogatives of the House of Representatives to originate revenue measures.

Mr. Speaker, this morning the members of the Committee on Ways and Means had a breakfast to pay tribute to SAM and to give him a send-off with our very, very best wishes for his years of service. I want to say to my colleague, SAM, I will personally miss you.

Mr. Speaker, further on a personal note, the end of the congressional session brings with it both joys and sorrows. I take a considerable amount of joy in reaching the end of the one of the more grueling legislative sessions in my memory—knowing that we are all heading to our congressional districts to face our constituents, and compete for election based on our record of accomplishments and our differing philosophies of government.

But I take great sorrow knowing that as the year comes to a close, the House of Representatives is going to lose one of the most outstanding staff members who has ever served in these halls, Phil Moseley, the chief of staff of the Ways and Means Committee.

Phil came to Washington from San Antonio, TX, in 1973 to serve as my press secretary. He was a bright and enthusiastic 27-year-old, ready to take on the heady world of congressional politics. His intention was to stay for a couple of years and then to return to Texas to settle down. Fate had a different answer in store for Phil. He fell in love with a lovely young woman who also worked in my office, Norah Horrocks, and she soon became his bride.

Fortune smiled on me when Phil and Norah met, because I have been the chief beneficiary of their decision to make the Nation's Capital their home. Phil served as my administrative assistant from 1978 to 1988. When I became the ranking Republican on the House Ways and Means Committee, I managed to prevail upon him to take on the new challenge of serving as the minority chief of staff.

When the Republican Party took control of the House in 1994, fortune was with me again because Phil was at my