

the Senate. And Howard Greene, I know, will be very, very pleased to receive the accolades that came from the distinguished senior Senator from West Virginia.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Rhode Island for his kind remarks. He is a gentleman, and his high dedication to purpose is worthy of adulation and emulation. I shall always treasure our associations over the years, and I look forward to the future years of service with my friend, John CHAFEE.

Mr. CHAFEE. Mr. President, again, I thank the Senator and say how flattered I am by the kind comments that the Senator from West Virginia made about me.

#### FEDERAL AVIATION REAUTHORIZATION ACT OF 1996

The Senate continued with the consideration of the bill.

##### AMENDMENT NO. 5361

Mr. CHAFEE. Mr. President, I call now for my amendment No. 5361.

The PRESIDING OFFICER. The Senator has that right. It is now the pending question.

##### AMENDMENT NO. 5361, AS MODIFIED

Mr. CHAFEE. Mr. President, I ask unanimous consent to modify my amendment, and I send that modification to the desk.

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

The amendment (No. 5361), as modified, is as follows:

Page 78, line 12, strike "and aircraft engine emissions,".

Page 78, line 19 through 24, strike all of paragraph (C) and insert the following:

(C)(1) The Environmental Protection Agency shall consult with the Federal Aviation Administration on aircraft engine emission standards.

(2) The Environmental Protection Agency shall not change the aircraft engine emission standards if such change would significantly increase noise and adversely affect safety.

(3) The Administrator, as the Administrator deems appropriate, shall provide for the participation of a representative of the Environmental Protection Agency on such advisory committees or associated working groups that advise the Administrator on matters related to the environmental effects of aircraft and aircraft engines.

Mr. BAUCUS. Mr. President, I am pleased that we have been able to reach an agreement with the managers on this issue. The amendment offered on behalf of Senator CHAFEE and myself corrects language in the bill that creates overlapping authority in the EPA and the FAA, conflicting regulations, and fiscal waste.

The result of the Commerce Committee's proposal contained in S. 1994 would have been confusion and uncertainty for the airline industry, and unnecessary burdens for the taxpayers.

Let me explain the situation briefly. The Clean Air Act Amendments of 1990 require the EPA to set emission stand-

ards for new aircraft engines. The bill before us, however, grants the FAA the very same authority. Thus, two different agencies would have the same authority.

With all the effort by this administration and Congress to downsize the bureaucracy and trim agency budgets, I don't think the committee intended this duplication. The Secretary of Transportation acknowledges that, if this provision became law, the FAA would have had to develop the expertise and capacity to set emission standards. So this bill would have required an entirely new office, with a new budget and new workers all to do a job already being done by the EPA.

This just didn't make sense. The FAA is now straining to meet its basic responsibilities in aviation security and safety. We should not divert them from those critical missions by forcing them to duplicate work already being performed by another agency.

Mr. President, this amendment corrects the situation by eliminating the provision in S. 1994 which creates the FAA's duplicate authority over emission standards. I'm pleased that the compromise we reached with the managers also requires greater cooperation between the two agencies by directing the EPA to consult with the FAA prior to setting new emission standards for aircraft engines. The amendment also allows the FAA Administrator to include representatives from the EPA on advisory committees that deal with issues of aircraft standards.

This should facilitate coordination between EPA, the FAA and interested parties early in the development of any future regulations.

In conclusion, I believe this amendment makes good sense all around. It protects the taxpayer by eliminating unnecessary bureaucracy and duplication. It encourages better dialogue between government and industry. And it avoids any weakening of our environmental standards.

I'm pleased the managers of the bill have accepted the amendment and I thank them for their willingness to work with us on this important issue.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, I thank the Senator from Rhode Island for his cooperation and the modification of his amendment. As far as this Senator is concerned, as far as our side is concerned and the administration is concerned, his modification makes his amendment now acceptable.

The chairman of the subcommittee, Senator MCCAIN, is working on one other amendment. We feel we are ready to go at some point with your amendment, which will be accepted, I am sure. I do thank him, again, for his cooperation and congeniality.

Mr. CHAFEE. Mr. President, let me express my appreciation to the distin-

guished Senator from Kentucky for his help on this and also Senator MCCAIN, the floor manager of this legislation. This is something that has been worked out. Amazingly enough, we seem to have everybody satisfied. Having seen these things in the past, I am a great believer in getting things done, if we can.

I will suggest the absence of a quorum and see perhaps if we can get Senator MCCAIN here just briefly and get this one accepted, if it is agreeable. If there is no other business, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. FORD. As far as Senator Chafee's amendment is concerned, now, as modified, this side has no objection.

Mr. MCCAIN. Mr. President, we have no objection to the amendment. But also I would like to thank Senator CHAFEE. He is the watchdog in this body for environmental issues. I am very grateful that he would reach this compromise so that we can move forward with the bill. Frankly, I think the bill will be stronger now that we have his seal of approval. So we have no objection.

The PRESIDING OFFICER. The question occurs on agreeing to the amendment No. 5361, as modified.

The amendment (No. 5361), as modified, was agreed to.

Mr. MCCAIN. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question now occurs on the Simon amendment No. 5364.

Mr. FORD. Mr. President, I ask unanimous consent that the Simon amendment be set aside temporarily.

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

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Again, I want to express my appreciation to Senator MCCAIN and Senator FORD for their assistance in this, also the folks from the FAA and EPA. I think we have worked out a good solution here, and I am very pleased with that.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. FORD. Mr. President, we sometimes appear not to be working as it relates to the camera in the Senate Chamber. However, those that have been observing from the balcony and those who are staff and Senators will understand we have been working feverishly for about the last 2 hours in order to accommodate Senators who have amendments that are reworded and so forth so that we might move forward with legislation that is meaningful and that is doable.

I thank the distinguished Senator from Rhode Island, Senator CHAFFEE. We arrived at an agreement and modified his amendment and we were able to accept that.

I want everyone to know we have been working hard to put this piece of legislation together. It is important. Hopefully, we will be able to finish by 2 o'clock.

## AMENDMENT NO. 5359

(Purpose: To express the sense of the Senate regarding acts of international terrorism)

Mr. FORD. Mr. President, I call up amendment 5359, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kentucky [Mr. FORD], for Mr. REID, proposes an amendment numbered 5359.

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

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

The amendment is as follows:

At the appropriate place, insert the following new section:

**SEC. . SENSE OF THE SENATE.**

(a) FINDINGS.—The Senate finds that—

(1) there has been an intensification in the oppression and disregard for human life among nations that are willing to export terrorism;

(2) there has been an increase in attempts by criminal terrorists to murder airline passengers through the destruction of civilian airliners and the deliberate fear and death inflicted through bombings of buildings and the kidnapping of tourists and Americans residing abroad; and

(3) information widely available demonstrates that a significant portion of international terrorist activity is state-sponsored, -organized, -condoned, or -directed.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that if evidence establishes beyond a clear and reasonable doubt that any act of hostility toward any United States citizen was an act of international terrorism sponsored, organized, condoned, or directed by any nation, a state of war should be considered to exist or to have existed between the United States of America and that nation, beginning as of the moment that the act of aggression occurs.

Mr. FORD. Mr. President, this is a sense of the Senate as it relates to evidence established relating to hostilities toward any U.S. citizen as it relates to the airlines. I believe this amendment is cleared and we can move forward.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 5359) was agreed to.

Mr. FORD. I move to reconsider the vote.

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

## AMENDMENT NO. 5369

(Purpose: To provide for additional days for comment for proposed regulations establishing special flight rules in the vicinity of Grand Canyon National Park)

Mr. FORD. Mr. President, I send an amendment to the desk for immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kentucky [Mr. FORD], for Mr. BRYAN, proposes an amendment numbered 5369.

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

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

The amendment is as follows:

At the appropriate place, insert the following:

**SEC. . SPECIAL FLIGHT RULES IN THE VICINITY OF GRAND CANYON NATIONAL PARK.**

The Secretary of Transportation, acting through the Administrator of the Federal Aviation Administration, shall take such action as may be necessary to provide 30 additional days for comment by interested persons on the special flight rules in the vicinity of Grand Canyon National Park described in the notice of proposed rulemaking issued on July 31, 1996, at 61 Fed. Reg. 40120 et seq.

Mr. FORD. On behalf of Senator BRYAN, this amendment relates to flying over the Grand Canyon National Park. I believe this is also agreed to.

The PRESIDING OFFICER. Is there debate on the amendment?

Without objection, the amendment is agreed to.

The amendment (No. 5369) was agreed to.

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

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

The motion to lay on the table was agreed to.

## AMENDMENT NO. 5372

(Purpose: To prohibit the Surface Transportation Board from increasing user fees)

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kentucky [Mr. FORD], for Mr. DORGAN, for himself and Mr. PRESSLER, proposes an amendment numbered 5372.

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

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

The amendment is as follows:

At the appropriate place, insert the following: "Notwithstanding any other provision of law, the Surface Transportation Board shall not increase fees for services in connection

with rail maximum rate complaints pursuant to 49 CFR Part 1002, STB Ex Parte No. 542."

Mr. FORD. Mr. President, I ask unanimous consent that Senator PRESSLER be added as a cosponsor.

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

Mr. FORD. Mr. President, this is an amendment relating to increasing fees in connection with rail rates. I believe this is agreed to.

The PRESIDING OFFICER. Is there debate on the amendment?

Without objection, the amendment is agreed to.

The amendment (No. 5372) was agreed to.

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

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

The motion to lay on the table was agreed to.

## AMENDMENT NO. 5371

(Purpose: To assure adequate resources for the Essential Air Service program)

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kentucky [Mr. FORD], for Mr. EXON, for himself, Mr. DASCHLE, Mr. DORGAN, and Mr. PRESSLER, proposes an amendment numbered 5371.

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

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

The amendment is as follows:

On page 95 at the end of line 11 insert the following new sentence: "Services for which costs may be recovered include the costs of air traffic control, navigation, weather services, training and emergency services which are available to facilitate safe transportation over the United States, and other services provided by the Administrator or by programs financed by the Administrator to flights that neither take off nor land in the United States."

Mr. FORD. Mr. President, I ask unanimous consent that Senator DASCHLE, Senator DORGAN, and Senator PRESSLER, be added as cosponsors of this amendment by Senator EXON.

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

Mr. FORD. I believe this amendment is also agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 5371) was agreed to.

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

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

The motion to lay on the table was agreed to.

## AMENDMENT NO. 5368

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. McCAIN], for Mr. DOMENICI, proposes an amendment numbered 5368.

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

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

The amendment is as follows:

On page 119, line 1, strike all after "activities", through "collections" on line 2.

Mr. DOMENICI. Mr. President, my amendment would make a technical change to a provision contained in the bill regarding the budgetary treatment of certain fees. The amendment would not change the budget scoring of the bill by the Congressional Budget Office, nor would it change the budget treatment of the user fees created in the bill for international overflights.

The amendment has been cleared by both managers of the bill and I urge its adoption.

Mr. McCAIN. Mr. President, this is a technical amendment that has to do with offsetting budgetary considerations. It is acceptable to both sides. I have no further comment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 5368) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. McCAIN. Mr. President, I ask unanimous consent for the consideration of an amendment by Senator HELMS, and I ask unanimous consent because this amendment by Senator HELMS had been intended to be included in the package last night. We neglected to do so by oversight. So, again, I ask unanimous consent that an amendment by Senator HELMS be in order.

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

AMENDMENT NO. 5377

(Purpose: To provide for the transfer of the United States' interest in the Hickory, North Carolina Air Traffic Control Tower.)

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. McCAIN], for Mr. HELMS, for himself and Mr. PRESLENER, proposes an amendment numbered 5377.

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

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

The amendment is as follows:

**SEC. 41 . TRANSFER OF AIR TRAFFIC CONTROL TOWER; CLOSING OF FLIGHT SERVICE STATIONS.**

(a) HICKORY, NORTH CAROLINA TOWER.—

(1) TRANSFER.—The Administrator of the Federal Aviation Administration may transfer any title, right, or interest the United States has in the air traffic control tower located at the Hickory Regional Airport to the City of Hickory, North Carolina, for the purpose of enabling the city to provide air traffic control services to operators of aircraft.

Mr. McCAIN. Mr. President, this amendment by Senator HELMS has to do with flight service stations and an air control tower. It is acceptable by both sides.

I have no further comment on the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

Without objection, the amendment is agreed to.

The amendment (No. 5377) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. McCAIN. Mr. President, Senator ROTH will be coming to the floor momentarily to propose an amendment, which is without controversy. We are ready to accept that amendment. That will leave us with three amendments remaining—one by Senator BROWN of Colorado, one by Senator GRAHAM of Florida, and one by Senator SIMON of Illinois.

We are in the process of working out language on these three final amendments, and I am hopeful that following Senator ROTH's statement, within a very short period of time, we will have completed all pending amendments on this bill. We will then be prepared to move to third reading and a vote, and that decision is to be made by the majority leader and Democratic leader.

Until Senator ROTH arrives and we finish working out this language, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

The Senator from Delaware is recognized.

AMENDMENT NO. 5370

(Purpose: To provide for expenditures from the Airport and Airway Trust Fund)

Mr. ROTH. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. If there is no objection, the SIMON amendment will be set aside. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Delaware [Mr. ROTH], for himself and Mr. MOYNIHAN, proposes an amendment numbered 5370.

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

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

The amendment is as follows:

At the appropriate place, insert the following:

**TITLE—EXTENSION OF AIRPORT AND AIRWAY TRUST FUND EXPENDITURE AUTHORITY**

**SEC. . EXPENDITURES FROM AIRPORT AND AIRWAY TRUST FUND.**

Section 9502(d)(1) of the Internal Revenue Code of 1986 (relating to expenditures from Airport and Airway Trust Fund) is amended by—

(1) striking "1996" and inserting "1997"; and

(2) inserting "or the Federal Aviation Reauthorization Act of 1996" after "Administration Authorization Act of 1994".

Mr. ROTH. Mr. President, this bill calls for expenditures from the airport and airway trust fund. The airport and airway trust fund is governed by the Internal Revenue Code which is exclusively within the jurisdiction of the Finance Committee. Therefore, at the request of the Commerce Committee, Senator MOYNIHAN and I are offering an amendment to modify the Internal Revenue Code in order to allow expenditures from the airport and airway trust fund as provided in this bill. I am pleased to take action today to ensure continued funding for the airway system, particularly in light of current security and system concerns.

It is my understanding that this amendment has been cleared on both sides of the aisle and there is no objection to it.

I yield the floor.

Mr. FORD. Mr. President, this side has no objection. We accept the Senator's amendment and thank him for his interest.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 5370) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. McCAIN. Mr. President, I thank the distinguished chairman of the Finance Committee while he is in the Chamber. This legislation has a lot of implications associated with it concerning the way we are going to fund the Federal Aviation Administration, and a great deal of what is going to happen in the future falls under the authority of the Finance Committee. I thank Senator ROTH for his cooperation, for joining us in an effort at reforming the Federal Aviation Administration financially and for finding ways that we can fully fund it. I believe we could not have done so without the spirit of cooperation that he and his staff have displayed.

I thank the Senator from Delaware.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Let me join my colleague in complimenting Senator ROTH. I believe it was almost unanimous among

those Senators who were here last night who were very concerned about the so-called ticket tax expiring on December 31 and going through a 10-month hiatus as we had, and it was finally worked out. Many of our colleagues are going to be asking about additional security operations, new and innovative ideas, new machinery, LOI's, letters of intent, that we have on airports, things of that nature.

I encourage the Senator, if he could, to find a way in his good work to see if there is something we could do to extend the so-called ticket tax until such time as a report comes back with suggestions from the group on how to finance FAA. I think it would meet with a great many accolades and applause, and so forth, if he could do that.

Many of us have projects that are ongoing, and many of us have letters of intent. I do not want any Senator to look at me and say, "Where is the money?" and I did not make every effort to try to accomplish that. So I say that to my friend in a spirit of cooperation.

Mr. ROTH. Mr. President, I agree with my distinguished colleague as to the urgency for action in this area, and the desire for the Finance Committee to move expeditiously on the tax matters. I have to say, like the Senator from Kentucky, I am very concerned about the security of the airports and want to work very closely with the Commerce Committee in assuring it is adequate, and that whatever financing is necessary becomes available.

I yield the floor.

EMERGENCY REVOCATION AMENDMENT TO S. 1994

Mr. INHOFE. Mr. President, I had intended to offer an amendment regarding the Federal Aviation Administration's [FAA] emergency revocation powers; however, after conferring with the chairman and ranking member I have withdrawn my amendment because they have agreed to work with me on this issue in the 105th Congress.

Aviation safety not only requires consistent diligence, but also balance. It is balance that my amendment sought to achieve between the rights of the airmen to use their certificates and the need for the FAA to immediately revoke the certificates of unsafe operators. Over the past several years we have witnessed a sharp increase in the number of emergency revocations. In an revocation action, brought on an emergency basis, the airman or other certificate holder loses the use of the certificate immediately, without an intermediary review by an impartial third party. The result is that the airman is grounded and in most cases out of work until the issue is adjudicated.

My amendment would have established a procedure whereby the airman could request a hearing before the NTSB Board on an expedited basis to determine if a true emergency existed and therefore justified the immediate revocation of the airman's certificate. If the NTSB decided no emergency existed, then the airman could have use

of his certificate while the FAA pursued their case against the airman. If the NTSB decided an emergency existed then the revocation would remain in effect until the case could be fully adjudicated.

Given the chairman's assurances of his willingness to work with me on this issue in the 105th Congress, I have withdrawn my amendment and look forward to working him and the ranking member to address this problem.

Mr. PRESSLER. Mr. President, if the Senator will yield, I want to assure him that it is my intention that the committee work closely with him on this issue.

Mr. McCAIN. If the Senator will yield further, I concur with Chairman PRESSLER and want to add my assurances that the Subcommittee on Aviation will thoroughly examine this issue through the hearing process in the 105th Congress.

Mr. HOLLINGS. If the Senator will yield, I too want to assure the Senator from Oklahoma that we will work with him to address the problem he has highlighted.

Mr. FORD. If the Senator will yield, I agree with the chairman that we should review this issue more closely in the 105th Congress.

Mr. INHOFE. I thank the chairmen and ranking members. I appreciate their willingness to not only discuss this issue but to come to some resolution.

Mr. BURNS. I join my colleagues in calling for hearings on this important issue. This issue deserves our immediate attention and I look forward to working with the chairman in developing a record on this issue.

#### THE "AGE 60 RULE"

Mr. SIMPSON. Mr. President, I should like to address a critical issue that is very familiar to Members of this body who have been involved with the Federal Aviation Administration—it is the "age 60 rule." In 1959, the FAA implemented a regulation to prohibit pilots, having reached the age of 60, from flying jets regulated by part 121 of the FAA regulations—that is, passenger-carrying jets with more than 30 seats. This year, the FAA has extended that ban to include commuter jets with more than 10 seats.

I do not want to hold up this very important bill in order to carry out a lengthy debate on whether or not the ban is justifiable. I am not here to overturn that rule. Indeed, few of us here would be in any way qualified to do such a thing. Instead, I believe the FAA must certainly be willing to treat pilots over the age of 60 in a manner that is fair and consistent with its treatment of other pilots.

The FAA, acting in the interest of public safety has concluded that pilots—however experienced they may be—over the age of 60 should not be allowed to fly. I would submit, however, that this conclusion has not been supported through any independent study. It can not be accurately studied be-

cause no U.S. pilot over the age of 60 has been allowed to fly "part 121" aircraft at any time during the last 36 years.

In light of this situation, the judiciary—in a number of cases, but notably in the October 31, 1990 Baker versus FAA (7th Circuit Court of Appeals)—has upheld the FAA's position for the reason, as they stated, that the issue of age discrimination is clearly subordinate to that of passenger safety. The court did point out, however, that one of the FAA's own studies on flight time for class III pilots indicated that pilots between 60 and 70 with more than 1,000 hours of total flight time and more than 50 hours of recent flight time had the lowest accident rates of any age group of pilots.

In conclusion, the court admitted that these pilots face a catch 22 in that they are unable to obtain exemptions from the age 60 rule until they can show they can fly large passenger aircraft safely, yet they cannot show such ability until they obtain an exemption. In the end, the court affirmed the FAA's order, saying, "it is supported by substantial, albeit certainly not compelling evidence."

In the FAA's "part 121" regulations, the FAA is empowered to grant exemptions to this rule if it "finds that such action would be in the public interest," however, no exemptions have ever been granted regardless of physical condition or safety record. This is in spite of the fact that the FAA currently issues special certificates to pilots under the age of 60 with histories of alcohol abuse or even heart conditions. The FAA's explanation is that it has "present tests that can predict the expected course of a known medical deficiency" such as heart disease or alcoholism "with sufficient accuracy to allow valid, individualized judgments" but that "the same accuracy is not possible when assessing the decrements associated with the aging process." I do not believe this is a consistent policy or a fair treatment of many pilots with impeccable records, but who also have more than 60 years of life behind them.

In this bill, which will do so much to advance the issue of airline safety, I think it is a tragedy that there has been no mention of the fact that hundreds of this country's potentially safest and most experienced pilots have been grounded because of a rule with little or no empirical basis. I strongly believe that the FAA should outline the criteria by which it would consider exempting certain pilots from the "age 60 rule," so that even a very small number of exceptionally fit pilots could be studied in order to form the basis for a future review of this outdated rule.

I know this issue was briefly touched upon in Commerce Committee hearings, but it was not explored in enough depth, so I would like to ask my friend from Arizona, chairman of the Aviation Subcommittee of the Senate Commerce Committee, whether he would

consider calling hearings on this important issue to many airline pilots, the "age 60 rule."

Mr. MCCAIN. I say to my friend that the Aviation Subcommittee has held a number of hearings on this in the past and I would again consider having additional hearings on this very important matter.

Mr. SIMPSON. I thank the Senator for his courtesy and his extremely hard work on this legislation.

#### TERRORISM AND AVIATION SECURITY

Mr. KERRY. Mr. President, I congratulate the distinguished chairman of the Commerce Committee for moving forward on this important bill and for including provisions that seek to address terrorism and aviation security. I have worked with the chairman on these important provisions for many months. The Gore Commission recommended that the FAA move forward expeditiously with deployment of advanced explosive detection equipment, and this legislation contains provisions to implement that recommendation.

For too long our efforts have fixated on finding the perfect technology that will give us a silver bullet against terrorism at our airports. While other countries have deployed explosive detection technology that is commercially available, economically reasonable, and compatible with realistic air carrier operating conditions, our research-oriented approach has resulted in the U.S. deploying nothing, and thus becoming an attractive target for terrorists.

It is my understanding that the language in the managers' amendment requires the FAA Administrator to deploy existing, commercially available, and operationally practicable explosive detection devices.

Mr. PRESSLER. Mr. President, the Senator from Massachusetts is correct. This legislation requires the FAA to begin immediate deployment of commercially available explosive detection equipment. This deployment will occur as an interim measure to address airport and air carrier security vulnerabilities while the FAA continues to undertake research and operational testing of equipment such as the CTX.

Mr. KERRY. Mr. President, I ask the Senator from South Dakota if I am correct that the language contained in this bill will result in the speedy deployment of a variety of explosive detection systems that are cost effective, and compatible with realistic operating conditions, such as those systems manufactured by Vivid Technologies, Thermedics Detection, EG&G, IonTrack, and AS&E.

Mr. PRESSLER. Mr. President, the Senator from Massachusetts is correct—that is the intent of this bill.

Mr. KERRY. Mr. President, I thank the Senator from South Dakota for his clarification and I voice my strong support for these security provisions.

Mr. HOLLINGS. Mr. President, for years we have been asking passengers

to pay money to support the safety needs of the aviation system. In 1970, Congress created the airport and airway trust fund as a means to make sure that the Federal Aviation Administration [FAA] had enough money to build and support our Nation's airports and the FAA's own air traffic control system.

The FAA's mission is to oversee the safety of the traveling public. When any accident occurs, as we have seen in the recent ValuJet and TWA accidents, there are many possible reasons for the accident. People on television are quick to rush to conclusions. We use the expertise of the National Transportation Safety Board [NTSB] to determine the cause of a crash. The Everglades crash scene, as Bob Francis, Vice Chairman of the NTSB, has indicated, was extremely treacherous and necessitated a difficult investigation. The TWA accident presents the additional complication of a criminal investigation carried on side-by-side with the accident investigation. One thing is certain—the FAA must be fully funded to meet the challenges and aviation growth in the future.

S. 1994 incorporates much of the text of S. 1239, the FAA reform bill, reported by the Commerce Committee last November. Those provisions call for an independent review of the precise needs of the FAA, followed by the submission of a funding proposal to finance the agency. The industry must recognize that ultimately we have to decide how best to support and fund the agency. Delay is no longer an option.

#### OVERSIGHT OF SAFETY

When we take a broad perspective, we do know that aviation is the safest form of transportation. More than 40,000 people die each year in highway accidents. According to testimony before the Commerce Committee, more people die each year because of electrocution—525—than because of airline crashes. Yet, the tragic crash of ValuJet flight 592 into the Florida Everglades on May 11 is significant because it may well have been avoidable.

We can go back over every action by the FAA, every inspector general [IG] report, every report by the General Accounting Office [GAO], and still not resolve what is safe. If someone says "you need more inspectors or better training for inspectors," and a crash occurs, the person pushing for more inspectors and training is touted as a sage by the media. Anyone, however, can pick any issue in the aviation field, make a broad statement, and tomorrow there may be a crash that may make the statement appear to be the essence of wisdom.

The FAA oversees the activities of carriers and maintenance facilities through its inspector work force. Each air carrier is assigned a principal operations, maintenance, and avionics inspector. For a large carrier, there may be 30 to 60 FAA inspectors assigned to oversee its operations. In addition, the

FAA uses "geographic" inspectors who, for example, are responsible for air carrier operations at a particular airport or area. The geographic inspector may conduct ramp inspections on a wide variety of aircraft types, even though the inspector may only be certificated on one aircraft type. As a general matter, FAA inspectors are extremely well qualified. An air carrier operations inspector, for example, is required to hold a pilot's license, with a minimum of 1,500 flight hours.

The DOT IG's office testified on April 30 before the Senate Governmental Affairs Committee on problems concerning the inspector work force. Substantial and serious concerns were raised and as a result I asked the chairman for a hearing on that matter. The concerns raised by the IG included insufficient training for inspectors and the inadequate computerization of inspection reports. These are legitimate concerns that must be addressed.

The FAA will be completing a review of its inspector work force perhaps this week. I wrote to the FAA Administrator expressing my desire to work with him to address the inspector issues. GAO has indicated that the FAA inspectors need substantial training, perhaps \$17 million more than requested by the FAA. The training budget has been cut by 42 percent from the 1993 level. If we are to expect the FAA inspectors to do their job properly, they must be adequately trained and have the tools needed to do their job. For example, the FAA is struggling with developing a computer system to track inspector safety reports. The inspectors are frustrated with the new computer system, and spend far too much time inputting data, rather than doing inspections. The system is supposed to be able to aid the FAA in targeting its resources. FAA management must work with its work force to get that system back on track so that the inspectors have confidence in the system. DOT needs additional inspectors.

#### AVIATION SECURITY

Aviation security is an extremely complex issue. It involves technology, people, intelligence information, national security, and a recognition that there are people willing to commit heinous crimes aimed at our government and our citizens.

On December 21, 1988, Pan Am flight 103 blew up over Lockerbie, Scotland, killing 270 people. It took almost 2 years to pass legislation to address some of the problems that stemmed from that crash.

Investigators in New York have not yet identified the cause of the crash of TWA flight 800, and numerous options are being considered. We have to let the investigators complete their mission. The NTSB, Navy, FBI, and State and local personnel are working hard to determine the cause of the accident. We do know this, however—the public deserves the best technology operated by the best trained individuals, to reduce the risks of a terrorist attack.

Another thing is clear—security is going to be costly. The FAA has estimated that it will cost as much as \$2.2 billion to install up to 1,800 machines at 75 airports. Today, there are approximately 14,000 to 18,000 screeners, paid an average of \$10,000 to \$15,000 per year. These screeners are one line of defense, but a critical one in the fight against terrorism. They need training, and they need to be paid in accordance with their responsibilities. The present turnover rate among these employees is extremely high. Unless we change the way we provide security, we cannot upgrade it. All the technology in the world still requires a person to watch a screen, listen to alarms, and be able to recognize materials that should not go on board an aircraft.

No matter what we do, safety comes first. Nothing should go onto an aircraft without being screened. Cargo, company material, and baggage all should be subject to inspection.

Security changes may require a fundamental alteration in the way air carriers provide services. Longer lines can be expected. Unfortunately, it is a price we must pay to deal with people in this world willing to stop at nothing.

I urge my colleagues to vote for passage of this bill.

#### NOISE MITIGATION PROGRAMS

Mr. GORTON. Within the programs authorized in S. 1994, the Federal Aviation Administration reauthorization bill, are allocations for noise mitigation. Under the Airport Improvement Program [AIP], the Federal Aviation Administration [FAA] has allocated funds to airports of all sizes to implement noise mitigation programs. Due to lower funding levels of the AIP, the FAA has recently implemented a rule that limits an airport to \$8 million maximum for Federal noise mitigation funds—\$5 million a year for single family housing and \$3 million a year for all other uses.

Mr. President, while this type of new cap may be appropriate in certain circumstances, I believe that a single cap, regardless of an airport interests or needs, is inappropriate for two reasons. First, in evaluating existing noise programs around the country, I think it is evident that certain airports have made noise mitigation a top priority. Seattle-Tacoma International Airport, for example, has been the national leader and was the first to implement the local housing insulation program to reduce noise impacts in houses surrounding the airport. Having enacted noise mitigation programs, certain airports that enacted plans prior to imposition of this new cap, and after extensive negotiations and commitments with both the surrounding communities and the FAA, are now expected to follow through on previous commitments. If the program cost exceeds the new cap, the FAA is essentially abandoning its previous commitments. I believe that is unacceptable.

Second, it is clear that large airports in densely populated areas should have

to implement broader noise mitigation programs than small, general aviation airports. For that reason, a single, hard cap for all airports, regardless of size and location, is not the best way to distribute funds in an equitable manner.

Mr. President, the Senator from Arizona knows that I included language in the fiscal year 1997 Transportation appropriations Senate report that directs the FAA to consider pledges and agreements made by the airport authority, in consultation with the FAA, to communities prior to the promulgation of the new ceiling, and to make appropriate exceptions to the policy where necessary to meet legitimate expectations of neighborhoods near airports. Because the fiscal year 1997 Transportation appropriations House report was silent on the issue, the Senate language is the prevailing language that should be followed by the FAA.

I believe it is appropriate, however, to also discuss this matter within the context of this legislation to ensure that my sentiments on this issue are correct.

Mr. McCAIN. I agree with the Senator from Washington. We all understand that, in an era of constrained budgets, it may be necessary for the FAA to try to limit noise mitigation funds per airport. As the Senator mentioned, however, I agree that where prior commitments have been made it is necessary and appropriate that the FAA show flexibility so that those commitments may be honored.

#### TRAIN WHISTLE PROVISION

Ms. MOSELEY-BRAUN. Mr. President, the managers' amendment to the legislation before us includes a provision that provides important direction to the Department of Transportation with regard to the implementation of a provision of the Swift Rail Development Act of 1994.

Under this 1994 law, the Federal Government is required to develop regulations that direct trains to sound their whistles at all hours of the day and night at most at-grade railroad crossings around the country, unless the local communities can afford to act on a specified list of alternatives. The Swift Rail Development Act will require trains to blow their whistles at approximately 168,000 railroad crossings in the United States and more than 9,900 in Illinois—including about 2,000 in the Chicago area and 1,000 in Cook County alone.

This provision was inserted into the 1994 law without debate or discussion. Communities had no input into the process, even though it will be communities that will be most affected.

I am acutely aware of the need to improve the safety of railroad crossings. A recent tragedy in my home State involving a train and a schoolbus in Fox River Grove, IL, killed seven children and shattered the lives of many more families. According to statistics published by the Department of Transportation, someone is hit by a train every 90 minutes. In 1994, there were nearly

2,000 injuries and 615 fatalities caused by accidents at railroad crossings around the country. Clearly, ensuring the safety of our rail crossings is imperative.

The Swift Rail Development Act mandates that trains sound their whistles at every railroad crossing around the country that does not conform to specific safety standards. It does not take into consideration the effect of this action on communities, nor does it require the Department of Transportation to take into consideration the past safety records at affected at-grade crossings.

Requiring trains to blow their whistles at every crossing would have a considerable effect on people living near these crossings. It is unclear, however, that there would be a commensurate improvement in safety. In Fox River Grove, for example, the engineer blew his whistle as he approached the road crossing, but the schoolbus did not move.

At many railroad crossings in Illinois and elsewhere, accidents never or rarely occur, while some crossings are the sites of frequent tragedies. Just as we do not impose the same safety mandates on every traffic intersection in the country, we should not universally require trains to blow their whistles at every railroad crossing in the country.

When transportation officials decide to make safety improvements at a highway intersection, they consider a wide range of factors, including its accident history, traffic patterns, and conditions in the surrounding area. Every intersection is a case study. There are guidelines, but not inflexible rules.

The approach to railroad crossing safety should be no less reasoned. The train whistle should be one tool in the transportation safety official's regulatory repertoire; it should not be the only one. Because every community has a different history and different needs, I do not believe that a one-size-fits-all, top-down approach to railroad crossing safety is appropriate.

In Dupage County, IL, for example, there are 159 public railroad crossings. In 1994, there were accidents at only 18 of these crossings, and 45 have not experienced an accident in at least 40 years. On one of METRA's commuter rail lines, 64 trains per day pass through 35 crossings. In the last 5 years, there have been a total of three accidents and one fatality along the entire length of this corridor.

Every one of the crossings on this METRA commuter line has a whistle ban in place to preserve the quiet of the surrounding communities. The imposition of a Federal train whistle mandate on this line would, therefore, have a considerable negative impact on the quality of life of area residents. The safety benefits, on the other hand, would, at best, be only marginal.

METRA's Chicago to Fox Lake line has 54 crossings and is used by 86 trains per day. A whistle ban is in place on 37

of these crossings. Between 1991 and 1995, there were a total of 13 accidents on this line, with 5 injuries and 1 fatality.

In Des Plaines, IL, one of my constituents reports that she lives near 5 crossings. In the last 11 years, there has been only one accident at any of these crossings. She will hear a train whistle at least 64 times per day and night.

In Arlington Heights, IL, there are four crossings in the downtown area about 300 feet away from one another. A total of 5,400 residents live within one-half mile of downtown, and 3,500 people commute to the area every day for work. Sixty-three commuter and four freight trains pass through Arlington Heights every weekday between the hours of 5:30 a.m. and 1:15 a.m.

Train whistles are blown at nearly 150 decibels, and depending on the weather, they can be heard for miles. According to one Burlington Northern railroad conductor, a train traveling from Downers Grove, IL to La Vergne, IL—a distance of approximately 12 miles—would have to blow its whistle 124 times. There are 144 trains traveling this route every day.

Mr. President, the residents of these communities, and others across Illinois and the country, are confused by the 1994 law that will require train whistles to sound at all hours of the day and night in their communities—in some cases hundreds of times per day—at railroad crossings that have not experienced accidents in decades, if ever.

Under a Federal train whistle mandate, homeowners in many of these communities would experience a decline in their property values, or an increase in their local taxes in order to pay for expensive safety improvements. The 1994 law, in this respect, represents either a taking of private property value, or an unfunded mandate on local communities.

The train whistle mandate places the entire burden on the community. Trains will keep rolling through quiet, densely populated towns at all hours of the night, and both the railroads and the passengers will experience no disruptions.

In aviation, by contrast, airline flights are routinely routed to minimize the disturbance to surrounding communities. Flight curfews are established, and restrictions are placed on certain types of aircraft in efforts to minimize the disruption to area residents. These restrictions place burdens on airlines, passengers, and the communities; it is a joint effort.

The pending legislation includes a provision providing the Department of Transportation with important direction on how to implement the train whistle law in a more rational and flexible manner. It directs the Secretary of Transportation to consider the interests of affected communities, as well as the past safety records at affected railroad crossings. The concerns of local communities must be heard—not just the sounds of train whistles.

It also addresses safety concerns. In situations where railroad crossings are determined not to meet the supplementary safety requirements, communities will have up to a maximum of 3 years to install additional safety measures before the train whistle mandate takes affect. In these situations, the Department of Transportation will work in partnership with affected communities to develop a reasonable schedule for the installation of additional safety measures.

Mr. President, I have been concerned about the implementation of the Swift Rail Development Act since Karen Heckmann, one of my constituents, first brought it to my attention more than a year ago. Since that time, I have spoken and met with mayors, officials, and constituents from Illinois communities, and visited areas that would be most severely affected. In response to their concerns, I have written several letters to, and met with Transportation Secretary Peña and other officials numerous times, and have been working with the Department of Transportation to ensure that they implement the 1994 law in a manner that both works for communities and protects safety.

The pending legislation provides important congressional direction to the Department of Transportation that is consistent with the ongoing discussions that I, and other members of Congress, continue to have with the Department.

The Senate adopted a functionally identical amendment to the Transportation appropriations bill this summer. During conference committee consideration of that bill, the amendment was deleted and language was instead inserted into the conference report that accompanies that bill.

I am pleased that the Senate today will again pass the strong, legislative language providing direction to the Department of Transportation. I want to thank my colleague, Senator RON WYDEN, for his work on this issue, and also the members of the Commerce Committee for again accepting this important provision.

Mr. KERRY. This bill to reauthorize the Federal Aviation Administration is good legislation. I would like to commend the diligent efforts of several Senators in drafting this legislation and in shepherding it through the committee process—including Senators FORD, MCCAIN, HOLLINGS, and PRESSLER, and also the work of their capable and helpful staffs.

Mr. President, this is a very important bill to our Nation because the FAA plays such a critical role in our nation's transportation infrastructure. We ask the FAA each year to ensure the safety of all civil aviation and to oversee the continued development of our national system of airports. Significantly, through a comprehensive program that includes a vast air traffic control network, and thousands of maintenance inspections of our na-

tion's civilian airlines, the FAA carries out the important task of ensuring the safety of the millions of Americans that utilize air travel each year. This bill is also important to Massachusetts which relies very heavily on air transport for both people and cargo. From Logan Airport in Boston to the smaller airports located throughout Massachusetts, airports and air transport are critical to the economic and social travel needs of the people of Massachusetts.

Foremost, I support this bill because it provides the FAA with the necessary tools to carry out these important tasks. S. 1994 provides the FAA with \$9.28 billion in total budget authority for fiscal year 1997 which includes \$5 billion for operations, \$2.28 billion for the airport improvement program, \$1.8 billion for facilities and equipment, and \$200 million for research, engineering, and development. This total figure represents an increase of \$1.13 billion over the FAA's total budget authority for fiscal year 1996 and an increase of \$1.07 billion over the administration's budget request.

But this bill does more than simply provide funding. In order to improve our civil aviation system, the bill seeks to reform and improve the FAA's operations. The bill affords the FAA a needed measure of autonomy from the larger Department of Transportation. For example, the FAA administrator will have the final authority to accept or reject proposed changes to FAA regulations. This change moves the final word to where it belongs: the agency with the expertise. In addition, the bill places time restrictions on the FAA's ability to act on pleadings from the aviation industry and other interested parties. This change will lend a measure of certainty to the timing of FAA actions and, thereby, make it easier for the industry to forge ahead with business plans that depend on FAA regulatory action.

The bill also contains a provision to make sure that smaller airports continue to receive sufficient financial assistance should FAA Federal funding levels decline. Specifically, S. 1994 caps the percentage of funding that can be allocated to large and medium airports. This provision will permit smaller airports, such as those in New Bedford and North Adams, MA, to continue to receive a substantial level of FAA funding.

I am pleased to note that the bill does not reverse the FAA's long-standing and sensible policy of permitting multi-modal independent authorities, such as the Massachusetts Port Authority, to function as intended by their enabling statutes. For years, MASSPORT has been permitted to manage a multi-modal transportation system for the Boston region, using revenues from Logan Airport, the Port of Boston, Tobin Bridge, and other activities, to administer the system as a whole. At different times, this has meant that one individual component has subsidized other components that

MASSPORT operates. Because the region relies on all components working together, federal law has recognized such subsidies as legitimate and permissible. Indeed, without the authority to merge revenues, the entire transportation infrastructure of the greater Boston region would be thrown into chaos causing disastrous consequences for the region's economy. I want to thank Senator MCCAIN and his staff for working with my staff on this issue so that a compromise could be reached that is acceptable to all parties involved. I also want to recognize the efforts of Minority Counsel Sam Whitehorn for his contributions to the discussions between our offices and the ultimate agreement.

I also would like to call the Senate's attention to the FAA's recent decision to award the contract for designing and constructing the next generation of air traffic control systems, known as the Standard Terminal Automation Replacement System or STARS, to the Raytheon Co. which is headquartered in Lexington, Massachusetts. The STARS program will provide a complete replacement of critical air traffic control radar displays of aircraft in the "terminal area"—the airspace within 50 miles of an airport.—The systems in use today are based on outdated technologies and their replacement is absolutely essential to keep up with our Nation's increased air traffic demands. I am proud that this Massachusetts company, known for years to be on the cutting edge of important technological advances, has been given the opportunity to reconstruct our air traffic control systems for the 21st century. I am equally pleased that the location of first implementation is to be Logan Airport.

Finally, and importantly, I am very pleased that this bill contains some very important steps toward enhancing airport security that will result in greater safety for commercial flights originating at U.S. airports. I have been pushing the FAA for several years to begin to use existing advanced technologies far more capable than x-rays and metal detectors to screen passenger baggage for explosives before it is placed on aircraft. At long last, based on the conclusions of the Gore Commission established by President Clinton to address airline security in the aftermath of the TWA crash off Long Island, the FAA will be instructed to move forward in this respect. Rather than awaiting the arrival of a new sensor technology that can meet all desired sensor standards perfectly or nearly perfectly, the FAA will be instructed to procure and implement use of the best currently available technology—which is the approach taken by virtually all European nations. It is long past time for the United States to take this step. I have addressed this subject at greater length with Chairman PRESSLER previously during this debate.

Mr. President, this is a well crafted bill. I will vote for this bill, and I urge my colleagues to support it.

SUPPORT FOR FAA AUTHORIZATION BILL AIR TRAVEL SAFETY AND SECURITY PROVISIONS

Mr. REID. Mr. President, I want to express my appreciation to the managers of the FAA reauthorization bill for incorporating into the bill many of the provisions of the Travelers Rights Act which I introduced prior to the August recess.

Mr. President, air travel is fundamental to our national transportation system. Americans who travel across this Nation and globally would not be able to conduct their business without the conveniences of air travel. However, recently the dangers of air travel have become even more clear. With the risks of air travel in mind, I introduced the Travelers Rights Act to provide for a way that consumers could obtain safety information. To provide to the public the safety background on airlines is a matter of common sense. It is a matter of public policy to provide citizens the information necessary for them to make choices in most other areas basic to their health, safety, and welfare. Given that food labeling must reveal ingredients, automobile labels must indicate maintenance and mileage, and under the Safe Drinking Water Act, recently reauthorized, water contaminants must be revealed annually to the water users and communities, we should do require no less in regard to air travel.

Besides mandating intensified security and safety for air travel, the provisions of the Travelers Rights Act that have been incorporated were the travelers' access to information and the safety survey and reports that the FAA will be required to submit to Congress. There is information that ought to be available and if the customer seeks the information the airlines should expeditiously provide it. This bill is not to scare travelers about the safety and security of air travel, rather on the contrary, I believe this bill will inspire confidence through openness and knowledge. Additionally, if customers of air travel exercise their right to know about certain elements about the airlines, aircraft, and crew then that too will enhance the trust between customers and the airlines. In this effort to require knowledge and the coordination of information, Senators FORD and WYDEN have been extremely helpful in their communication with the Federal Aviation Administration.

I do regret that absent from title III of the FAA reauthorization is the Victims Rights Program, which I see as integral to expediting the distribution of information to the survivors of victims of terrible airline accidents and destruction. The responsible Federal agencies should be coordinated better to provide families the details and facts as quickly as possible and in such a manner so that survivors can grieve and cope with tragedy with all of the knowledge that they need.

But I do commend Senator FORD for integrating into title III of the bill the provisions of consumer access that the Travelers Rights Act contained.

Mr. LUGAR. Mr. President, as the Senate moves to a conference with the House of Representatives on the Federal Aviation Administration Reauthorization Act of 1996, I am hopeful conferees will give thoughtful consideration to the provisions included in the manager's amendment adopted Tuesday evening. I noted with some concern that a number of provisions in this amendment were new to the bill, and in some cases, not germane to the purpose of the legislation. I hope my colleagues will share my interest in assuring that an appropriate check and balance is maintained as the 104th Congress continues its legislative work.

While I support swift enactment of this important measure to reauthorize the Federal Aviation Administration, I am concerned about a provision of the bill included with the manager's amendment amending the Johnson Act. In response to concerns about the rapid growth of legalized gambling in the United States in recent years, Congress recently approved legislation to create a 2-year National Gambling Impact Study Commission. This Commission will conduct a comprehensive review of the social and economic impact of legalized gambling on our Nation, and will provide a report to Congress, the President, Governors, and others, on this important issue. Until we know more about the effects of this recent national trend, I have reservations about changing a Federal law that could allow for further expansion of legalized gambling in the United States.

AMENDMENT TO THE JOHNSTON ACT

Mr. SIMON. Mr. President, it is my understanding that there was language included in the manager's amendment to the Federal Aviation Authorization Act of 1996 that would allow a gambling operation off the coast of California.

I am the chief sponsor of legislation establishing a gambling commission to study the impact of gaming on municipalities, states and tribal governments. It is my feeling that we are making a mistake by sanctioning this new operation before we have a chance to study the Commission's findings.

The Federal Aviation Authorization legislation is an important bill, which is why I offered my support despite the language amending the Johnston Act.

Mr. BYRD. Mr. President, today we are considering the reauthorization of the Federal Aviation Administration [FAA]. The FAA performs a critical role in managing our nation's air traffic control system, which handles two takeoffs and landings of aircraft every second of every hour of every day. Yet most Americans are unaware of the complexity and scope of this system, and simply take it for granted.

Nonetheless, the deregulation of the airlines and expansion of the air transportation system have imposed significant strains upon the existing system.

Some air control centers are using older equipment that is not as reliable as what is currently available. Other centers, that lack both equipment and sufficient numbers of air traffic controllers, are forced to delay flights. Reform of the FAA is needed, because increasing demand for air travel will only exacerbate these problems at our nation's major airports.

My own state of West Virginia, however, does not have a major hub airport. We have not had to worry about delays of frequently scheduled, and low-priced flights. Our problems have been of an entirely different magnitude. We have had to endure the cancellation of flights, the end of airline service to some of our communities, and a huge increase in fares charged to passengers who fly out of airports in West Virginia.

This dramatic decline in airline service to my state has occurred as a result of airline deregulation. On the day that I cast my 14,000 vote, I observed that one of the votes that I most regret was supporting airline deregulation. At the time, I was told it would lead to cheaper fares. It has, but only in some regions of the country and large urban areas, while my own constituents have paid hundreds of dollars more for even shorter flights. I was told that deregulation would lead to an increase in the number of flights, and make air service more convenient. Again, it has, but only if your city is fortunate to be at the center of a major market. My own constituents have far fewer flights to choose from, and in many cases, must drive to an airport in another state in order to fly at a reasonable price. This is a far cry from convenience.

This bill addresses these concerns, as it directs the Secretary of Transportation to conduct a study to examine air fares that are charged to passengers using airports located in small communities, as compared with air fares charged to passengers using large hub airports. The purpose of the report will be to determine if passengers using airports in small communities are paying "a disproportionately greater price" as compared with passengers using hub airports in large urban areas, as well as to indicate the number of small communities that have lost air service as a result of the deregulation of commercial air carriers.

I strongly support this study, and believe that an examination of the impact of deregulation on rural America is long overdue. Nonetheless, from the perspective of West Virginia, it is almost self evident that small communities are paying a disproportionately greater price. For example, if I want to fly from my office in Charleston, West Virginia's capital and largest city, to my office in Washington, I will pay a one-way walk-up coach fare of \$332. If I want to benefit from airline deregulation, I must spend over two hours driving to Columbus, OH, in order to fly for \$179. In other words, I must drive west, consuming gasoline and adding another

automobile to the highways, in order to fly east at a reasonable fare. To use another example, it costs twice as much to fly from Charleston to Houston, TX, as compared with flying from Columbus to Houston.

In a 1996 study by the General Accounting Office (GAO), the GAO found that fares have decreased at small and large hub airports. However, airports serving small and medium-sized communities in the Southeast and Appalachian region "have experienced sharp increases in fares since deregulation." Not surprisingly, the GAO found that where low-cost carriers have entered a market, the fares have declined. But in areas that have not been so fortunate—where one or two higher cost airlines dominate service—fares have risen by more than 20 percent. When the GAO examined the fares charged per passenger mile at the Charleston airport, it found that fares had increased by 24.7 percent from 1979 to 1994.

Under the onslaught of deregulation, it is becoming increasingly difficult for small airports in West Virginia to continue to operate. Several of these airports benefit from Essential Air Service (EAS) support. The EAS program was created as a direct result of airline deregulation, for even as the supporters of deregulation trumpeted its benefits, they recognized that deregulation would hurt small airports. EAS was intended to be a temporary subsidy for small airports to help them develop profitable service. The impact of deregulation has been so severe that EAS has become a permanent necessity in order to keep some small airports open. This bill includes a provision that permanently funds the EAS program at a level of \$50 million, which is an increase of \$24.1 million, when compared to current appropriations. If less than \$50 million is obligated for EAS programs, the remaining funds will be made available for grants to rural airports to improve rural air safety. This increase in EAS funding, and the provision calling for the study of rural air fares, was offered in the Commerce Committee by Senator BYRON DORGAN, and I wish to thank him for his efforts to help struggling airports in small communities.

S. 1994 also includes a provision that requires that funding to large and medium hub airports would be limited to a percentage of total AIP funding. This provision will help protect small airports from disproportionate cuts in AIP funding, in the event that future levels of appropriations to AIP should decline.

This bill is a significant and positive step in examining the impact of deregulation on small airports in our country. But it is not enough. Small airports across America are suffering under the burden of rising fares and declining service. As the Congress continues to examine the issues surrounding FAA reform in the next few years, it is my hope that the impact of deregulation on small community airports can be given additional consideration.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 5378

Mr. McCAIN. Mr. President, on behalf of Senator BROWN, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the Simon amendment is set aside.

Without objection, the amendment may be considered at this time.

The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona (Mr. McCAIN), for Mr. BROWN, proposes an amendment numbered 5378.

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

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

The amendment is as follows:

At the appropriate place, insert the following:

**SEC. . REPORTING FOR PROCUREMENT CONTRACTS.**

Section 47112 is amended by adding at the end the following new subsection:

"(d) REPORTING FOR PROCUREMENT CONTRACTS.—(1) The Secretary of Transportation shall promulgate regulations to require that each grant agreement that includes the awarding of any contract that includes Federal funds in an amount greater than or equal to \$5,000,000 under this subchapter provides for a report to the Secretary that states—

"(A) the number of bids from qualified, responsive and reasonable bidders that were in amounts lower than the amount specified in the bid submitted by the bidder awarded the contract;

"(B) for each bid referred to in subparagraph A (other than the bid submitted by the bidder awarded the contract) the amount by which the bid submitted by the bidder awarded the contract exceeded the lower bid.

"(2) APPLICABILITY.—This subsection shall apply to grants referred to in this paragraph that are awarded on or after the date of enactment of this Act."

Mr. McCAIN. Mr. President, Senator FORD and I have examined this amendment. It has to do with disclosure of contract awards. We appreciate Senator BROWN's willingness to change the language so that it is acceptable to both sides.

I yield the floor.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment of the Senator from Colorado.

The amendment (No. 5378) was agreed to.

Mr. McCAIN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

The Senator from Oregon is recognized.

Mr. WYDEN. Thank you, Mr. President.

Mr. President and colleagues, I rise in support of this legislation, S. 1994, to reauthorize the programs of the FAA. This is important legislation, and I especially want to commend the chairman of the Aviation Subcommittee, Mr. McCAIN, and also the distinguished ranking member of the Aviation Subcommittee, Senator FORD, for working closely with me on several provisions that have been included in this legislation.

Suffice it to say that when consideration of this bill began, it was a relatively modest reauthorization measure. No safety or security issues—certainly not any dramatic changes in safety or security policy—were envisioned at that time. Now these concerns are finally back to the forefront where they belong. It is my view that with this legislation the Senate takes the first step toward meaningful action to improving aviation safety and security in our country.

I think it has to be understood that there is still a long way to go even with the enactment of this legislation, but with the passage of this bill at least the prospect has begun in earnest to strengthen safety and security for the citizens who fly in our country.

My view is that in particular it is time to adopt new policies that empower the consumer, make it possible for consumers to be in a position to get critical information about aviation safety in our country. Right now it is possible for consumers to find out if their bags get crushed, and it is possible to find out if their flight is on time. But it is pretty darned hard for consumers to find out if the airline that they fly on has been fined for violating a major safety law.

At present what happens is, if there is a violation of a major safety law by an airline, for a citizen to find out they have to file a Freedom of Information Act request in order to get the information about a safety violation on the part of an airplane on an airline that they fly regularly. I do not think that is good enough. I think consumers deserve better. And Senator FORD and I have requested that the Federal Aviation Administration undertake an effort to make this kind of information available to the citizens of our country.

In the next few weeks we expect to receive a report from the Federal Aviation Administration about the best

way to make important safety information available to the public, and this legislation that the Senate considers today requires a comparable report to the National Transportation Safety Board.

Mr. President, colleagues, let me say that from my standpoint this is only part of what needs to be done to empower consumers to get relevant information about safety and security. For example, today the Federal Aviation Administration posts signs in U.S. airports about the security dangers in foreign airports, but there are not any signs about security problems at our airports. It seems to me, again, that consumers, in line with certain uniform criteria so that the airlines and all who work in aviation understand what the standards are—the airlines would be expected to act in concert with those kinds of safety and security criteria, and the public would have a right to know whether airports in our country are meeting those safety and security criteria just as we now have postings with respect to security problems at foreign airports.

So I think that in these next few weeks we will begin to get information from the FAA with respect to how to make this key safety information public. I want it understood, Mr. President and colleagues, that I think this is just the beginning.

I want to thank the chairman of the Aviation Subcommittee. Both he and his staff have been very helpful to me in this effort to empower consumers. I am going to make a couple of other quick comments with respect to the legislation, but I want Chairman McCAIN to know that I very much appreciate the help that he and his staff, as well as Senator FORD, have given me on this; because, for the life of me, I cannot figure out why it is right for consumers to find out if their bags get crushed, find out if their flights are on time, but why they ought to have to go out and file a Freedom of Information Act request to determine whether an airline has violated major safety laws. That is not right. That has to be changed. On a bipartisan basis, working with Chairman McCAIN and ranking member FORD, I think we can get it changed. We will get that information with respect to the FAA in the next couple of weeks.

This legislation makes a positive step forward as well as by requiring a comparable report from the National Transportation Safety Board.

I also want to say to Chairman McCAIN that I want to work very closely with him on the matter of security postings at our airports. I have had a chance, both publicly and privately, to discuss this with officials in the aviation field. It is important to do it in line with certain recognized criteria. But it seems to me that, if an airline passenger in Phoenix, Portland, or anywhere else goes into an airport and finds out about overseas airports that have security problems, it seems to me

they ought to have a right to know about the airports in our country where there are security concerns as well because I think those empowered consumers, once they have that kind of information, will help us and help us on a bipartisan basis to work for the kind of safety and security that the public deserves.

Mr. President, colleagues, one of the other aspects of this bill that I think makes a positive step forward deals with the need for uniformity in definitions relating to safety. Right now an accident involving a death or a serious injury or substantial damage to an aircraft is treated the same as an accident involving a plane backing into a truck or a coffee-cup spill that causes problems which are also reported as an accident. An incident involves less severe mishaps that affect safety in other ways, such as planes hitting birds or things of this nature. This legislation will provide some uniformity in terms of definitions in this area, and I think that is a fortunate step forward.

I also think this legislation is very helpful from the standpoint of requiring more comprehensive employment investigations, including criminal history record checks for individuals who will screen airline passengers, baggage and property. Under Senators McCAIN and FORD, what has happened here is the legislative straitjacket that has hamstrung FAA efforts in this area are removed. I think that is a helpful step forward as well.

Finally, I think this legislation is a very important measure with respect to the small airports of our country. These airports, such as Bandon and John Day and Klamath Falls, in my home State, serve citizens in rural Oregon. This legislation makes it possible for those small airports around the country to get some help at a critical time. Without the funding formula of this legislation, the smaller airports would suffer disproportionate cuts in grant funding at a time when appropriations are especially tight.

So this is a piece of legislation that needs to be enacted. I think, with respect to safety and security, it is important to note that when this reauthorization began, safety and security were not much measured in what looked, at that time, to be a modest reauthorization. But the events of the last few months have indicated that important and much more significant action needs to be taken, especially with respect to safety and security. I think the legislation that Chairman McCAIN and Ranking Member FORD bring to the Senate moves us significantly in the right direction.

Mr. President, I yield the floor and urge adoption of the legislation.

The PRESIDING OFFICER (Mr. CAMPBELL). The Senator from Arizona.

Mr. McCAIN. Mr. President, I thank the Senator from Oregon for not only his kind words but, far more important, for the exuberance, passion, and knowledge that he brings to the Aviation Subcommittee and the Commerce,

Science and Transportation Committee. Obviously, he is committed and knowledgeable on these issues. We value his participation and the very important contributions he has made to this legislation.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, let me join my colleague, Senator MCCAIN, in complimenting the Senator from Oregon, Mr. WYDEN. He has been a great asset to this institution since he arrived and has been a tremendous asset to the Commerce Committee since he has joined us there. He has been thoughtful, he has been thorough, he has been amenable, but all the time pushing forward as it relates to help in all pieces of legislation, not particularly this one, in his effort to see that his constituents are protected and are helped.

I compliment him on the contribution he has made to having S. 1994 at this point, and I look forward to working with him in the future.

AMENDMENT NO. 5364

Mr. FORD. Mr. President, it is my understanding the Simon pension amendment is pending?

The PRESIDING OFFICER. The Senator is correct.

Mrs. KASSEBAUM. Mr. President, I rise for the purpose of entering into a colloquy with the Senator from Illinois regarding his limited scope audit amendment.

Mr. SIMON. I would be delighted to enter into such a colloquy.

Mrs. KASSEBAUM. We have drafted a sponsors' memorandum to accompany the amendment to assist with the interpretation of this legislation. Would the Senator agree that this interpretative memorandum embodies what the sponsors intend to accomplish with this legislative change to ERISA?

Mr. SIMON. Yes.

Mrs. KASSEBAUM. I would ask unanimous consent that the interpretative memorandum be printed in the RECORD immediately preceding the disposition of the amendment, and I thank the Senator from Illinois.

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

INTERPRETIVE MEMORANDUM FOR REPEAL OF  
PENSION LIMITED SCOPE AUDIT

This amendment addresses potential deficiencies with ERISA's current audit requirements for employee pension benefit plans. Specifically, the legislation addresses the "limited scope audit" provisions in ERISA. The sponsors of the amendment intend this memorandum to accompany the legislation to provide guidance to employee benefit plans, accountants, auditors, and regulated financial institutions.

Under current law, ERISA Sec. 103(a)(3) requires the administrator of a benefit plan to engage an independent qualified public accountant to examine the financial statements of the plan and render an opinion as to whether the financial statements are presented fairly in conformity with generally accepted auditing principles. However, under Sec. 103(a)(3)(C), the accountant need not render an opinion as to assets of the plan

held by a bank, insurance company, or other financial institution subject to State or Federal regulation.

Since many pension plans have a material portion of their assets held by regulated financial institutions, and an accountant generally will not provide an opinion (e.g. the accountant provides a disclaimed opinion) as to a plan when a material portion of its assets are not accessible to the accountant, a great number of plans receive no opinion. The General Accounting Office and the Department of Labor's Inspector General have identified the large number of disclaimed opinions that have been issued as a source of concern.

The sponsors intend this amendment to require, in virtually every circumstance, that pension plan accountants rely upon the audits (e.g. SAS 70 reports) performed for banks and other regulated institutions. Thus, pension plan auditors, relying upon the audit report of the regulated entity, would be able to perform an audit and express an opinion on the plan's financial statements without any scope restriction.

The sponsors recognize the concerns of pension plan sponsors and regulated financial institutions regarding duplication of effort, increased cost, and disruption of operations that might otherwise be associated with modifying the limited scope audit provisions of ERISA. The sponsors do not intend that regulated institutions undergo multiple independent audits to satisfy the requirements of this legislation. Such a requirement would needlessly raise costs to plans and disrupt the operations of the regulated institution. For these reasons, the sponsors intend, in the vast majority of cases, that plan accountants will rely upon the audits (e.g. the SAS 70 report) performed by the auditors of the regulated financial institution.

However, there are a narrow set of circumstances where the SAS 70 report may not be, on its face, sufficient for the plan auditor's purpose. The auditor's response to those situations will vary depending on many factors, including the plan's own system of reviewing the results of the regulated institution's processing of the individual plan's activities. Significantly, the situations where the pension plan auditors needs physically to visit the regulated institution are very infrequent, and are most likely to occur when problems are identified with the regulated institution's processing.

The instances where the sponsors anticipate that plan auditors may need to perform additional audit work, beyond the SAS 70 report, include the following:

1. The SAS 70 report is a so-called Type I audit, which includes a description of whether the policies and procedures in place at the regulated institution's operation are fairly represented and are suitably designed. However, the Type I audit does not include an assurance on the functional, operating effectiveness of the regulated institution's policies and procedures, as would be provided under a Type II SAS 70 report. In this situation, the plan auditor may need to perform tests of the controls, depending upon whether it is more efficient to reduce the assessed level of control risk at the regulated institution or to perform additional work at the plan.

2. If the SAS 70 report covers a different reporting period than the plan's fiscal year, then the auditor may need to inquire of the regulated institution as to whether there were any changes to the institution's policies and procedures during the period not covered by the SAS 70 report. If the difference in coverage period is significant, or there have been material changes to the regulated institution's policies and procedures

as they relate to the plan's transactions, then the plan auditor may need to gain an understanding of the policies and procedures in effect during the period not covered by the SAS 70.

3. If the SAS 70 report is limited as to its coverage of the regulated institution's policies and procedures as they relate to the plan being audited, then the auditor may need to gain an understanding of the policies and procedures not covered in the SAS 70 report. For instance, if the SAS 70 report does not address the policies and procedures specific to the services performed for the plan, or the report does not cover activities performed by subservices, then additional work may be required (such as, in the latter case, obtaining a SAS 70 report from the subservicer).

4. If the SAS 70 report identifies instances of noncompliance with the regulated institution's internal control structure policies and procedures, then the auditor would have to consider the effect of those findings on the assessed level of control risk of assertions in the plan's financial statements.

Mr. KENNEDY. I strongly support the Jeffords-Simon amendment, and I strongly urge the Senate to approve the Pension Audit Improvement Act of 1996. This will make a significant improvement in the safety of working Americans' pensions.

The amendment will require that every penny of assets held by pension plans is subject to rigorous annual audit. Plan participants and the Department of Labor will be able to identify where plan assets are held and what investment vehicles are being used to fund pension benefits.

Under current law, if a pension plan invests a large percentage of its assets in a highly leveraged insurance company, plan participants often have no way to know that their benefits are at risk.

Current law exempts nearly one-third of the \$3 trillion in assets held by pension plans from the strict audit requirements of the ERISA statute. That's more than \$950 billion in pension plan assets that pension plan participants and the Department of Labor cannot track.

This amendment will change all that. Under the amendment, plan sponsors will be required every year to provide a detailed audit of 100 percent of a plan's assets. Plan participants and the Department of Labor will have the tools necessary to assess whether plan sponsors are living up to strict fiduciary requirements. Hard-working Americans should not have to fear that their pensions will disappear before they retire.

This amendment is sensible and needed. It enhances the safety of the vast assets held by America's pension plans. Working Americans deserve the pensions they have labored hard and long to earn. This amendment will significantly advance that goal and I urge its adoption.

Mr. FORD. We are ready to accept the Simon amendment.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 5364) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 5373

(Purpose: To amend the Tariff Act of 1930 to clarify the authority of the Customs Service to require air carriers to provide by electronic transmission advance cargo and passenger manifest information)

Mr. FORD. Mr. President, I call up an amendment by Senator GRAHAM of Florida.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Kentucky [Mr. FORD], for Mr. GRAHAM, proposes an amendment numbered 5373.

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

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

The amendment is as follows:

At the appropriate place, insert the following new section:

**SEC. . ADVANCE ELECTRONIC TRANSMISSION OF CARGO AND PASSENGER INFORMATION.**

(a) CARGO INFORMATION.—

(1) IN GENERAL.—Section 431(b) of the Tariff Act of 1930 (19 U.S.C. 1431(b)) is amended—

(A) by striking "Any manifest" and inserting "(1) Any manifest", and

(B) by adding at the end the following new paragraph:

"(2)(A) Every passenger air carrier required to make entry or to obtain clearance under the customs laws of the United States (or the authorized agent of such carrier) shall provide by electronic transmission cargo manifest information described in subparagraph (B) in advance of such entry or clearance in such manner as the Secretary shall prescribe.

"(B) The information described in this subparagraph is as follows:

"(i) The airport of arrival or departure, which ever is appropriate.

"(ii) The airline prefix code.

"(iii) The carrier code.

"(iv) The flight number.

"(v) The date of scheduled arrival or date of departure, whichever is appropriate.

"(vi) The permit to proceed to the destination, if applicable.

"(vii) The master and house air waybill numbers and quantities.

"(viii) The first airport of lading of the cargo.

"(ix) A description and weight of the cargo.

"(x) The shipper's name and address from all air waybills.

"(xi) The consignee name and address from all air waybills.

"(xii) Notice that actual boarded quantities are not equal to air waybill quantities.

"(xiii) Transfer or transit information.

"(xiv) Warehouse or other location of the cargo.

"(xv) Any other data that the Secretary may by regulation prescribe."

(2) CONFORMING AMENDMENT.—Subsection (d)(1)(A) of section 431 of such Act is amended by inserting before the semicolon "or subsection (b)(2)".

(b) PASSENGER INFORMATION.—The Part II of title IV of the Tariff Act of 1930 is amended by inserting after section 431 the following new section:

**"SEC. 432. PASSENGER MANIFEST INFORMATION REQUIRED FOR AIR CARRIERS.**

"(a) IN GENERAL.—Every passenger air carrier required to make entry or obtain clear-

ance under the customs laws of the United States (or the authorized agent of such carrier) shall provide by electronic transmission passenger manifest information described in subsection (b) in advance of such entry or clearance in such manner and form as the Secretary shall prescribe.

"(b) INFORMATION DESCRIBED.—The information described in this subsection is as follows:

"(1) Full name of each passenger.

"(2) Date of birth and citizenship of each passenger.

"(3) Passport number and country of issuance of each passenger.

"(4) Passenger name record.

"(5) Any additional data that the Secretary, by regulation, determines is reasonably necessary to ensure aviation safety pursuant to the Customs laws of the United States."

(c) DEFINITION.—Section 401 of the Tariff Act of 1930 is amended by adding at the end the following new subsection:

"(t) PASSENGER AIR CARRIER.—The term 'passenger air carrier' means an air carrier (as defined in section 40102(a)(2) of title 49, United States Code) or foreign air carrier (as defined in section 40102(a)(21) of such title 49) that provides transportation of passengers to or from any place in the United States."

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect 45 days after the date of the enactment of this Act.

Mr. FORD. Mr. President, we are now in a position to accept this amendment. I think our colleagues will be thankful that this is the last amendment on the agenda.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 5373) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 5379

(Purpose: To change the caption of title III)

Mr. McCAIN. Mr. President, I have a technical amendment at the desk. I ask unanimous consent that it be considered at this time.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Arizona [Mr. McCAIN] proposes an amendment numbered 5379.

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

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

The amendment is as follows:

On page 2, in the item relating to title III, strike "AIRPORT" and insert "AVIATION".

On page 14, line 11, strike "AIRPORT" and insert "AVIATION".

Mr. McCAIN. Mr. President, this is an amendment which is purely technical in nature. It was requested by the Finance Committee and is simply changing one word. I yield the floor.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 5379) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

AMENDMENT NO. 5374

(Purpose: To provide for sequential referral of an implementing bill to the Committee on Commerce, Science, and Transportation and the Committee on Finance)

Mr. McCAIN. Mr. President, it is my understanding that amendment No. 5374 had never been called up. It was an oversight. I believed it had been called up last night. That was part of our unanimous-consent managers' amendment.

I ask that amendment No. 5374 be considered at this time.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. McCAIN] proposes an amendment numbered 5374.

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

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

The amendment is as follows:

On page 113, beginning with line 16, strike through line 10 on page 115 and insert the following:

"(c) CONSIDERATION IN SENATE.—An implementing bill introduced in the Senate shall be referred to the Committee on Commerce, Science, and Transportation. The Committee on Commerce, Science, and Transportation shall report the bill with its recommendations within 60 days following the date of introduction of that bill. Upon the reporting of the bill by the Committee on Commerce, Science, and Transportation, the reported bill shall be referred sequentially to the Committee on Finance for a period of 60 legislative days.

"On page 116, strike lines 3 through 9."

THE PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 5374) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. McCAIN. Mr. President, there may be additional colloquies that may be submitted between now and 2 o'clock, when I intend to propound a unanimous consent agreement concerning a vote on this bill today. But, according to the unanimous consent agreement entered into last night, that completes the amendments that are applicable to the omnibus FAA bill. That would complete our consideration of the bill, with the exception of the entry of colloquies and final passage, on which we will be asking for a roll-call vote.

In that case, Mr. President, before I turn to my friend from Kentucky, I

want to express my deep and profound appreciation for his effort on this legislation. This legislation is the product of many years of work together. He and I have been concerned about issues of aviation safety for the last 10 years that we have closely worked together. We have been concerned about the very serious issue of FAA reform and providing the right amount of funding for the FAA. We have been concerned about so many aspects of this bill from FAA reform to airport security to airline safety to airport revenue diversion and many others. We have been through a very long hearing process in all areas of this omnibus aviation bill. I think, when you look at the broad scope of this bill, it is really a fundamental piece of legislation as far as aviation in America is concerned. It would not have been possible without the bipartisan effort, especially led by my friend from Kentucky.

I want to express my appreciation to the chairman of the committee, Senator PRESSLER, who urged us on, who made valuable and important contributions, and without whose leadership this legislation would not be possible. Senator HOLLINGS, of course, who is one of the more knowledgeable individuals on the Commerce, Science, and Transportation Committee, has been extremely helpful, as well as Senator STEVENS.

Mr. President, I also would be remiss in not pointing out that Senator FORD, Senator PRESSLER, Senator HOLLINGS and I worked very closely with the Administration on this very important legislation. The Secretary of Transportation, Secretary Federico Peña, the Administrator of the Federal Aviation Administration, Mr. David Hinson, and especially—certainly especially—Ms. Linda Daschle, who did, really, the difficult spade work involved with this bill, especially FAA reform, spending literally hundreds of hours of negotiations in crafting this legislation between the Administration and Congress and Democrats and Republicans. So I especially thank Linda Daschle for her tireless stamina and outstanding work.

I also would like to thank our staff: Paddy Link, Tom Hohenthanner, Mike Reynolds, and Mike Korens of Senator PRESSLER's staff, Mitch Rose of Senator STEVENS' staff, of course, Sam Whitehorn of Senator HOLLINGS' staff and Tom Zoeller of Senator FORD's staff. Sam and Tom have been extremely helpful and cooperative. Finally, I would like to personally thank the tireless efforts of Chris Paul and Mark Buse on my staff. They worked very hard and spent many long hours, and I am especially grateful to them, as well. As I have said earlier, the staff of the Finance Committee worked with us in order to complete this bill and I wish to recognize them.

I would like to add one final note before yielding the floor to my friend from Kentucky.

Last night and again today, the Senator from Kentucky and I talked about

this issue of the ticket tax. Mr. President, it was a disaster. It was a disaster when we let this ticket tax lapse last December. I value the opinion of my friend from Kentucky on this. It is almost unconscionable for us to go out of session and let this ticket tax lapse again. We all know that the ticket tax lapses on the 31st of December. Congress will not be doing anything until, at best, late in January, and it could be much longer than that.

I would like to tell my colleagues that the Senator from Kentucky and I will be having to, if necessary, resort to parliamentary measures in order to get this ticket tax extended, ideally until such time as the commission reports out its recommendations or the Finance Committee will complete the entire process, but certainly a year, I would say, as a bare minimum. There is going to be a big crush of business coming up in a week or so. I do not intend to inflict further damage on our ability to complete our obligations—they are not our privileges; our obligations—to the American public concerning the maintenance, the improvement of and the safety of America's aviation system.

Again, I thank all of my colleagues for their cooperation on this bill. It is a very complex piece of legislation, encompassing a lot of different issues concerning aviation, in fact, just about everything we can think of. I thank my colleagues for their consideration.

I yield the floor, Mr. President. I know the Senator from Kentucky has comments before I propound the request concerning the vote at 2 p.m. I yield the floor.

The PRESIDING OFFICER. The Senator from Kentucky [Mr. FORD] is recognized.

Mr. FORD. Mr. President, I am pleased to support S. 1994, the Federal Aviation Administration Reauthorization Act of 1996. As the ranking member of the Aviation Subcommittee, I want to thank the chairman of the subcommittee, Senator MCCAIN, for his leadership and determination in bringing this bill to the Senate floor.

Mr. President, as the 104th Congress comes to a close, there are many bills which are labeled as "must pass." But this bill truly is a must-pass piece of legislation.

The FAA reauthorization act includes provisions which reauthorize the Airport Improvement Program [AIP]. The AIP program funds hundreds of airport improvement and construction projects throughout our Nation. But the program expires on September 30. Without this reauthorization bill, the FAA would be unable to fund many worthy aviation infrastructure projects. We cannot let that happen. The FAA's forecasts for the aviation industry project tremendous growth. Those forecasts project an average increase of 3.7 percent in domestic passenger traffic by the year 2007. One of the big growth areas will most likely be in the regional and commuter indus-

try. In 1995, regional and commuter air carriers carried 53.7 million passengers. By the year 2007, the FAA projects these same carriers to carry 96.9 million passengers—an annual growth of 5.4 percent.

The tremendous growth of air traffic will place tremendous challenges on airports and airways management. That is why it is so important for the Senate to pass S. 1994. We cannot permit the AIP program to lapse. We must continue to support many worthy airport construction and improvement projects that will help to sustain and support the growing demand for air carrier services, both passenger and cargo.

These increased demands on the air transport system require the Congress to re-examine the way in which the FAA is managed and funded. The FAA is predominantly funded through the airport and airway trust fund. The monies which are in the trust fund are distributed among specific programs and functions, including the FAA's operations account, the facilities and equipment account, research, the engineering and development account, as well as the Airport Improvement Program.

The trust funds is supported solely through revenue derived by a 10 percent passenger ticket tax, interest paid on Treasury certificates, and other taxes associated with air travel and aviation. However, on January 1, 1996, the aviation excise taxes lapsed. That lapse in the taxes resulted in a loss of \$500 million a month in trust fund revenues. With the enactment of the minimum wage and small business tax credits act, the aviation excise taxes were reinstated, but only to the end of this calendar year.

This experience has highlighted some problems and concerns with the FAA. Without a steady and reliable source of revenue, the FAA cannot fulfill its mission to promote a safe and reliable aviation system. To that end, S. 1994 establishes a 11-member panel to conduct an independent assessment of the FAA financing and cost allocations through 2002. This independent panel shall include individuals who have expertise in the aviation industry and who are able, collectively, to represent a balanced view of the issues which are important to all segments of the aviation industry, including: general aviation, major air carriers, air cargo carriers, regional air carriers, business aviation, airports, aircraft manufacturers, the financial community, aviation industry workers, and airline passengers.

This independent assessment is required to complete its work within 12 months. At which time the panel will make a report to the Secretary of Transportation. S. 1994 includes provisions which would provide for expedited consideration of any legislative proposal forwarded by the independent panel.

It is important to point out that we want this panel to be independent. It is

important that this panel consider all the options which can be considered for funding the FAA. By including all segments of the aviation industry, it is our hope that the independent panel will produce an unbiased and balanced report which considers all the pros and cons to funding options. We need to depoliticize the process for funding the FAA. By creating this independent panel, it is our hope that we can get a fair and reliable assessment of needs and funding sources. And through the expedited procedures contemplated in the bill, we hope to be able to enact those funding options as quickly as possible so that we will not face another funding lapse to the trust fund and the FAA.

This funding study will build upon personnel and procurement reforms already in place at the FAA, which were included in the Transportation Appropriations Act for fiscal year 1996.

In addition to the independent study on funding solutions for the FAA, the bill also includes provisions for the creation of a Management Advisory Council. Mr. President, I think we all acknowledge that the FAA has been an agency with its problems. Some of that criticism is well-deserved. But, I think that most Members will also acknowledge, that under the current leadership of David Hinson, the FAA is beginning to respond to the challenges. We want to build on these improvements and we want to enable the FAA to improve its management so that it is prepared to face the challenges of the 21st century.

The Management Advisory Council [MAC] will be composed of 15 members to provide the Administrator with input from the aviation industry and community. Membership on the MAC will include representatives from all government and all segments of the aviation industry; all of whom will be appointed by the President with the advice and consent of the Senate. Members of the MAC should be selected from among individuals who are experts in disciplines relevant to the aviation community and who are collectively able to represent a balanced view of the issues before the FAA. It is important to note that selection for MAC membership is not required to be based on political affiliation or other partisan considerations.

As was noted in the committee's report on S. 1994, the MAC is not another paper tiger. Rather, it is intended that the MAC's recommendations be taken under serious consideration by the Administrator.

Among the issues that we expect that the MAC to examine are: air traffic control modernization; FAA acquisition management; rulemakings and cost-benefit analysis; review the process by which the FAA determines to use advisory circulars and service bulletins; review of old rules, including FAR part 145.

Mr. President, since the Commerce Committee reported S. 1994, we experienced another air tragedy: the destruc-

tion of TWA flight 800 over the Atlantic Ocean. At this time, we do not know what caused that tragedy. But we do know that we need to reexamine our aviation security measures. Following this tragedy, the President appointed Vice President GORE to head a special commission on aviation security. Earlier this month, the Gore commission presented to the President's its initial report to the President. That report made a number of recommendations including the purchase of explosive detection equipment; the placing of security equipment at our major airports; increasing the use of passenger profiling through the use of existing data bases and air carrier computer reservation systems; criminal background checks and FBI fingerprint checks for all security screeners and other airport and airline personnel with access to secure areas; increasing funding to be used to facilitate a greater role for the U.S. Customs Service and other law enforcement agencies; designate the National Transportation Safety Board to deal with the families and relatives of crash victims; and provide additional funds for the training of airport security screeners. Within the managers amendment, we have included legislative language that will give the FAA the legal authority to undertake and implement the recommendations of the Gore commission.

It is important to note, however, Mr. President, that the Gore commission has not completed its work. In fact, the review of aviation security and safety is a dynamic and evolving process. While we have attempted to include security provisions within this bill, it is anticipated that the Congress will be considering further security recommendations and enhancements as the Gore commission continues its work.

I want to express my thanks to the Senator from New Jersey [Mr. LAUTENBERG] and the Senator from Texas [Mrs. HUTCHISON] for their contributions to this effort. I look forward to working with them in the future on this issue.

Mr. President, let me thank all Members who have expressed an interest in this bill. As my colleagues are aware, last night, Senator MCCAIN and myself worked throughout the evening to fashion a managers' amendment. Within that amendment, we have tried to include provisions and language that are of concern to other Members. I want to express my appreciation to my colleagues for their willingness to work with us on drafting this managers' amendment. Because of their cooperation and assistance, I believe that we will be able to move this bill forward quickly and complete action prior to September 30.

Mr. President, let me conclude by addressing one particular issue, the privatization of airports. I am aware that the House bill includes a provision which would establish a pilot program for six airports. I oppose those efforts

because the definition of privatization allows the new airport owner to divert revenues off of the airport; to receive Federal grants; to collect federally authorized PFC's; allow major carriers to dictate who runs an airport; and gives general aviation no say in privatization. In my mind, this form of privatization is a new form of corporate welfare. Moreover, Mr. President, privatization is opposed by the airlines, by general aviation, and by the airports. I am not opposed to finding new and innovative solutions to financing our airports. But I do not believe that privatization is a means to achieve that end.

Mr. President, let me thank my friend from Arizona, the chairman of the Subcommittee on Aviation of the Commerce and Transportation Committee. It is always a joy to watch him work. It is a joy to work with him. He has the kind of tenacity that is needed around here at times to accomplish something that is important not only to this country but internationally.

Senator MCCAIN is called on for more than just aviation. Senator MCCAIN is leaned on quite often as it relates to our defense policy. His love of the country and his defense of military personnel is always above reproach and without doubt.

So I am pleased that we have had this opportunity to work together, because the ingredients in this piece of legislation, if we can maintain it in conference, bring us to a point, I think, I say to Senator MCCAIN, that we have been striving for for a long time.

We have learned something, and I hope a lot of our colleagues have learned something. One of the top five Senators in the U.S. Senate over the centuries is from Kentucky. He is Henry Clay. Henry Clay was known as "the Great Compromiser." Compromise is not a nasty word, it is not a word that you ought to run from. But that is how you accomplish things around here.

Henry Clay described compromise as "a negotiated hurt." A compromise is a negotiated hurt. Sure, it hurts to lose something that you feel strongly about, but you usually get something. My father always told me, "You give up something, you get something," and that is compromise.

So I think in the proceedings on this bill, once it was brought up, that we have injected the Henry Clay philosophy. We have worked together. We have had give and take. We have had Senators who were very reluctant to give up what they wanted, but somehow or another we found a way to modify their amendment so that it would not be so onerous to some and yet pleasing to the offeror of the amendment.

So the experience of the moment is always something that builds on the education of the time spent in this institution.

Let me join with my friend in thanking his staff—I will not go through the list—for all of their fine cooperation,

and my two—I want to say staffers, but they are my friends. That is the way I look at them, Sam Whitehorn and Tom Zoeller, and the others on the staff and those from other committees who have been working with us. We found an air of cooperation and camaraderie that has been unusual, I think. So I am very pleased with the cooperation we have had, and I thank my friends.

Mr. President, let me thank all Members, too, who have expressed an interest in this piece of legislation. As my colleagues are aware, last night, Senator McCAIN and I worked throughout the evening to fashion what we referred to here as a “managers’ amendment.” Those are amendments to be offered to the bill that we were able to work out and find agreement on. Rather than go through the long harangue of debate and running back and forth, our staffs worked together and our Senators cooperated. So we worked hard to fashion what we refer to and what was offered, what was adopted, as the “managers’ amendment.” Of course, the leadership in putting that together is given to Senator McCAIN for his extraordinary effort in putting this managers’ amendment together.

Within that amendment, we have tried to include provisions and language that are of concern to not only our Members but others, because when we pass legislation, we either help or hurt our constituents. We either make it better or worse. So we have to be careful, once we agree on it, of what it does for the safety, for the betterment of the economy, whatever it might be. Even though we may agree, it is for those beyond this Chamber for whom we are here to work.

Sometimes I don’t always vote the way I personally feel. I think it was Hamilton who said in referring to the Congress, “In these Halls, the people’s voice shall be heard by their immediate representative.” That is us, and we vote what we hear from our constituents. Sometimes it is not exactly the way we would want it, but you try to respond to those who are interested.

I think we have another interested group out there that we have not had before, and it is the so-called “C-SPAN junkies.” I read the other day where some tape C-SPAN and come home at night and watch us. I didn’t know we were that good. I thought maybe some of them just turned us off. But these are people who have watched us, listened to us, and have become informed.

I don’t know how many calls you get, but every once in a while, someone will call and say, “I heard you speak. I don’t agree with that. I think you ought to do this,” and it has been an interesting period in the institution of the Senate.

I want to express my gratitude and appreciation to all my colleagues for their willingness to work with us in drafting this piece of legislation. Because of that cooperation and assistance, I believe we will be able to move this bill forward quickly and complete action, hopefully, before September 30.

So we have some time. I assure my colleagues, as Senator McCAIN and I have assured each other, as soon as this bill is passed, we are going to work. We are not going to rest on our laurels and beat our chests. We passed a bill. We are not finished. We have a conference to go to. We have a final bill to complete. We have to have one that the administration will agree to. As Senator McCAIN said, we have worked with the administration. We have tried to work with all parties. I believe in the end we will have a piece of legislation that will be acceptable all around.

Mr. President, let me conclude by reiterating one particular issue, and that is the privatization of airports. I am aware that the House bill includes a provision which would establish a pilot project of six airports. Up front—I am not trying to kid anybody—I oppose those efforts because the definition of privatization allows the new airport owner to divert revenues off of the airport, to receive Federal grants, to collect Federally authorized PFC’s, allow major carriers to dictate who runs an airport, and gives general aviation no say—gives general aviation no say—in the privatization.

So in my mind, Mr. President, this form of privatization is a new form of corporate welfare—a new form of corporate welfare. Moreover, Mr. President, privatization is opposed by the airlines, by general aviation, and by the airports. I am not opposed to finding new and innovative solutions to financing our airports, but I do not believe that privatization is a means to achieve that end.

So having said that, Mr. President, I believe we are ready to go to third reading.

I yield the floor.

The PRESIDING OFFICER. Are there further amendments? If not, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

The PRESIDING OFFICER. Under the previous order, the clerk will report calendar No. 588, H.R. 3539.

The bill clerk read as follows:

A bill (H.R. 3539) to amend title 49, United States Code, to reauthorize programs of the Federal Aviation Administration, and for other purposes.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. Under the previous order, all after the enacting clause is stricken, and the text of S. 994 as passed by the Senate is inserted in lieu thereof.

The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona [Mr. McCAIN] is recognized.

Mr. McCAIN. Mr. President, again, I would like to thank my friend from Kentucky. I remember when I was a new Member of the Senate, he was kind enough, as chairman of the Aviation Subcommittee, to come to my State and have a hearing on the Grand Canyon and other issues. That has characterized our relationship now for more than 10 years.

Mr. President, I ask unanimous consent that final passage occur on H.R. 3539, at 2 p.m. today, and that paragraph 4 of rule 12 be waived.

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

Mr. McCAIN. Mr. President, I ask for the yeas and nays on the pending legislation.

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

The yeas and nays were ordered.

#### MORNING BUSINESS

Mr. McCAIN. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business until the hour of 2 p.m., with Senators permitted to speak for up to 5 minutes each.

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

Mr. BENNETT addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Mr. President, I ask unanimous consent that I be allowed to continue for up to 15 minutes as in morning business.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The Senator is recognized for 15 minutes.

#### A NATIONAL MONUMENT IN UTAH

Mr. BENNETT. Mr. President, something is going to happen today in the State of Arizona that will have great impact on the State of Utah. I would like to discuss that issue in somewhat greater detail than I have been able to do in the press. Unfortunately, we now live in a time where the press looks for the 7-second sound bite or the two-sentence summary to print in the newspaper, and the overall issue gets lost. So I appreciate the opportunity to lay out the whole circumstance of what has happened, and is happening, for the record.

Several weeks ago in the Washington Post there was a story about a leak out of the White House saying that the President was considering creating a national monument in the State of Utah, somewhere in the neighborhood of 2 million acres. That came as unexpected news to me and the other Members in the Utah delegation, and we raised the issue. “Oh, no,” we were assured, “nothing is really under consideration. These are just discussions that are taking place in the White House, and they probably should not have