

by popular demand, to be featured on the obverse of the coin. She was also selected as the winning sculptor for the proposed Irish Famine Memorial to be installed in downtown Philadelphia some time after the year 2000.

Her work is widely exhibited and has won awards from both the National Sculpture Society and the National Academy of Design. She was named an American Art Master by American Artist Magazine and has also received an Honorary Doctorate of Humane Letters from her alma mater, Colorado College as well as an Honorary Doctorate of Fine Arts from Texas Tech University.

Knowing Glenna and having visited her studios in Santa Fe, New Mexico, I am certain this latest honor will hold a special place in her heart. It is my great privilege to recognize Glenna Goodacre for this achievement and the outstanding contributions she continues to make through her art.

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IN HONOR OF THE GRAND RE-  
OPENING OF THE NEW JERSEY  
ARYA SAMAJ MANDIR

**HON. ROBERT MENEDEZ**

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 23, 1999*

Mr. MENEDEZ. Mr. Speaker, I rise today in honor of the grand reopening of the New Jersey Arya Samaj Mandir in Jersey City. This vital organization has served the educational, cultural, religious, and social needs of the Hindu community in Hudson and Essex Counties since 1988.

Today's youth face so many more dangers and have so many more opportunities than the children of a generation ago. It is important for our children to have places to learn about their culture, their heritage, and develop their own value systems. Pandit Suresh N. Sugrim, founder of the New Jersey Arya Samaj Mandir, recognizes that in order to be prepared for the next century our children need more than just wage-earning skills, but they also need to learn the value our cultural and religious centers are built upon.

The New Jersey Arya Samaj Mandir provides Hindu immigrants important ties to their heritage, while at the same time helping their community. As a member of the East Cultural Clergy Association, the Samaj has also made great strides in building relationships with many of the other religious and cultural communities in the area. For instance, when Reverend William Barnett was injured by several gunshot wounds, Pandit Suresh N. Sugrim participated in a vigil to show solidarity with the surrounding community.

I will be unable to attend the grand reopening myself, but I am sure I speak for the entire Congress when I say that as a nation we owe a tremendous debt to the work of cultural and religious centers such as the New Jersey Arya Samaj Mandir. So, I congratulate them on their reopening and wish them continued good fortune.

THE DEFENSE JOBS AND TRADE  
PROMOTION ACT OF 1999

**HON. SAM JOHNSON**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 23, 1999*

Mr. SAM JOHNSON of Texas. Mr. Speaker, today I have introduced legislation, H.R.—, that will eliminate a provision of the tax code, which severely discriminates against United States exporters of defense products. My bill, entitled "The Defense Jobs and Trade Promotion Act of 1999" will help our nation's defense contractors improve their international competitiveness, protect our defense industrial base, and insure that American defense workers—who have already had to adjust to sharply declining defense budgets—do not see their jobs lost to overseas competitors because of a harmful quirk in our own tax law.

The Internal Revenue Code allows U.S. companies to establish Foreign Sales Corporations (FSCs), under which they can exempt from U.S. taxation a portion of their earnings from foreign sales. This provision is designed to help U.S. firms compete against companies in other countries that rely on value-added taxes (VATs) rather than on corporate income taxes. When products are exported from such countries, the VAT is rebated to these foreign companies, effectively lowering their prices. U.S. companies, in contrast, must charge relatively higher prices in order to obtain a reasonable net profit after taxes have been paid. By permitting a share of the profits derived from exports to be excluded from corporate incomes taxes, the FSC allows U.S. companies to compete with our international competitors who pay no taxes.

In 1976, Congress added section 923(a)(5) to the tax code. This provision reduced the FSC tax benefits for defense products to 50 percent, while retaining the full benefits for all other products. The questionable rationale for this discriminatory treatment, that U.S. defense exports faced little competition, clearly no longer exists. Whatever the veracity of that premise 25 years ago, today military exports are subject to fierce international competition in every area. Twenty-five years ago, roughly one-half of all the nations purchasing defense products benefited from U.S. military assistance. Today, U.S. military assistance has been sharply curtailed and is essentially limited to two countries. Moreover, with the sharp decline in the defense budget over the past decade, exports of defense products have become ever more critical to maintaining a viable U.S. defense industrial base. For example, of the three fighter aircraft under production in this country, two are dependent on foreign customers; the same is true for 1MA1 tank, which must compete with several foreign tank manufacturers.

The Department of Defense supports repeal of this provision. In an August 26, 1998 letter, Deputy Secretary of Defense, John Hamre wrote Treasury Secretary Rubin about the FSC. Hamre wrote "The Department of Defense (DoD) supports extending the full benefits of the FSC exemption to defense exporters. . . . I believe, however, that putting de-

fense and non-defense companies on the same footing would encourage defense exports that would promote standardization and interoperability of equipment among our allies. It also could result in a decrease in the cost of defense products to the Department of Defense." My legislation supports the DoD recommendation and calls for the repeal of this counterproductive tax provision.

The recent decision to transfer jurisdiction of commercial satellites from the Commerce Department to the State Department highlights the capriciousness of section 923(a)(5). When the Commerce Department regulated the export of commercial satellites, the satellite manufacturers received the full FSC benefit. When the Congress transferred export control jurisdiction to the State Department, the same satellites, built in the same factory, by the same hard working men and women, no longer received the same tax benefit. Because these satellites are now classified as munitions, they receive 50 percent less of a FSC benefit than before. This absurd result demonstrates that the tax code is not that correct place to implement our foreign policy. The administration has agreed that Congress should take action to correct this inequity as it applies to satellites. My legislation would not only correct the satellite problem, but it would also ensure that all U.S. exports are treated in the same manner under the FSC.

The Department of Defense is not the only entity that has commented publicly about this provision. A December 1998 joint project of the Lexington Institute and The Institute for Policy Innovation entitled "Out of Control: Ten Case Studies in Regulatory Abuse" included an article by Loren B. Thompson about the FSC. The article is aptly titled "26 U.S.C. 923(a)(5): Bad for Trade, Bad for Security, and Fundamentally Unfair" highlights the many problems of this unfair tax provision. I call your attention to one issue the article addresses that I have not yet raised—the real reason the Congress enacted this provision in 1976. The author, Loren B. Thompson, argues that Congress' decision to limit the FSC benefit for military exports was not based on sound analysis of tax law, but on the general anti-military climate that pervaded this country in the mid 1970's. As Mr. Thompson writes, Congress enacted section 923(a)(5), "to punish weapons makers . . . . Section 923(a)(5) was simply one of many manifestations of Congressional antimilitarism during that period."

Times have changed since this provision was enacted. This provision makes little sense from a tax policy perspective. No valid economic or policy reason exists for continuing a tax policy that discriminates against a particular class of manufactured products. The legislation I am introducing today is a small step this Congress can take to improve our military and strengthen our defense industrial base.

I urge my colleagues to join me in repealing this part of the tax code in order to provide fair and equal treatment to our defense industry and its workers, and to enable our defense companies to compete more successfully in the increasingly challenging international market.

H.R. 780, THE PASSENGER ENTITLEMENT AND COMPETITION ENHANCEMENT ACT

**HON. JOHN D. DINGELL**

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 23, 1999*

Mr. DINGELL. Mr. Speaker, today I rise to introduce H.R. 780, the "Passenger Entitlement and Competition Enhancement Act of 1999."

This legislation has two purposes. First, it will give airline passengers the rights they deserve and have been calling for. Second, it will protect the American public from harmful, anti-competitive market concentration in the airline industry. With monopolized routes and unprecedented levels of market concentration, airline profits have soared at the expense of consumers' checkbooks, comfort, and convenience.

The first title of my bill is all about passenger protections. Recently, due to complications involving bad weather and a severe lack of planning, thousands of passengers were stranded onboard aircraft at Detroit Metropolitan Airport for intolerable lengths of time. Many of these passengers were detained on the tarmac for seven, eight, or nine hours. They ran out of food and water, and the restroom facilities became unusable. Situations like this can pose major obstacles to emergency medical treatment and cause serious anxiety among the passengers and their families.

This bill would require all airlines to have an emergency plan on record with the Department of Transportation to ensure that, in the event of an emergency, all boarded passengers would have access to all necessary services and conditions. Also, the plan should outline the means to deplane the passengers safely. Failure to have such a plan on file would result in the suspension of the carrier's license. Also, violations of the emergency plan would yield \$10,000 fines.

Additionally, aggrieved passengers should be entitled to compensation for unreasonable delays. My legislation would establish air carrier liability to each passenger on an aircraft for an excessive departure or arrival delay which the carrier could have avoided. If the departure or arrival delay is more than two, but less than three hours, the airline would be required to compensate each passenger in an amount equal to twice the value of the price paid for the passenger's ticket. If the delay is at least three hours in length, then each passenger is entitled to compensation equaling the number of hours (or portion thereof) multiplied by the price paid for their ticket. Also, air carriers would be required to give each passenger sufficient and accurate notice of information it has regarding any potential or actual significant delays in the departure or arrival of any flight segment. Wherever possible, such notice shall be given to the passengers before boarding an aircraft.

Passenger complaints about their mishandled baggage continue to climb and they need to be addressed. Under this bill, air carrier liability would be doubled from the current \$1,250 for lost or damaged baggage to \$2,500 for provable damages that the passenger incurred because of the carrier's improper baggage handling.

Many airlines engage in the business practice of overbooking flights to ensure that as

many seats as possible are sold on their flights. Often, ticket holders do not show and carriers can maximize their revenue by having properly predicted how many seats it can overbook to fill in this gap. While this may be an intelligent practice for an airline, from time to time it can tremendously inconvenience a ticket holder when the airline guesses wrongly. Too many seats are sold, and the passengers are all there to fly to their destinations as promised. In this situation, some cannot fly and must be "bumped."

My legislation would simplify the current bumping regulations. Should a passenger be involuntarily denied boardin, the air carrier would not be absolved of its responsibility to carry the passenger to the passenger's final destination. Further, if the scheduled arrival time of the alternate transportation is not within two hours of the originally scheduled arrival time, then the airline must also provide affected passengers with a voucher or refund equal in value to the original price paid by the passenger for the original flight.

Without this legislation, passengers rights are woefully lacking. Passengers also need to be advised of their rights, and good airlines should endorse this idea. Under the legislation, the Secretary of Transportation would be required to establish a statement that outlines the consumer rights of air passengers, including the rights contained in the bill. Each air carrier would be required to provide the statement to each passenger along with its existing onboard seat-back safety placard and ticketing materials. The statement would also be conspicuously posted at all ticket counters.

The second title of my bill concerns competition in the airline industry. Competition can increase consumer choice, lower price, and improve customer satisfaction. Many will note that there is growing public interest and concern over the issue of predatory conduct by major air carriers. Such practices eliminate competition in the air travel industry and create formidable barriers for entrepreneurs to break into the market. As an example of some suspect conduct, one has only to look back to when Northwest Airlines cut its fare from Detroit to Boston to as low as \$69 from an average of \$259 when Spirit Airlines entered the market in 1996. Coincidentally, once Spirit was pushed out of the market, the average fare went up to \$267, exceeding even the original level. More recently, Northwest ran an upstart, Pro Air, out of the Detroit-Milwaukee market and is engaged in some curious behavior in the Detroit to Baltimore market. To provide a level playing field, vigorous competition must be permitted to take root. Unfair exclusionary practices that eliminate that competition must be rooted out.

When carriers respond to new competitors with severe price drops and capacity expansion in order to run the new carrier out of the market, it ill serves consumers in the long run. After a new entrant is grounded, the major carrier simply retrenches and raises fares higher still in its resumed control.

Congress expressly gave the Department of Transportation authority to stop any "unfair or deceptive practice or unfair method of competition." Further, Congress has directed the Secretary of Transportation by statute to consider "preventing unfair, deceptive, predatory, or anticompetitive practices in air transportation" as being in the "public interest and consistent with public convenience and neces-

sity." The Department of Transportation's action under this authority stands to be improved. The federal government should do its job to expeditiously help the public.

The Secretary of the Department of Transportation should take real action to advance the pro-competition policy objectives of the Congress. That action includes ensuring that the Department of Transportation's guidelines, which it is currently developing to deal with predatory activity, are effective. And the Congress ought not seek to delay the implementation of a reasoned and appropriate rule-making. As proposed, the guidelines would permit the Secretary to impose sanctions if a major carrier should respond to a new entrant into a market in an unfair or exclusionary manner. More tools are needed and this bill provides them.

The bill would permit the Secretary to fine any air carrier deemed to be engaged in an unfair method of competition or unfair exclusionary practice. Such a tool should give a carrier pause for thought before implementing any activity that would unfairly respond to legitimate competition. The bill would increase the monetary penalty for such unfair methods of competition under the U.S. Code from the current \$1,000 to \$10,000 for each day the violation continues or, if applicable, for each flight involving the violation.

Further obstacles to competition arise from the fact that at the four slot-controlled or high-density airports, the vast majority of the scheduled take off and landing slots are controlled by the major carriers at these key hub airports. The airports are: New York's Kennedy and LaGuardia airports; Chicago's O'Hare; and Washington's National airport. For meaningful competition to develop, new entrant carriers must have a real opportunity to provide service in those markets. Of the more than 3,100 domestic air carrier slots at these four airports, fewer than forty-five slots are held by all the new entrant air carriers combined. Moreover, foreign air carriers have more than twice as many slots as domestic new entrant air carriers combined. Most of these slots were grandfathered to the major carriers more than a decade ago. The slots are government property, and it is time that the federal government use them to benefit the taxpaying public rather than just a handful of airlines.

In order to remedy this barrier to competition, the bill would give the Secretary the authority to create and, as a last resort, withdraw and auction slots at each slot-controlled airport for assignment to new entrant air carriers and other carriers with very limited access. The Secretary would be authorized to use pro-consumer criteria to withdraw slots from a carrier who is not using its slots in a competitive fashion. If there is a withdrawal of slots for an auction, the Secretary may not auction more than ten percent of existing slots for the first auction and five percent for each succeeding auction. Auctions may not take place earlier than two years from each preceding auction. Income from any auctions would finance improved airport infrastructure for the American public.

Slot possession at the four key airports where such controls are in place is a major issue, but questions like long-term exclusive gate leases at other airports represent just as nearly insurmountable obstacles to meaningful