

"no effective control" over immigration in their islands.

The CNMI shares the American flag, but it does not share our immigration system. When the Commonwealth became a territory of the United States, we allowed them to write their own immigration laws.

After twenty years of experience, the CNMI immigration experiment has failed.

Conditions in the CNMI prompt the question whether the U.S. should operate a unified immigration system, or whether a U.S. territory should be allowed to establish laws in conflict with national immigration policy.

Common sense tells us that a unified system is the only answer. If Puerto Rico, or Hawaii, or Arizona, or Oklahoma could write their own immigration laws—and give work visas to foreigners—our national immigration system would be in chaos.

America is one country. We need a uniform immigration system, not one system for the 50 states and another system for one of our territories.

I don't represent the CNMI, but the Commonwealth is Hawaii's backyard. I speak as a friend and neighbor when I say that this policy cannot continue. The CNMI system of indentured immigrant labor is morally wrong, and violates basic democratic principles.

We hope that our colleagues will hear our voices and will join us in passing S. 1052.

I yield the floor. 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. FEINGOLD. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

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

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

#### THE NAVY SUPER HORNET PROGRAM

Mr. FEINGOLD. Mr. President, I have been a long-time critic of the Navy's F/A-18 E/F Super Hornet program. For years, I have come to the floor to highlight this program's shortcomings, and I have offered bills to kill the program and amendments to try to achieve greater scrutiny over the program. Sometimes my colleagues have agreed with me, and more often than not, they have not on this particular issue. I understand that, in all probability, the Super Hornet program will get its final green light this spring, and it will go into full-rate production.

However, I will continue to fight for responsible defense spending and continue to try to enlighten my colleagues about this inferior, unnecessary, and expensive program.

With that in mind, I have asked Secretary Cohen to delay his production decision until he reviews a GAO audit of the Super Hornet program's Operational Evaluation.

I will read an opinion-editorial by Lieutenant Colonel Jay Stout, a highly-regarded, active duty Marine fighter pilot of the F/A-18C, and combat veteran. The Virginian-Pilot published his opinions this past December.

Rear Admiral J.B. Nathman, the Navy's director of air warfare, wrote the requisite, tired response, with a little personal invective thrown in.

A subsequent piece by James Stevenson, a well-known aviation writer, rebuts each of Admiral Nathman's arguments. I will read Stevenson's letter, as well.

I will read the article by Mr. Stout, and I ask unanimous consent that two other articles, plus a December 13, 1999, article from Business Week be printed in the RECORD at the conclusion of my remarks.

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

(See Exhibit 1.)

Mr. FEINGOLD. The first article is Mr. Stout's piece from the Virginian-Pilot entitled, "The Navy's Super Fighter Is A Super Failure."

The article reads as follows:

I am a fighter pilot. I love fighter aircraft. But even though my service—I am a Marine—doesn't have a dog in the fight, it is difficult to watch the grotesquerie that is the procurement of the Navy's new strike-fighter, the F/A-18 E/F Super Hornet.

Billed as the Navy's strike-fighter of the future, the F/A-18 E/F is instead an expensive failure—a travesty of subterfuge and poor leadership. Intended to overcome any potential adversaries during the next 20 years, the aircraft is instead outperformed by a number of already operational aircraft—including the fighter it is scheduled to replace, the original F/A-18 Hornet.

The Super Hornet concept was spawned in 1992, in part, as a replacement for the 30 year-old A-6 Intruder medium bomber. Though it had provided yeoman service since the early 1960s, the A-6 was aging and on its way to retirement by the end of the Gulf War in 1991. The Navy earlier tried to develop a replacement during the 1980s—the A-12—but bungled the project so badly that the whole mess was scrapped in 1991. The A-12 fiasco cost the taxpayers \$5 billion and cost the Navy what little reputation it had as a service that could wisely spend taxpayer dollars.

Nevertheless, the requirement for an A-6 replacement remains. Without an aircraft with a longer range and greater payload than the current F/A-18, the Navy lost much of its offensive punch. Consequently it turned to the original F/A-18—a combat-proven performer, but a short-ranged light bomber when compared to the A-6. Still stinging from the A-12 debacle, the Navy tried to "put one over" on Congress by passing off a completely redesigned aircraft—the Super Hornet—as simply a modification of the original Hornet.

The obfuscation worked. Many in Congress were fooled into believing that the new aircraft was just what the Navy told them it was—a modified Hornet. In fact, the new airplane is much larger—built that way to carry more fuel and bombs—is much different aerodynamically, has new engines and engine intakes and a completely reworked

internal structure. In short, the Super Hornet and the original Hornet are two completely different aircraft despite their similar appearance.

Though the deception worked, the new aircraft—the Super Hornet—does not. Because it was never prototyped—at the Navy's insistence—its faults were not evident until production aircraft rolled out of the factory. Among the problems the aircraft experienced was the publicized phenomenon of "wing drop"—a spurious, uncommanded roll, which occurred in the heart of the aircraft's performance envelope. After a great deal of negative press, the Super Hornet team devised a "band-aid" fix that mitigated the problem at the expense of performance tradeoffs in other regimes of flight. Regardless, the redesigned wing is a mish-mash of aerodynamic compromises which does nothing well. And the Super Hornet's wing drop problem is minor compared to other shortfalls. First, the aircraft is slow—slower than most fighters fielded since the early 1960s. In that one of the most oft-uttered maxims of the fighter pilot fraternity is that "Speed is Life," this deficiency is alarming.

But the Super Hornet's wheezing performance against the speed clock isn't its only flaw. If speed is indeed life, then maneuverability is the reason that life is worth living for the fighter pilot. In a dog fight, superior maneuverability allows a pilot to bring his weapons to bear against the enemy. With its heavy, aerodynamically compromised airframe, and inadequate engines, the Super Hornet won't win many dogfights. Indeed, it can be outmaneuvered by nearly every frontline fighter fielded today.

"But the Super Hornet isn't just a fighter," its proponents will counter. "It is a bomber as well." True, the new aircraft carries more bombs than the current F/A-18—but not dramatically more, or dramatically further. The engineering can be studied, but the laws of physics don't change for anyone—certainly not the Navy. From the beginning, the aircraft was incapable of doing what the Navy wanted. And they knew it.

The Navy doesn't appear to be worried about the performance shortfalls of the Super Hornet. The aircraft is supposed to be so full of technological wizardry that the enemy will be overwhelmed by its superior weapons. That is the same argument that was used prior to the Vietnam War. This logic fell flat when our large, expensive fighters—the most sophisticated in the world—started falling to peasants flying simple aircraft designed during the Korean conflict.

Further drawing into question the Navy's position that flight performance is secondary to the technological sophistication of the aircraft, are the Air Forces' specifications for its new—albeit expensive—fighter, the F-22. The Air Force has ensured that the F-22 has top-notch flight performance, as well as a weapons suite second to none. It truly has no rivals in the foreseeable future.

The Super Hornet's shortcomings have been borne out anecdotally. There are numerous stories, but one episode sums it up nicely. Said one crew member who flew a standard Hornet alongside new Super Hornets: "We outran them, we out-flew them, and we ran them out of gas. I was embarrassed for those pilots." These shortcomings are tacitly acknowledged around the fleet where the aircraft is referred to as the "Super-Slow Hornet."

What about the rank-and-file Navy fliers? What are they told when they question the Super Hornet's shortcomings? The standard reply is, "Climb aboard, sit down, and shut up. This is our fighter, and you're going to make it work." Can there be any wondering at the widespread disgust with the Navy's

leadership and the hemorrhaging exodus of its fliers?

Unfortunately, much of the damage has been done. Billions of dollars have been spent on the Super Hornet that could have been spent on maintaining or upgrading the Navy's current fleet of aircraft. Instead, unacceptable numbers of aircraft are sidelined for want of money to buy spare parts. Paradoxically, much of what the Navy wanted in the Super Hornet could have been obtained, at a fraction of the cost, by upgrading the current aircraft—what the Navy said it was going to do at the beginning of this mess.

Our military's aircraft acquisition program cannot afford all the proposed acquisitions. Some hard decisions will have to be made. The Super Hornet decision, at a savings of billions of dollars, should be an easy one.

Again, what I have just been reading for several minutes is an op-ed from Lt. Col. Jay Stout, somebody who actually knows this airplane well.

Now I would like to read a brief letter that rebuts Admiral Nathman's letter, which was in response to Lt. Col. Jay Stout's piece.

In his response to Lt. Col. Jay Stout's Dec. 15 op-ed criticism of the F-18E Super Hornet, Rear Adm. John Nathman accused Stout (letter, Dec. 23) of "unfounded assertions."

What this letter then says is:

Nathman claimed that the F-18E has completed "the most rigorous and scrutinized process of procurement, acquisition and evaluation in recent Department of Defense and naval history." On the contrary, the F-18E was initially rejected by the Navy and only rushed into the budget at the last minute when the A-12 was canceled.

In the fall of 1990, the Navy re-examined its requirements for a deep strike aircraft. It dismissed the F-18E as unacceptable in both range and stealth. As to stealth, it concluded that ordnance hanging under the F-18E would provide too good a target on radar.

When then Defense Secretary Richard Cheney canceled the A-12, the Navy pushed the F-18E onto center stage, ignoring regulations that required a new design number for "major design changes within the same mission category." Instead, the Navy gave the new aircraft a new series letter, to make this new aircraft appear as a mere modification. The Navy did this to avoid approximately 25 specific oversight steps.

In so doing, the Navy insured that the F-18E would avoid, from its inception, the "scrutinized process of procurement, acquisition and evaluation," about which Nathman wrote.

The Navy's attempt to minimize oversight extended to the Congress. The Navy flight test director, in October 1996 and March 1997, issued two F-18E deficiency reports. In spite of these reports, the Chief of Naval Operations wrote four months later to the chairman of the Senate National Security Committee as follows:

The F/A-18 E/F has flawlessly progressed through every required milestone to include operational requirements, mission needs, cost and threat analysis, and engine development . . . Testing results have clearly exceeded all specific performance parameters.

Rear Adm. Nathman states that the F-18E has 40 percent more range. Such a statement is misleading. In 1993, the Navy admitted that under the same conditions and weapons loads, the promised range of the F-18E was between 15 and 19 percent less than the original F-18A specification.

It remains for Nathman to provide evidence that the F-18E's performance is now greater than its 1993 promise.

Finally, Nathman complained that Stout wrote his article "without checking some

readily available factual information." From what we have seen, even those charged with oversight—our congressmen—cannot obtain "readily available factual information." Stout got his information from sources that are more reliable than the CNO's communication with Congress.

If Stout had continued his investigation, he would have learned that far from pushing "current technology to its limit," the Navy will give future naval aviation—for twice the program unit cost—an airplane that, below 20,000 feet with pylons on, cannot fly supersonic. There is some question as to whether this fact is included within the "readily available" information of which Nathman spoke.

Madam President, that is the response of James Stevenson to the Navy's letter questioning Lt. Col. Jay Stout's comments. I offer these as evidence that we are about to embark on an F/A-18E and F airplane that, frankly, after having been looked at for several years, at best is not better than the current plane, and probably is worse, and is enormously more expensive than continuing with the FA-18C and D plane.

#### EXHIBIT 1

[From the *Virginian-Pilot*, Dec. 23, 1999]  
LOOK AT THE FACTS: THE NAVY'S NEW HORNET IS SUPER INDEED

(By Rear Admiral J.B. Nathman)

It is healthy to bring opposing views forward in open and honest discussion. Unfortunately, this was not the case in a Dec. 15 op-ed column on the F-18E/F Super Hornet. ("The Navy's super fighter is a super failure"). This article was apparently written without checking some readily available factual information.

As the one responsible for establishing naval aviation requirements, I can set the record straight with regard to the performance and warfighting capabilities of the Super Hornet. I would also like to speak for the thousands of individuals, both military and civilian, whose efforts were involved in bringing the Super Hornet's warfighting capability to our Naval Air Force.

The F-18E/F Super Hornet has just completed the most rigorous and scrutinized process of procurement, acquisition and evaluation in recent Department of Defense and naval history. Going into the final evaluation process, the Super Hornet met or exceeded every established performance milestone. The Super Hornet was designed from Day One to be a decisive strike-fighter, equipped to handle the threats and win in today's environment and for the foreseeable future.

Achieving this goal required years of planning and pushed current technology to its limits to obtain the most combat "bang for the buck" for the US Navy and American taxpayer. As compared to the current model F-18, proven enhancements include:

40 percent increase in mission combat radius.

50 percent increase in combat on-station time.

Three times the carrier recovery payload—safer carrier operations for our pilots.

Improved survivability, lethality and greater penetration into the enemy's battle space.

Growth potential for future combat enhancements and mission requirements.

In today's environment, the calculus of combat effectiveness is much more than just speed. With its superb combat maneuverability, radar and weapons systems, impressive suite of electronic countermeasures, ability to withstand greater combat damage and increased fuel capacity, the Super Hornet is not only more survivable but three to

five times more combat effective than any other naval aircraft in the inventory.

The author's unfounded assertions with regard to performance are simply not borne out by the facts and do not reflect the performance of the combat-ready Super Hornet.

Naval Aviation has made tough but sound choices with the Super Hornet program. Some trade-offs are inevitable and appropriate, particularly in an austere defense budget climate, but this aircraft answers the Navy's needs.

The F/A-18E/F is an outstanding investment for the American taxpayer and will serve as a model for future Navy programs and procurement. The Super Hornet is being delivered on time, on budget and is at the heart of naval aviation's ability to fight and win in the 21st Century.

In the final analysis, hard fact—not innuendo, anecdote or rumor—will establish the operational supremacy of this aircraft. By every measure, Boeing and the Navy's new Hornet are indeed super. The aircraft is in great shape as it completes final evaluation.

Because the *Virginian-Pilot* is read by thousands of men and women in the naval aviation community, both active-duty and retired, I felt it was my responsibility to respond to a column riddled with inaccuracies.

[From *Business Week*, Dec. 13, 1999]

THE (NOT SO) SUPER HORNET—WHY THE NAVY IS SPENDING BILLIONS ON A FIGHTER JET WITH FLAWS THAT COSTS TWICE AS MUCH AS ITS PREDECESSOR

(By Stan Crock)

Pentagon analyst Frnaklin C. Spinney remembers the conversation with crystal clarity. Over dinner with a Marine flier in late 1991, talk turned to Navy plans for a new version of the F-18 Hornet. Earlier in the year, the Pentagon had killed the new A-12 bomber. Other Navy planes were decades old. And the service thought existing F/A-18s couldn't fly long-range missions. To fill carrier decks, the Navy decided to rely on an upgrade of the F-18 used by the fabled Blue Angels. "We've got to have this even if it doesn't work," the pilot confided.

How prophetic. On Nov. 16, the F/A-18E/F Super Hornet finished operational-evaluation flights, the last step before full production, set for this spring. And Congress in September approved a five-year, \$9 billion authorization for the fighter-attack aircraft, which will cost \$47 billion through 2010. But by many accounts, the \$53 million-a-copy plane is only slightly better than its predecessor, the F/A-18C/D (table, page 136), which costs half as much. And the E/F's flying performance "is almost unambiguously a step backward," says Spinney.

As a debate rages on Capitol Hill over three Pentagon's ambitious plans to buy three new aircraft for an astounding \$340 billion over the next three decades, Boeing Co.'s Super Hornet has managed to fly under the radar with political, if not technological, stealth. The saga of how it has done so shows just how hard it will be to kill off any of the three: the Super Hornet, the Air Force's F-22 Raptor, and the Joint Strike Fighter. The ingredients of the F/A-18E/F's tale include a Navy anxious not to cede missions to the Air Force, an ailing defense contractor, and lawmakers looking to preserve defense jobs.

The Pentagon and Boeing staunchly defend the program. The E/F won a Pentagon award in 1996 for excellence in engineering and development. And supporters note it's on schedule and under budget. Says Patrick J. Finneran, Boeing's F-18 czar: "This thing gets gold stars."

The General Accounting Office, Congress' watchdog agency, begs to differ. It noted in

a June, 1999, report that as full production neared, the plane had 84 deficiencies, including radar that couldn't tell the direction of oncoming threats. It recommended—in vain—that Congress reject a multiyear commitment to the program. Critics say one reason for the Super Hornet's woes is that the Navy dubbed the E/F a modification of its C/D predecessor. That was true even though the E/F has a different wing, fuselage, and engine, and is 25% heavier. About 85% of the wing and airframe components are different from those of the F/A-18C/D, according to an analysis by the Cato Institute, a conservative think tank. All of this led some experts to say it's a new aircraft.

Reeling. But a new plane would have been harder to sell to Congress and wouldn't have been exempt from some lengthy procurement requirements. Most important, St. Louis-based McDonnell Douglas Corp., the F-18's builder, would not have been guaranteed the work. At the time, McDonnell Douglas, which Boeing acquired in 1997, was reeling from cost overruns on other programs and the A-12's termination.

The shorter procurement process for a modification meant McDonnell Douglas didn't have to build a prototype to help iron out the kinks. The risks from this approach became apparent in March, 1996, during the Super Hornet's seventh test flight. The plane suddenly started to roll as it approached supersonic speed. A blue-ribbon panel said in a Jan. 14, 1998, report that the wing-drop phenomenon "could put flight safety at risk." And the flaw would make it tough for pilots to track enemy aircraft.

The Navy downplays the issue, saying wing drops had cropped up—and been solved—in previous programs. But fixing the problem proved difficult. One solution—a new wing covering—caused yet another problem: vibrations so severe that pilots had trouble reading the display.

Another shrewd Navy ploy was to lower the bar for performance standards. When the Navy brass debated whether the E/F should be required to turn, climb, accelerate, and maneuver better than the C/D version, Vice Admiral Dennis V. McGinn, then the head of naval air warfare, rejected all but acceleration. A good thing, too, because the E/F doesn't perform so well in the other areas. In a Jan. 19, 1999, memo, Phillip E. Coyle, a top Defense Dept. weapon systems evaluator, says such Russian fighters as the Su-27 and Mig-9 "can accelerate faster and out-turn all variants of the F/A-18 in most operating regimes." The memo says while that's the price for more payload and range, the Navy plans to use air-combat tactics that won't require the capabilities of the earlier F/A-18 models.

Despite efforts to compensate for shortcomings, a July, 1997, report by an advisory board of Pentagon and contractor representatives warned that evaluators may find the plane "not operationally effective" even if it meets all requirements. One solution proposed: "aggressive indoctrination of operational community to help them match expectation to reality of F/A-18E/F." Translation: Lower pilots' expectations.

Early on, one of the Super Hornet's key selling points was a project that the plane would fly 40% farther than its predecessor. But the longer-range figure assumed that 80% of the fleet would be one-seater planes. One-seaters carry more fuel than two-seaters and thus can fly farther. But now the Navy wants just 55% of the fleet to be one-seaters. While this lets it replace the ancient F-15 Tomcat—a two-seater—it undercuts the longer-range promises. In actual performance, the one-seater shows a range of 444 nautical miles, only 20% above the older F/A-18C's 369-mile range, the GAO says.

The Navy also says the E/F will have 17 cubic feet more room for high-tech gear than the C/D. But the GAO found only 5.46 cubic feet were usable—and that nearly every upgrade could be installed on the C/D. And the Navy claims that the Super Hornet performs a crucial function better than the C/D: Returning to a carrier with unusual munitions. But critics say it would be cheaper to dump the bombs in the ocean than to pay \$30 million extra for the E/F.

Boeing's Finneran disputes the GAO's findings. He says recent tests show the planes have exceeded range goals, and he rejects the notion that the C/D has the space to be upgraded. Still, looking at the broad picture, former National Security Adviser Brent Scowcroft would kill the program because the E/F "has the least modernization" of the three new planes under development.

The Super Hornet has plenty of support on Capitol Hill, though. When a House National Security subcommittee threatened funding for the program in 1996, House Minority Leader Richard A. Gephardt of Missouri called every Democrat on the full committee. Representative Jim Talent (R-Mo.) collared his GOP brethren. The funding cuts were restored. Even GOP Presidential hopeful Senator John McCain, who often attacks Pentagon waste, backs the program.

The upshot? The Navy will get its plane, regardless of how it works. But Marine pilots won't fly it. They're waiting for the stealthy Joint Strike Fighter, slated for production around 2008. "If we were going to spend dollars, we wanted to spend them on something that was a leap in technology," says recently retired General Charles C. Krulak, a former Marine commandant who opted not to buy the Super Hornet. Indeed, Marine pilots' fears now are quite different from those Spinney heard in 1991. "If the Joint Strike Fighter dies," frets one airman, "we're stuck with the Super Hornet."

#### WORDS OF WARNING

Official Evaluation—The Operational Test and Evaluation Force "may find the F/A-18E/F not operationally effective/suitable even though all specification requirements are satisfied" Translation—This plane may have plenty of problems even if it meets our specs.

Official Evaluation—How to mitigate the problem: "aggressive indoctrination of operational community to help them match expectation to reality of F/A-18E/F." Translation—We oversold this plane and now need to lower pilots' expectations.

Mr. FEINGOLD. I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

#### NORTHERN MARIANA ISLANDS COVENANT IMPLEMENTATION ACT—Continued

Mr. MURKOWSKI. Madam President, I ask unanimous consent that there be 1 hour for debate, equally divided, with respect to S. 1052; and, further, no amendments or motions be in order other than the committee substitute and one technical amendment offered by the chairman. I finally ask consent

that following the debate time, the bill be read for a third time and passed, and the motion to reconsider be laid upon the table.

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

#### AMENDMENT NO. 2807

(Purpose: To clarify that visas and admissions under the legislation are not to be counted against numerical limitations in the Immigration and Nationality Act, and for other purposes)

Mr. MURKOWSKI. Madam President, on behalf of Senator AKAKA and myself, I send a series of amendments to the committee substitute to the desk and ask that they be considered.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Alaska [Mr. MURKOWSKI] for himself and Mr. AKAKA, proposes an amendment numbered 2807.

Mr. MURKOWSKI. Madam 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 29, line 20-21, strike "regard to" and insert "counting against".

On page 34, lines 7-8, strike "to be made available during the following fiscal year" and insert "that will not count against the numerical limitations".

On page 34, strike line 15 and all that follows through page 35, line 4.

On page 34, strike "(C)" and insert "(B)".

On page 35, strike line 20 and all that follows through page 36, line 18.

On page 36, strike "(E)" and insert "(C)".

On page 37, strike line 3 and all that follows through page 38, line 9.

On page 38, strike line 10 and all that follows through line 24.

On page 39, line 1, strike "(I)" and insert "(D)".

On page 40, line 6, strike "and reviewable".

On page 41, lines 3-6, strike "The determination as to whether a further extension is required shall not be reviewable".

On page 41, lines 20-21, strike "The decision by the Attorney General shall not be reviewable".

On page 42, lines 6-7, strike "The determination by the Attorney General shall not be reviewable".

On page 45, line 16, strike line 16 and all that follows through page 46, line 10.

On page 46, line 11, strike "(h)" and insert "(g)".

On page 46, line 20, strike "(i)" and insert "(h)".

On page 47, line 3, strike "(j)" and insert "(i)".

On page 47, line 9, strike "regard to" and insert "counting against".

On page 47, line 14, strike "(C) through (H)" and insert "(B) and (C)".

On page 48, line 5, strike "five-year" and insert "five-year" and insert "four-year".

On page 48, line 9, strike "5-year" and insert "four-year".

On page 48, line 18, strike "five years" and insert "four years".

On page 48, strike line 23 and all that follows through page 49, line 4.

On page 49, line 5, strike "(3)" and insert "(2)".