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**UNANIMOUS CONSENT AGREEMENT—NOMINATION OF KIRK VAN TINE, OF VIRGINIA, TO BE GENERAL COUNSEL FOR THE DEPARTMENT OF TRANSPORTATION**

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

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

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

**UNANIMOUS CONSENT AGREEMENT—H.R. 2603**

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

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

**AIR TRANSPORTATION SAFETY AND SYSTEM STABILIZATION ACT—Continued**

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

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

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

Last week's terrorist attacks murdered thousands of innocent Americans, and left thousands more grieving

for friends and loved ones. Those people are the first and most visible victims of the unprovoked terrorist attacks—but they are not the only ones.

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

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

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

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

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

The airline relief package does nothing to directly benefit the thousands of airline and aircraft manufacturing workers who are being laid off as a result of the recent terrorist attacks.

In this speech to the nation last night, President Bush told the American people "justice will be done." If Congress passes an airline relief package without addressing worker assistance, we will have done a grave injustice to thousands of American workers and their families who are suffering from the aftermath.

In the meantime, I think that the industry needs to step up to the plate. I am very concerned about reports that some airlines are considering invoking the war clause to avoid contractual obligations to their workers. That would be a tragic failure of their obligation to the American people to act in good faith. Let's be clear; American taxpayers are shouldering the burden of this relief package, and I think they will be angry if workers are not treated fairly while the airlines get relief.

I have worked with several of my colleagues over the past several days to develop a reasonable package of worker assistance provisions, and I believe that we have a proposal that makes a great deal of sense and would take at least a small step toward helping those workers get back on their feet. That package would extend income supports, pay for the extension of healthcare coverage and provide training assistance to the affected workers. I am deeply disappointed that those provisions were not ultimately included in the bill, but pleased that the majority

leader has committed to continue his work on this critical component in the days to come.

For the past 10 days, ever since the terrorist attacks my congressional colleagues have spoken eloquently and with great emotion about the courage, compassion and commitment of the relief and rescue teams who have reached out a helping hand to victims of terrorism. Today, we have our own chance to help thousands of other Americans who have been harmed by terrorism. We must not turn away.

Mr. REID. I appreciate very much the comments of the Senator from Wyoming and the Senator from Washington. The majority leader has asked me to note for everyone the first vote Monday will be at 2 p.m. on the Kirk Van Tine nomination.

Senator WARNER and Senator LEVIN, the managers of the Defense authorization bill, have indicated there will also be votes throughout the day. They are moving that legislation as quickly as possible.

We yield all time on our side.

The PRESIDING OFFICER. 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. The bill having been read the third time, the question is, Shall the bill pass?

The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Wyoming (Mr. THOMAS), the Senator from Texas (Mr. GRAMM), and the Senator from Colorado (Mr. CAMPBELL) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

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

[Rollcall Vote No. 284 Leg.]

**YEAS—96**

Akaka	Dodd	Levin
Allard	Domenici	Lieberman
Allen	Dorgan	Lincoln
Baucus	Durbin	Lott
Bayh	Edwards	Lugar
Bennett	Ensign	McCain
Biden	Enzi	McConnell
Bingaman	Feingold	Mikulski
Bond	Feinstein	Miller
Boxer	Frist	Murkowski
Breaux	Graham	Murray
Brownback	Grassley	Nelson (FL)
Bunning	Gregg	Nelson (NE)
Burns	Hagel	Nickles
Byrd	Harkin	Reed
Cantwell	Hatch	Reid
Carnahan	Helms	Roberts
Carper	Hollings	Rockefeller
Chafee	Hutchinson	Santorum
Cleland	Hutchison	Sarbanes
Clinton	Inhofe	Schumer
Cochran	Inouye	Sessions
Collins	Jeffords	Shelby
Conrad	Johnson	Smith (NH)
Corzine	Kennedy	Smith (OR)
Craig	Kerry	Snowe
Crapo	Kohl	Specter
Daschle	Kyl	Stabenow
Dayton	Landrieu	Stevens
DeWine	Leahy	Thompson

Thurmond Voynovich Wellstone  
Torricelli Warner Wyden

NAYS—1

Fitzgerald

NOT VOTING—3

Campbell Gramm Thomas

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

S. 1450

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the “Air Transportation Safety and System Stabilization Act”.

#### TITLE I—AIRLINE STABILIZATION

##### SEC. 101. AVIATION DISASTER RELIEF.

(a) IN GENERAL.—Notwithstanding any other provision of law, the President shall take the following actions to compensate air carriers for losses incurred by the air carriers as a result of the terrorist attacks on the United States that occurred on September 11, 2001:

(1) Subject to such terms and conditions as the President deems necessary, issue Federal credit instruments to air carriers that do not, in the aggregate, exceed \$10,000,000,000 and provide the subsidy amounts necessary for such instruments in accordance with the provisions of the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.).

(2) Compensate air carriers in an aggregate amount equal to \$5,000,000,000 for—

(A) direct losses incurred beginning on September 11, 2001, by air carriers as a result of any Federal ground stop order issued by the Secretary of Transportation or any subsequent order which continues or renews such a stoppage; and

(B) the incremental losses incurred beginning September 11, 2001, and ending December 31, 2001, by air carriers as a direct result of such attacks.

(b) EMERGENCY DESIGNATION.—Congress designates the amount of new budget authority and outlays in all fiscal years resulting from this title as an emergency requirement pursuant to section 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(e)). Such amount shall be available only to the extent that a request, that includes designation of such amount as an emergency requirement as defined in such Act, is transmitted by the President to Congress.

##### SEC. 102. AIR TRANSPORTATION STABILIZATION BOARD.

(a) DEFINITIONS.—In this section, the following definitions apply:

(1) BOARD.—The term “Board” means the Air Transportation Stabilization Board established under subsection (b).

(2) FINANCIAL OBLIGATION.—The term “financial obligation” means any note, bond, debenture, or other debt obligation issued by an obligor in connection with financing under this section and section 101(a)(1).

(3) LENDER.—The term “lender” means any non-Federal qualified institutional buyer (as defined by section 230.144A(a) of title 17, Code of Federal Regulations (or any successor regulation) known as Rule 144A(a) of the Securities and Exchange Commission and issued under the Security Act of 1933, including—

(A) a qualified retirement plan (as defined in section 4974(c) of the Internal Revenue Code of 1986 (26 U.S.C. 4974(c)) that is a qualified institutional buyer; and

(B) a governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986 (26 U.S.C. 414(d)) that is a qualified institutional buyer.

(4) OBLIGOR.—The term “obligor” means a party primarily liable for payment of the principal of or interest on a Federal credit instrument, which party may be a corporation, partnership, joint venture, trust, or governmental entity, agency, or instrumentality.

(b) AIR TRANSPORTATION STABILIZATION BOARD.—

(1) ESTABLISHMENT.—There is established a board (to be known as the “Air Transportation Stabilization Board”) to review and decide on applications for Federal credit instruments under section 101(a)(1).

(2) COMPOSITION.—The Board shall consist of—

(A) the Secretary of Transportation or the designee of the Secretary;

(B) the Chairman of the Board of Governors of the Federal Reserve System, or the designee of the Chairman, who shall be the Chair of the Board;

(C) the Secretary of the Treasury or the designee of the Secretary; and

(D) the Comptroller General of the United States, or the designee of the Comptroller General, as a nonvoting member of the Board.

(c) FEDERAL CREDIT INSTRUMENTS.—

(1) IN GENERAL.—The Board may enter into agreements with 1 or more obligors to issue Federal credit instruments under section 101(a)(1) if the Board determines, in its discretion, that—

(A) the obligor is an air carrier for which credit is not reasonably available at the time of the transaction;

(B) the intended obligation by the obligor is prudently incurred; and

(C) such agreement is a necessary part of maintaining a safe, efficient, and viable commercial aviation system in the United States.

(2) TERMS AND LIMITATIONS.—

(A) FORMS; TERMS AND CONDITIONS.—A Federal credit instrument shall be issued under section 101(a)(1) in such form and on such terms and conditions and contain such covenants, representations, warranties, and requirements (including requirements for audits) as the Board determines appropriate.

(B) PROCEDURES.—Not later than 14 days after the date of enactment of this Act, the Director of the Office of Management and Budget shall issue regulations setting forth procedures for application and minimum requirements, which may be supplemented by the Board in its discretion, for the issuance of Federal credit instruments under section 101(a)(1).

(d) FINANCIAL PROTECTION OF GOVERNMENT.—

(1) IN GENERAL.—To the extent feasible and practicable, the Board shall ensure that the Government is compensated for the risk assumed in making guarantees under this title.

(2) GOVERNMENT PARTICIPATION IN GAINS.—To the extent to which any participating corporation accepts financial assistance, in the form of accepting the proceeds of any loans guaranteed by the Government under this title, the Board is authorized to enter into contracts under which the Government, contingent on the financial success of the participating corporation, would participate in the gains of the participating corporation or its security holders through the use of such instruments as warrants, stock options, common or preferred stock, or other appropriate equity instruments.

(3) DEPOSIT IN TREASURY.—All amounts collected by the Secretary of the Treasury under this subsection shall be deposited in the Treasury as miscellaneous receipts.

##### SEC. 103. SPECIAL RULES FOR COMPENSATION.

(a) DOCUMENTATION.—Subject to subsection (b), the amount of compensation payable to

an air carrier under section 101(a)(2) may not exceed the amount of losses described in section 101(a)(2) that the air carrier demonstrates to the satisfaction of the President, using sworn financial statements or other appropriate data, that the air carrier incurred. The Secretary of Transportation and the Comptroller General of the United States may audit such statements and may request any information that the Secretary and the Comptroller General deems necessary to conduct such audit.

(b) MAXIMUM AMOUNT OF COMPENSATION PAYABLE PER AIR CARRIER.—The maximum total amount of compensation payable to an air carrier under section 101(a)(2) may not exceed the lesser of—

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

(2) in the case of—

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

(i) \$4,500,000,000; and

(ii) the ratio of—

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

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

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

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

(ii) the ratio of—

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

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

(c) PAYMENTS.—The President may provide compensation to air carriers under section 101(a)(2) in 1 or more payments up to the amount authorized by this title.

##### SEC. 104. LIMITATION ON CERTAIN EMPLOYEE COMPENSATION.

(a) IN GENERAL.—The President may only issue a Federal credit instrument under section 101(a)(1) to an air carrier after the air carrier enters into a legally binding agreement with the President that, during the 2-year period beginning September 11, 2001, and ending September 11, 2003, no officer or employee of the air carrier whose total compensation exceeded \$300,000 in calendar year 2000 (other than an employee whose compensation is determined through an existing collective bargaining agreement entered into prior to September 11, 2001)—

(1) will receive from the air carrier total compensation which exceeds, during any 12 consecutive months of such 2-year period, the total compensation received by the officer or employee from the air carrier in calendar year 2000; and

(2) will receive from the air carrier severance pay or other benefits upon termination of employment with the air carrier which exceeds twice the maximum total compensation received by the officer or employee from the air carrier in calendar year 2000.

(b) TOTAL COMPENSATION DEFINED.—In this section, the term “total compensation” includes salary, bonuses, awards of stock, and other financial benefits provided by an air carrier to an officer or employee of the air carrier.

##### SEC. 105. CONTINUATION OF CERTAIN AIR SERVICE.

(a) ACTION OF SECRETARY.—The Secretary of Transportation should take appropriate action to ensure that all communities that had scheduled air service before September

11, 2001, continue to receive adequate air transportation service and that essential air service to small communities continues without interruption.

(b) **ESSENTIAL AIR SERVICE.**—There is authorized to be appropriated to the Secretary to carry out the essential air service program under subchapter II of chapter 417 of title 49, United States Code, \$120,000,000 for fiscal year 2002.

(c) **SECRETARIAL OVERSIGHT.**—

(1) **IN GENERAL.**—Notwithstanding any other provision of law, the Secretary is authorized to require an air carrier receiving direct financial assistance under this Act to maintain scheduled air service to any point served by that carrier before September 11, 2001.

(2) **AGREEMENTS.**—In applying paragraph (1), the Secretary may require air carriers receiving direct financial assistance under this Act to enter into agreements which will ensure, to the maximum extent practicable, that all communities that had scheduled air service before September 11, 2001, continue to receive adequate air transportation service.

#### SEC. 106. REPORTS.

(a) **REPORT.**—Not later than February 1, 2001, the President shall transmit to the Committee on Transportation and Infrastructure, the Committee on Appropriations, and the Committee on the Budget of the House of Representatives and the Committee on Commerce, Science, and Transportation, the Committee on Appropriations, and the Committee on the Budget of the Senate a report on the financial status of the air carrier industry and the amounts of assistance provided under this title to each air carrier.

(b) **UPDATE.**—Not later than the last day of the 7-month period following the date of enactment of this Act, the President shall update and transmit the report to the Committees.

#### SEC. 107. DEFINITIONS.

In this title, the following definitions apply:

(1) **AIR CARRIER.**—The term “air carrier” has the meaning such term has under section 40102 of title 49, United States Code.

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

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

### TITLE II—AVIATION INSURANCE

#### SEC. 201. DOMESTIC INSURANCE AND REIMBURSEMENT OF INSURANCE COSTS.

(a) **IN GENERAL.**—Section 44302 of title 49, United States Code, is amended—

(1) in subsection (a)(1)—

(A) by striking “subsection (b)” and inserting “subsection (c)”; and

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

(2) by redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e), respectively;

(3) by inserting after subsection (a) the following:

“(b) **REIMBURSEMENT OF INSURANCE COST INCREASES.**—

“(1) **IN GENERAL.**—The Secretary may reimburse an air carrier for the increase in the cost of insurance, with respect to a premium for coverage ending before October 1, 2002,

against loss or damage arising out of any risk from the operation of an American aircraft over the insurance premium that was in effect for a comparable operation during the period beginning September 4, 2001, and ending September 10, 2001, as the Secretary may determine. Such reimbursement is subject to subsections (a)(2), (c), and (d) of this section and to section 44303.

“(2) **PAYMENT FROM REVOLVING FUND.**—A reimbursement under this subsection shall be paid from the revolving fund established by section 44307.

“(3) **FURTHER CONDITIONS.**—The Secretary may impose such further conditions on insurance for which the increase in premium is subject to reimbursement under this subsection as the Secretary may deem appropriate in the interest of air commerce.

“(4) **TERMINATION OF AUTHORITY.**—The authority to reimburse air carriers under this subsection shall expire 180 days after the date of enactment of this paragraph.”;

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

(A) in the first sentence by inserting “, or reimburse an air carrier under subsection (b) of this section,” before “only with the approval”; and

(B) in the second sentence—

(i) by inserting “or the reimbursement” before “only after deciding”; and

(ii) by inserting “in the interest of air commerce or national security or” before “to carry out the foreign policy”; and

(5) in subsection (d) (as so redesignated) by inserting “or reimbursing an air carrier” before “under this chapter”.

(b) **COVERAGE.**—

(1) **IN GENERAL.**—Section 44303 of such title is amended—

(A) in the matter preceding paragraph (1) by inserting “, or reimburse insurance costs, as” after “insurance and reinsurance”; and

(B) in paragraph (1) by inserting “in the interest of air commerce or national security or” before “to carry out the foreign policy”.

(2) **DISCRETION OF THE SECRETARY.**—For acts of terrorism committed on or to an air carrier during the 180-day period following the date of enactment of this Act, the Secretary of Transportation may certify that the air carrier was a victim of an act of terrorism and in the Secretary’s judgment, based on the Secretary’s analysis and conclusions regarding the facts and circumstances of each case, shall not be responsible for losses suffered by third parties (as referred to in section 205.5(b)(1) of title 14, Code of Federal Regulations) that exceed \$100,000,000, in the aggregate, for all claims by such parties arising out of such act. If the Secretary so certifies, the air carrier shall not be liable for an amount that exceeds \$100,000,000, in the aggregate, for all claims by such parties arising out of such act, and the Government shall be responsible for any liability above such amount. No punitive damages may be awarded against an air carrier (or the Government taking responsibility for an air carrier under this paragraph) under a cause of action arising out of such act.

(c) **REINSURANCE.**—Section 44304 of such title is amended—

(1) by striking “(a) GENERAL AUTHORITY.—”;

(2) by striking subsection (b).

(d) **PREMIUMS.**—Section 44306 of such title is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(2) by inserting after subsection (a) the following:

“(b) **ALLOWANCES IN SETTING PREMIUM RATES FOR REINSURANCE.**—In setting premium rates for reinsurance, the Secretary may make allowances to the insurance carrier for expenses incurred in providing serv-

ices and facilities that the Secretary considers good business practices, except for payments by the air carrier for the stimulation or solicitation of insurance business.”.

(e) **CONFORMING AMENDMENT.**—Section 44305(b) of such title is amended by striking “44302(b)” and inserting “44302(c)”.

#### SEC. 202. EXTENSION OF PROVISIONS TO VENDORS, AGENTS, AND SUBCONTRACTORS OF AIR CARRIERS.

Notwithstanding any other provision of this title, the Secretary may extend any provision of chapter 443 of title 49, United States Code, as amended by this title, and the provisions of this title, to vendors, agents, and subcontractors of air carriers. For the 180-day period beginning on the date of enactment of this Act, the Secretary may extend or amend any such provisions so as to ensure that the entities referred to in the preceding sentence are not responsible in cases of acts of terrorism for losses suffered by third parties that exceed the amount of such entities’ liability coverage, as determined by the Secretary.

### TITLE III—TAX PROVISIONS

#### SEC. 301. EXTENSION OF DUE DATE FOR EXCISE TAX DEPOSITS; TREATMENT OF LOSS COMPENSATION.

(a) **EXTENSION OF DUE DATE FOR EXCISE TAX DEPOSITS.**—

(1) **IN GENERAL.**—In the case of an eligible air carrier, any airline-related deposit required under section 6302 of the Internal Revenue Code of 1986 to be made after September 10, 2001, and before November 15, 2001, shall be treated for purposes of such Code as timely made if such deposit is made on or before November 15, 2001. If the Secretary of the Treasury so prescribes, the preceding sentence shall be applied by substituting for “November 15, 2001” each place it appears—

(A) “January 15, 2002”, or

(B) such earlier date after November 15,

2001, as such Secretary may prescribe.

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

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

(A) taxes imposed by subchapter C of chapter 33 of such Code (relating to transportation by air), and

(B) taxes imposed by chapters 21, 22, and 24 with respect to employees engaged in a trade or business referred to in paragraph (2).

(b) **TREATMENT OF LOSS COMPENSATION.**—Nothing in any provision of law shall be construed to exclude from gross income under the Internal Revenue Code of 1986 any compensation received under section 101(a)(2) of this Act.

### TITLE IV—VICTIM COMPENSATION

#### SEC. 401. SHORT TITLE.

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

#### SEC. 402. DEFINITIONS.

In this title, the following definitions apply:

(1) **AIR CARRIER.**—The term “air carrier” means a citizen of the United States undertaking by any means, directly or indirectly, to provide air transportation and includes employees and agents of such citizen.

(2) **AIR TRANSPORTATION.**—The term “air transportation” means foreign air transportation, interstate air transportation, or the transportation of mail by aircraft.

(3) **CLAIMANT.**—The term “claimant” means an individual filing a claim for compensation under section 405(a)(1).

(4) **COLLATERAL SOURCE.**—The term “collateral source” means all collateral sources, including life insurance, pension funds, death benefit programs, and payments by Federal, State, or local governments related to the terrorist-related aircraft crashes of September 11, 2001.

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

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

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

(8) **SPECIAL MASTER.**—The term “Special Master” means the Special Master appointed under section 404(a).

#### **SEC. 403. PURPOSE.**

It is the purpose of this title to provide compensation to any individual (or relatives of a deceased individual) who was physically injured or killed as a result of the terrorist-related aircraft crashes of September 11, 2001.

#### **SEC. 404. ADMINISTRATION.**

(a) **IN GENERAL.**—The Attorney General, acting through a Special Master appointed by the Attorney General, shall—

(1) administer the compensation program established under this title;

(2) promulgate all procedural and substantive rules for the administration of this title; and

(3) employ and supervise hearing officers and other administrative personnel to perform the duties of the Special Master under this title.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated such sums as may be necessary to pay the administrative and support costs for the Special Master in carrying out this title.

#### **SEC. 405. DETERMINATION OF ELIGIBILITY FOR COMPENSATION.**

(a) **FILING OF CLAIM.**—

(1) **IN GENERAL.**—A claimant may file a claim for compensation under this title with the Special Master. The claim shall be on the form developed under paragraph (2) and shall state the factual basis for eligibility for compensation and the amount of compensation sought.

(2) **CLAIM FORM.**—

(A) **IN GENERAL.**—The Special Master shall develop a claim form that claimants shall use when submitting claims under paragraph (1). The Special Master shall ensure that such form can be filed electronically, if determined to be practicable.

(B) **CONTENTS.**—The form developed under subparagraph (A) shall request—

(i) information from the claimant concerning the physical harm that the claimant suffered, or in the case of a claim filed on behalf of a decedent information confirming the decedent's death, as a result of the terrorist-related aircraft crashes of September 11, 2001;

(ii) information from the claimant concerning any possible economic and noneconomic losses that the claimant suffered as a result of such crashes; and

(iii) information regarding collateral sources of compensation the claimant has received or is entitled to receive as a result of such crashes.

(3) **LIMITATION.**—No claim may be filed under paragraph (1) after the date that is 2 years after the date on which regulations are promulgated under section 407.

(b) **REVIEW AND DETERMINATION.**—

(1) **REVIEW.**—The Special Master shall review a claim submitted under subsection (a) and determine—

(A) whether the claimant is an eligible individual under subsection (c);

(B) with respect to a claimant determined to be an eligible individual—

(i) the extent of the harm to the claimant, including any economic and noneconomic losses; and

(ii) the amount of compensation to which the claimant is entitled based on the harm to the claimant, the facts of the claim, and the individual circumstances of the claimant.

(2) **NEGLIGENCE.**—With respect to a claimant, the Special Master shall not consider negligence or any other theory of liability.

(3) **DETERMINATION.**—Not later than 120 days after that date on which a claim is filed under subsection (a), the Special Master shall complete a review, make a determination, and provide written notice to the claimant, with respect to the matters that were the subject of the claim under review. Such a determination shall be final and not subject to judicial review.

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

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

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

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

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

(6) **COLLATERAL COMPENSATION.**—The Special Master shall reduce the amount of compensation determined under paragraph (1)(B)(ii) by the amount of the collateral source compensation the claimant has received or is entitled to receive as a result of the terrorist-related aircraft crashes of September 11, 2001.

(c) **ELIGIBILITY.**—

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

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

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

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

(A) an individual who—

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

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

(B) an individual who was a member of the flight crew or a passenger on American Airlines flight 11 or 77 or United Airlines flight 93 or 175, except that an individual identified by the Attorney General to have been a participant or conspirator in the terrorist-related aircraft crashes of September 11, 2001, or a representative of such individual shall

not be eligible to receive compensation under this title; or

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

(3) **REQUIREMENTS.**—

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

(B) **LIMITATION ON CIVIL ACTION.**—

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

(ii) **PENDING ACTIONS.**—In the case of an individual who is a party to a civil action described in clause (i), such individual may not submit a claim under this title unless such individual withdraws from such action by the date that is 90 days after the date on which regulations are promulgated under section 407.

#### **SEC. 406. PAYMENTS TO ELIGIBLE INDIVIDUALS.**

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

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

(c) **ADDITIONAL FUNDING.**—

(1) **IN GENERAL.**—The Attorney General is authorized to accept such amounts as may be contributed by individuals, business concerns, or other entities to carry out this title, under such terms and conditions as the Attorney General may impose.

(2) **USE OF SEPARATE ACCOUNT.**—In making payments under this section, amounts contained in any account containing funds provided under paragraph (1) shall be used prior to using appropriated amounts.

#### **SEC. 407. REGULATIONS.**

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

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

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

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

(4) procedures to assist an individual in filing and pursuing claims under this title; and

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

#### **SEC. 408. LIMITATION ON AIR CARRIER LIABILITY.**

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

(b) **FEDERAL CAUSE OF ACTION.**—

(1) **AVAILABILITY OF ACTION.**—There shall exist a Federal cause of action for damages arising out of the hijacking and subsequent

crashes of American Airlines flights 11 and 77, and United Airlines flights 93 and 175, on September 11, 2001. Notwithstanding section 40120(c) of title 49, United States Code, this cause of action shall be the exclusive remedy for damages arising out of the hijacking and subsequent crashes of such flights.

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

(3) **JURISDICTION.**—The United States District Court for the Southern District of New York shall have original and exclusive jurisdiction over all actions brought for any claim (including any claim for loss of property, personal injury, or death) resulting from or relating to the terrorist-related aircraft crashes of September 11, 2001.

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

#### **SEC. 409. RIGHT OF SUBROGATION.**

The United States shall have the right of subrogation with respect to any claim paid by the United States under this title.

### **TITLE V—AIR TRANSPORTATION SAFETY**

#### **SEC. 501. INCREASED AIR TRANSPORTATION SAFETY.**

Congress affirms the President's decision to spend \$3,000,000,000 on airline safety and security in conjunction with this Act in order to restore public confidence in the airline industry.

#### **SEC. 502. CONGRESSIONAL COMMITMENT.**

Congress is committed to act expeditiously, in consultation with the Secretary of Transportation, to strengthen airport security and take further measures to enhance the security of air travel.

### **TITLE VI—SEPARABILITY**

#### **SEC. 601. SEPARABILITY.**

If any provision of this Act (including any amendment made by this Act) or the application thereof to any person or circumstance is held invalid, the remainder of this Act (including any amendment made by this Act) and the application thereof to other persons or circumstances shall not be affected thereby.

Mr. NICKLES. Madam President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader.

### **ORDER OF BUSINESS**

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

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

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

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

#### **PASSAGE OF S. 1450**

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

I know there are a lot of Senators who would have appreciated the opportunity to offer amendments. It is not our intent to deny Senators the right to offer amendments. Under these circumstances, I am grateful for the acknowledgment that we are in a very difficult time and that cooperation, as was demonstrated again this afternoon, is essential if we are able to respond as we now have to the crisis we are facing, not only in the aviation industry but in the economy in a number of other ways having to do with the tragedy.

In my view, there were two essential pieces of legislation missing from this bill. Others have already addressed it. Senators Carnahan, Murray, Cantwell, and Kennedy, and others have been working on a proposal to deal with the disaster adjustment assistance and extended COBRA coverage. It is essential that we provide dislocated workers some income security, some training, access to health benefits. We did a little bit of that in this bill. It was a first step, but we really have a long way to go if we are going to address in a comprehensive and meaningful way the tremendous problems that families all over this country are now facing as a result of layoffs, as a result of bankruptcies, as a result of the economic slowdown. For all of the reasons we have heard, we simply cannot allow the circumstances to go unattended. It is critical that we do it sooner rather than later.

I have talked to Senators KENNEDY and CARNAHAN and others. I have talked with some Senators on this side of the aisle, especially Senator LOTT. It is my hope and my determination to address this issue in the not-too-distant future. We must. We simply cannot go without the acknowledgment of the seriousness of the problem as well as a recognition that this problem must be addressed.

Secondly, I am very pleased that the Senator from South Carolina, Mr. HOLLINGS, Senator MCCAIN, Senator ROCKEFELLER, Senator HUTCHISON, so many others, and Senator KERRY, have worked as closely together as they have on airport security and on airplane security as well. If there is one piece I really wish we could have addressed in this bill more comprehensively, it is that.

I talked to the President about it this morning. It is his intention to address the issue in a much more comprehensive way as well. I have no doubt we can work with him on security. The Presiding Officer very eloquently and passionately addressed the issue of security this morning in the caucus.

I am pleased that at least the \$3 billion that has been committed to air-

port security will allow us to take some of the initial steps. We must rebuild confidence on the part of air travelers. We must ensure that airports and airplanes can be made more secure. We must work together to make that happen soon. We can continue to provide these bills with billions and billions of dollars, but if people are not going to climb on those airplanes, if they are not going to feel comfortable walking through the airports, if they don't know whether the ramps are secure or not, those billions of dollars will not solve the problem.

I am equally as determined to address this issue of security in the days ahead. Senator HOLLINGS has indicated he will continue to work with our colleagues on both sides of the aisle. I intend to work with the administration. I will bring this matter up with the speaker at the next opportunity. We will continue to find ways with which to address security, perhaps as early as next week.

The bill the Commerce Committee has now introduced is a bill I believe very confidently will address many of these issues, so confidently that I have cosponsored it along with many other Senators. I am hopeful that in the not-too-distant future it can be a subject for debate and consideration in the Senate Chamber and that we can work to get a bill passed that will truly provide the kind of infrastructure and security that will be required to raise the confidence level that is necessary.

Security, additional compensation, and a safety net for all of those workers who have been left out so far are issues that I am committed to address and that I know the Senate is committed to address. I will continue to work with my colleague Senator LOTT, who is every bit as concerned about many of these issues as I am.

We will continue to find ways to work together to do what we know we must to put this country back and to recognize the needs of families, workers, and businesses across the country.

### **MORNING BUSINESS**

Mr. GRAHAM. Madam President, I ask unanimous consent that there now be a period for morning business with Senators permitted to speak for up to 10 minutes.

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

The Senator from Florida.

(The remarks of Mr. GRAHAM pertaining to the introduction of S. 1448 and S. 1449 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. GRAHAM. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceedd to call the roll.

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