The bill of Senator DURBIN—I don't care what the committee report says—says that the FAA shall implement a Federal policy in favor of approving six parallel runways running in the east-west direction at O'Hare Airport. It says east-west. It is very specific.

I take issue with my colleague's comments or suggestions that the FAA could change it. In fact, it would be illegal for the FAA to reposition those runways in a northwest-southeast direction. Mayor Daley's and Senator DURBIN's exact runway design will be locked into Federal statutory law if my colleague's bill passes.

That is one of the objectives my colleague has. He wants to straightjacket the FAA, put a gun to the FAA's head, and force them to approve a bad runway design that has never been reviewed by any Federal aviation expert. It has never been tested in any modeling. In fact, it appears to be the back-of-a-napkin design.

Mayor Daley was before the Senate Commerce Committee, and he admitted that the city of Chicago had never itself done any studies to back up that design.

There is another goal my colleague is trying to accomplish with S. 2039. Right now, the city of Chicago has the power to condemn lands around O'Hare Airport and communities around O'Hare Airport, provided Mayor Daley gets a permit from the State of Illinois to do that. Senator DURBIN's bill would remove the requirement that Mayor Daley get a permit from the State before he condemns the communities around O'Hare. They cannot pass legislation in the State senate that would get rid of the permit requirement. So they have decided to come to Congress in Washington and to strip away the State's law and permit requirement at the Federal level.

If my colleague's bill passes, that will mean Mayor Daley could condemn all the communities around O'Hare without getting a permit from anybody. He would have an unfettered ability to condemn properties in communities that are outside the city of Chicago.

Imagine if the mayor of Minneapolis could go willy-nilly and condemn communities all around Minneapolis. Imagine what the communities around Minneapolis would think.

I think the State legislature was wise in imposing a requirement that the mayor of Chicago, before he goes out and condemns communities around his city, get a permit from the State of Illinois. I think the Federal Government would unbalance that wise State law if we were to remove that permit requirement.

If one person had the ability to willy-nilly condemn all parts of the Chicago area around O'Hare Airport, that would literally give the mayor of Chicago unfettered license to run over anybody he wanted at any time he wanted. I don't think this body should be part of conferring that kind of unfettered ability to run over people on the mayor of Chicago.

There are delays at O'Hare Airport right now. That is no doubt true. I stood right here 2 years ago and warned Congress not to lift the delay controls at O'Hare Airport. From 1969 to 1999—for 30 years—the FAA had delay controls at O'Hare Airport so that the airlines didn't schedule more flights than the airport had the capacity to handle.

In 1999, Congress took off the delay controls, allowing the airlines to schedule more flights than O'Hare had the capacity to handle. I warned that we would have horrible delays if we lifted those delay controls. That happened. There were interim studies by the FAA which showed that if the delay controls at O'Hare were lifted, delays would go up exponentially, and they have.

In my judgment, that was a deliberate attempt by United Airlines and American Airlines to cause delays at O'Hare and to build pressure to further expand O'Hare in an attempt to block a third airport which has been needed in Chicago for nearly 30 years. That is what we now see.

I also note that while Senator DURBIN's legislation would require the FAA, or force, or command the FAA to approve a runway expansion plan at O'Hare that would increase the capacity of the runways by 78 percent, at the same time the plan is to build new terminals which would only add 12 new gates.

This is a very bizarre plan that Congress is entering into. We are going to expand runway capacity by 78 percent, but we are only going to add 12 new gates. That really means that once runway capacity is expanded at O'Hare, it will be possible under this plan to land a plane but you will have nowhere to park it. It doesn't make any sense. It is not appropriate for Congress to be wresting control of airport design from the FAA and curtailing the FAA's discretion. We should leave the FAA's discretion intact.

If Senator DURBIN believes his runway design for O'Hare Airport has merit, then he should file an application with the FAA and see if the FAA approves it. He should not seek an end-run around the rules that all the other airports in the country abide by, nor should this body be part of stripping away the State of Illinois' requirement that the mayor of the city of Chicago get a permit before he condemns properties and communities that are outside the city of Chicago.

It is not right to give the mayor of Chicago unfettered ability to run over anyone he wants at any time he wants.

S. 2039 is an unfortunate piece of legislation. I will do everything I can to prevent its passage.

I note one good development. The House of Representatives took this bill up in just the last couple of days—I believe on Wednesday—a House companion bill to S. 2039. The House committee stripped out the language that had the effect of putting a straightjacket around the FAA and commanding the FAA to approve a specific runway design at O'Hare Airport. Even the House committee recognizes the impropriety of Congress putting a gun to the head of the FAA and forcing them to approve a specific runway design.

The House legislation simply allows Chicago to file a plan with the FAA and to be considered the same way any other airport expansion program or proposal is considered anywhere else in the country. Unfortunately, however, the House legislation does have the language giving the mayor of the city of Chicago unfettered condemnation authority, which I think is, as I pointed out earlier, a big mistake.

So with that, I do look forward to the debate. I am sure the debate will be coming. And if I cannot defeat this legislation, I ultimately want to change or modify it to make it less egregious than it now is. In its current form, it is such an egregious piece of legislation that I think it would be inappropriate for our Senate to devote time to it when we have Medicare prescription drug issues, homeland security, and 13 appropriations bills we still have not addressed.

With that, Mr. President, I thank this body for affording me this time to speak. I yield the floor and wish all my colleagues a good Fourth of July recess.

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

The PRESIDING OFFICER (Mr. NELSON of Florida). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

(The remarks of Mr. REID pertaining to the introduction of S. 2697 are printed in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that we proceed to a period of morning business, with Senators permitted to speak therein for up to 5 minutes each.

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

PATENT AND TRADEMARK AUTHORIZATION ACT OF 2002

Mr. LEAHY. Mr. President, I am pleased that the Senate passed a bill which I introduced, the Patent and Trademark Authorization Act of 2002, which was reported out of the Judiciary Committee last week without objection. I appreciate that Senators HATCH, CANTWELL, REID, BENNETT and

CARPER joined with me in co-sponsoring this bill

This bill, the Patent and Trademark Authorization Act of 2002, will send a strong message to America's innovators and inventors that the Congress intends to protect and enhance our patent system. The PTO serves a critical role in the promotion and development of commercial activity in the United States by granting patents and trademark registrations to our Nation's innovators and businesses.

The costs of running the PTO are entirely paid for by fees collected by the PTO from users, individuals and companies that seek to benefit from patent and trademark protections. However, since 1992 Congress has diverted over $800 million of those fees for other government programs unrelated to the PTO.

This bill sends a strong message that Congress should appropriate to the PTO a funding level equal to these fees. The reason for this is simple: the creation of intellectual property by Americans, individuals and businesses, is a massive positive driving force for our economy and is a huge plus for our trade balance with the rest of the world. In recent years, the number of patent applications has risen dramatically, and that trend is expected to continue. Our patent examiners are very overworked, and emerging areas such as biotechnology and business method patents may overwhelm the system.

If fully implemented as intended, this bill can greatly assist the PTO in issuing quality patents more quickly, which means more investment, more jobs and greater productivity for American businesses.

The House of Representatives has passed a bill, H.R. 2047, which contains some similar provisions but just for fiscal year 2002 regarding the authorization of appropriations. That bill, H.R. 2047, was also passed by the Senate but amended to include the text of S. 1754, as reported out of the Judiciary Committee. This will provide the Congress the greatest opportunity to get this reform on the President's desk for signature.

Note that the Judiciary Committee reported out a substitute bill, with the assistance of Senator HATCH, which simply moved back some dates in S. 1754, as originally introduced. I am including a short explanation of S. 1754, as reported. This explanation also applies to the version of H.R. 2047 as passed by the Senate.

Section 1 of the bill sets forth the title, ''The Patent and Trademark Office Authorization Act of 2002.''

Section 2 authorizes Congress to appropriate to the PTO, in each of fiscal years 2003 through 2008, an amount equal to the fees estimated by the Secretary of Commerce to be collected in each of the next 5 fiscal years. The Secretary shall make this report to the Congress by February 15 of each such fiscal year.

This bill thus sets forth the goal, strongly supported by users of the patent system, that the PTO should have a budget equal to the fees collected for each year. In recent years, the appropriations' committees have not provided annual appropriations equal to the fees collected. This bill sets forth the wishes of the committee, and now the Senate as a whole, that the PTO be funded at levels determined by the anticipated fee collections.

Section 3 of the bill directs the PTO to develop, in the next three years, an electronic system for the filing and processing of all patent and trademark applications that is user friendly and that will allow the Office to process and maintain electronically the contents and history of all applications. Of the amount appropriated under section 2, section 3 authorizes Congress to appropriate not more than $50 million in fiscal years 2003 and 2004 for the electronic filing system. The PTO is working on this electronic system.

In section 4, the bill requires the Secretary of Commerce to annually report to the Judiciary Committees of the House of Representatives and the Senate on the progress made in implementing its strategic plan. The PTO issued a short version of its ''21st Century Strategic Plan'' on June 3, 2002, which is available on their website.

The bill also contains two sections which will clarify two provisions of current law and thus provide certainty and guidance to the PTO as well as inventors and businesses.

Section 5 of S. 1754 expands the scope of matters that may be raised during the reexamination process to a level which had been the case for many years. In background, Congress established the patent reexamination system in 1980 for three purposes: to attempt to settle patent validity questions quickly and less expensively than litigation; to allow courts to rely on PTO expertise; and, third, to reinforce investor confidence in the certainty of patent rights by affording an opportunity to review patents of doubtful validity.

This system of encouraging third parties to pursue reexamination as an efficient method of settling patent disputes is still a good idea. However, by clarifying current law this bill increases the discretion of the PTO and enhances the effectiveness of the reexamination process. It does this by permitting the use of relevant evidence that was considered by the PTO, but not necessarily cited. Thus, adding this new language to current law will help prevent the misuse of defective patents, especially those concerning business method patents.

It permits a reexamination based on prior art cited by an applicant that the examiner failed to adequately consider. Thus, this change allows the PTO to correct some examiner errors that it would not otherwise be able to correct. In a sense it deals with In re Portola Packaging, 110 F.3rd 786, Fed. Cir. 1997, in a manner which should reduce the number of cases which will be handled in Federal court in a manner that fully protects the rights of interested parties, and the public interest. Thus, section 5 does not change the basic approach of current law but rather eliminates a presumption which could be wrong, allowing for mistakes to be fixed without expensive litigation.

Section 6 of the bill modestly improves the usefulness of inter partes reexamination procedures by enhancing the ability of third-party requesters to participate in that process by allowing such a third party to appeal an adverse reexamine decision in Federal court or to participate in the appeal brought by the patentee. This may make inter partes reexamination a somewhat more attractive option for challenging a patent in that a third party should feel more comfortable that the courts can be accessed to rectify a mistaken reexamination decision. This section should increase the use of the reexamine system and thus decrease the number of patent matters adjudicated in Federal court.

I look forward to working with the other body to assure that this bill becomes law as soon as possible. I appreciate the work of Herb Wamsley of the Intellectual Property Owners Association on this bill, and of Marla Grossman who worked with us in this effort. Also, I want to thank Mike Kirk of the American Intellectual Property Law Association for his help on these patent fee matters over the years.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Mr. President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of last year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred in August 2001 in Monmouth County, NJ. Seven people assaulted a 23-year-old learning disabled man with hearing and speech impediments. The victim was lured to a party, bound, and physically and verbally assaulted for three hours. Later, he was taken to a wooded area where the torture continued until he was able to escape. The perpetrators were sentenced on multiple counts in connection with the incident, including aggravated assault and harassment by bias intimidation.

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.