

Therefore, pursuant to section 904 of the Congressional Budget Act of 1974 and section 4(G)(3) of the Statutory Pay-As-You-Go Act of 2010, I move to waive all applicable sections of those acts and applicable budget resolutions for purposes of my amendment and ask for the yeas and nays.

Mr. REID. Mr. President, we are going to have no more votes tonight. We have an amendment that Senator WHITEHOUSE is waiting to offer, and there are a number of other FAA-related amendments. We hope to have a productive day tomorrow. In the near future, we hope to develop a finite list of amendments so we can conclude this bill.

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

The question is on agreeing to the motion to waive. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Connecticut (Mr. LIEBERMAN) and the Senator from Virginia (Mr. WARNER) are necessarily absent.

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

The yeas and nays resulted—yeas 47, nays 51, as follows:

[Rollcall Vote No. 9 Leg.]

YEAS—47

Alexander	Ensign	McConnell
Ayotte	Enzi	Moran
Barrasso	Graham	Murkowski
Blunt	Grassley	Paul
Boozman	Hatch	Portman
Brown (MA)	Hoeven	Risch
Burr	Hutchison	Roberts
Chambliss	Inhofe	Rubio
Coats	Isakson	Sessions
Coburn	Johanns	Shelby
Cochran	Johnson (WI)	Snowe
Collins	Kirk	Thune
Corker	Kyl	Toomey
Cornyn	Lee	Vitter
Crapo	Lugar	Wicker
DeMint	McCaain	

NAYS—51

Akaka	Gillibrand	Murray
Baucus	Hagan	Nelson (NE)
Begich	Harkin	Nelson (FL)
Bennet	Inouye	Pryor
Bingaman	Johnson (SD)	Reed
Blumenthal	Kerry	Reid
Boxer	Klobuchar	Rockefeller
Brown (OH)	Kohl	Sanders
Cantwell	Landrieu	Schumer
Cardin	Lautenberg	Shaheen
Carper	Leahy	Stabenow
Casey	Levin	Tester
Conrad	Manchin	Udall (CO)
Coons	McCaskill	Udall (NM)
Durbin	Menendez	Webb
Feinstein	Merkley	Whitehouse
Franken	Mikulski	Wyden

NOT VOTING—2

Lieberman	Warner
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The PRESIDING OFFICER. On this vote, the yeas are 47, the nays are 51. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The motion to waive having been rejected, the point of order is sustained and the amendment falls.

VOTE EXPLANATIONS

• Mr. LIEBERMAN. Mr. President, I regret having missed votes to consider amendments to the FAA Air Transportation Modernization and Safety Improvement Act. I was celebrating the joyous occasion of my newest grandson's birth with my wife and children.

Had I been present, I would have voted to oppose the motion to waive the Budget Act on the amendment to repeal the landmark health care reform legislation, the Patient Protection and Affordable Care Act. This law provides health care coverage to more than 30 million Americans and also reduces the deficit. The benefits that have already been achieved by this law are substantial. Its repeal would force seniors to pay more for their drug coverage, businesses would lose valuable tax credits that enable them to provide health care coverage to their employees, and millions of Americans would no longer receive vital consumer protections from the health insurance industry. Additionally, this law extends the solvency of Medicare for 12 more years.

I have said before that a law this comprehensive would not be without flaws. I will support efforts to strengthen the Affordable Care Act and reduce the unintended consequences from it. I do not, however, support its repeal, which would not only be risky for our economy, but would have the effect of increasing the number of uninsured and causing vital programs such as Medicare to face insolvency in the very near future.

Had I been present, and consistent with my desire to continue to improve the Affordable Care Act, I would have supported both Senators LEVIN and STABENOW's amendments to repeal the form 1099 reporting requirement. This provision imposes an onerous compliance obligation on businesses of all sizes, and Congress should act quickly to remove that burden and allow businesses to direct their time, energy, and resources to growing their businesses and creating new jobs.●

• Mr. WARNER. Mr. President, I voted for the Affordable Care Act because the current health care system is simply unsustainable and it will bankrupt our Nation. This law helps lay the groundwork for containing health care costs through leveraging private sector innovation and competition to improve the quality and value of care in this country. I was unable to vote today because of a family emergency, but I wanted to register my strong opposition to Senator MCCONNELL's amendment which would repeal the Affordable Care Act.

The Affordable Care Act is already helping millions of Virginians and Americans. The law has helped lower prescription costs for seniors, including over 63,000 Medicare beneficiaries in the Commonwealth of Virginia. It has provided affordable coverage for millions of young adults throughout the country who have been able to stay on

their parent's plan and stopped insurers from denying coverage to children due to a preexisting condition. Small businesses are benefiting from tax credits to cover the cost of offering health insurance coverage to their employees.

The Congressional Budget Office has stated that repealing the health care reform law would add \$230 billion to the deficit and take away these immediate benefits and many other critical delivery systems reforms which currently are being implemented. Taking us back to the status quo is not an option.

This law is not perfect, nor will it be the final say in efforts to ensure that we have a quality, affordable health care system which works for American families and businesses. I have continued to push for fixes to parts of this law, including repealing the provision which placed a burdensome requirement on small businesses to file a form 1099, and will continue to pursue additional steps to further lower health care costs.

I look forward to working with my colleagues from both sides of the aisle to provide affordable, quality care to all Americans.●

The PRESIDING OFFICER. The Senator from Maine is recognized.

Ms. COLLINS. I thank the Chair.

(The remarks of Ms. COLLINS pertaining to the introduction of S. 261 are printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from Rhode Island.

AMENDMENT NO. 8

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent to set aside any pending amendment and call up amendment No. 8.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Rhode Island [Mr. WHITEHOUSE], for himself, Mr. KIRK, Mrs. BOXER, Mr. DURBIN, Mr. CASEY, Mr. MENENDEZ, and Mr. SCHUMER, proposes an amendment numbered 8.

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent to waive further reading of the amendment.

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

The amendment is as follows:

(Purpose: To amend title 18, United States Code, to provide penalties for aiming laser pointers at airplanes, and for other purposes)

At the end of title VII, add the following:

SEC. 733. PROHIBITION AGAINST AIMING A LASER POINTER AT AN AIRCRAFT.

(a) OFFENSE.—Chapter 2 of title 18, United States Code, is amended by adding at the end the following:

"§ 39A. Aiming a laser pointer at an aircraft

"(a) Whoever knowingly aims the beam of a laser pointer at an aircraft in the special aircraft jurisdiction of the United States, or at the flight path of such an aircraft, shall be fined under this title or imprisoned not more than 5 years, or both.

"(b) As used in this section, the term 'laser pointer' means any device designed or used

to amplify electromagnetic radiation by stimulated emission that emits a beam designed to be used by the operator as a pointer or highlighter to indicate, mark, or identify a specific position, place, item, or object.

“(c) This section does not prohibit aiming a beam of a laser pointer at an aircraft, or the flight path of such an aircraft, by—

“(1) an authorized individual in the conduct of research and development or flight test operations conducted by an aircraft manufacturer, the Federal Aviation Administration, or any other person authorized by the Federal Aviation Administration to conduct such research and development or flight test operations;

“(2) members or elements of the Department of Defense or Department of Homeland Security acting in an official capacity for the purpose of research, development, operations, testing or training; or

“(3) by an individual using a laser emergency signaling device to send an emergency distress signal.

“(d) The Attorney General, in consultation with the Secretary of Transportation, may provide by regulation, after public notice and comment, such additional exceptions to this section, as may be necessary and appropriate. The Attorney General shall provide written notification of any proposed regulations under this section to the Committees on the Judiciary of the Senate and the House of Representatives, the Committee on Commerce, Science and Transportation of the Senate, and the Committee on Transportation and Infrastructure of the House of Representatives, not less than 90 days before such regulations become final.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 2 of title 18, United States Code, is amended by inserting after the item relating to section 39 the following new item:

“39A. Aiming a laser pointer at an aircraft.”.

Mr. WHITEHOUSE. Mr. President, I rise to speak in support of this amendment I have offered with Senators KIRK, BOXER, DURBIN, CASEY, MENENDEZ, and SCHUMER to secure aircraft cockpits against lasers. This common-sense and bipartisan amendment would protect passengers and pilots by making it a Federal criminal offense to knowingly aim the beam of a laser at an aircraft.

As explained in a recent article in the New York Times, “a beam that is 1/25 of an inch wide at its origin can be 2 to 3 feet wide by the time it reaches an airliner approaching or departing an airport.” As a result, when targeted at aircraft, laser stripes can instantly flash across the cockpit, temporarily blinding the pilot and the crew. One pilot described the feeling of being hit by a laser like this:

It immediately lit up the whole cockpit and it hit both of my eyes and burned both of my corneas. Instantly, I was blinded. It felt like I was hit in the face with a baseball bat—just an intense burning pain.

FAA Administrator Randy Babbitt similarly recently warned that lasers can “damage a pilot’s eyes or cause temporary blindness.” Indeed, pilots have described the need to hand control of their aircraft to a copilot as a result of one of these incidents.

It goes without saying that such a threat to a pilot’s sight, particularly during the critical phases of takeoff

and landing, poses an unacceptable risk to the traveling public, to our pilots, and to citizens on the ground. For this reason, Secretary of Transportation Ray LaHood recently described laser incidents as “a serious safety issue.”

The problem is growing. According to a recent report by the Federal Aviation Administration, 2,836 pilots reported that they were targeted with lasers in 2010, nearly double the number in 2009. In other words, every day, eight pilots and the passengers they fly are put at risk in the manner I described. The problem affects airports of all sizes across the country.

At T.F. Green Airport, for instance, in my home State of Rhode Island, there were 12 such reported incidents just in the last year. The problem also is worsening as new and more powerful lasers become commercially available. These new lasers emit an increasingly bright beam that can reach aircraft miles away from the airport.

Current Federal law does not provide prosecutors with ready tools to prosecute and thus deter this dangerous conduct. Ill-fitting existing statutes occasionally can be used, but only in limited cases, leaving even identified perpetrators to go unpunished. My amendment would solve this problem by creating a criminal offense that clearly and distinctly covers this harmful conduct. It would explicitly criminalize knowingly aiming the beam of a laser pointer at an aircraft. Violations would lead to punishment of imprisonment for up to 5 years or fines of up to \$250,000.

The legislation would exempt valid uses of lasers in the aviation context, such as designated research and development activities, flight test operations, training, and emergency signaling. Prosecutors would gain a new, valuable tool to protect air safety without any burden being imposed on the legitimate use of lasers.

Comparable bipartisan legislation has previously passed the House of Representatives and was reported favorably out of the House Judiciary Committee this year. It is widely supported. For example, this amendment is supported by the Airline Pilots Association and the National Association of Police Organizations.

Mr. President, I ask unanimous consent to have printed in the RECORD letters from those organizations.

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

GOVERNMENT AFFAIRS DEPARTMENT,
AIR LINE PILOTS ASSOCIATION,
INTERNATIONAL,

Washington, DC, February 1, 2011.

DEAR SENATOR: On behalf the Air Line Pilots Association, International (ALPA) which represents 53,000 pilots who fly for 38 airlines in the U.S. and Canada, I urge you to support the Whitehouse-Kirk-Boxer amendment to protect aircraft flight decks from the threat posed by laser illuminations as the Senate considers S. 223, the FAA reauthorization bill.

On January 19, the FAA announced that the number of reports of lasers pointed at

airplanes nearly doubled in one year to more than 2,800. The inappropriate use of widely available laser pointers against airborne flight crews is a genuine safety and security concern and is simply unacceptable. At a minimum, the laser illumination of a cockpit creates a flight crew distraction and in more serious cases can result in eye damage and temporary incapacitation.

Along with a number of federal law enforcement organizations, ALPA has long maintained that the reckless and malicious laser illumination of airliners should be prosecuted as a specific federal offense and not solely as a violation of state laws. This amendment ensures that such activity will, in fact, be classified and prosecuted in that manner and will provide additional benefit by informing the public that shining laser beams into aircraft cockpits is a dangerous offense which will be met with serious consequences.

ALPA applauded the U.S. House of Representatives last year for passing similar legislation, the Securing Aircraft Cockpits Against Lasers Act of 2010. It should be noted that the House Judiciary Committee has this year unanimously reported out an identical bill, H.R. 386.

Again, we urge you to support the Whitehouse-Kirk-Boxer amendment which will enhance the safety and security of all airline passengers and crewmembers.

Sincerely,

LEE MOAK,
President.

NATIONAL ASSOCIATION OF
POLICE ORGANIZATIONS, INC.,
Alexandria, VA, February 1, 2011.

Hon. SHELDON WHITEHOUSE,
U.S. Senate,
Washington, DC.

DEAR SENATOR WHITEHOUSE: On behalf of the National Association of Police Organizations (NAPO), representing 241,000 rank-and-file police officers from across the United States, I would like to thank and commend you for your support to secure aircraft cockpits against laser pointers. The House of Representatives Judiciary Committee recently passed H.R. 386, a bill that would prohibit the aiming of a laser beam at an aircraft or in its flight path by punishing offenders with an imposed fine or prison term.

The Federal Flight Deck Officers Association is a member of NAPO. Together, we have a vested interest in protecting pilots and passengers from the harmful effects of laser pointers. On January 19, 2010, the Federal Aviation Administration announced that the reports of laser pointers being pointed at aircrafts basically doubled in one year from 1,400 to 2,800 incidents. Laser beams pointed at an aircraft can cause temporary blindness to pilots and jeopardize aviation security.

Helping to protect our nation from potential gaps in the enforcement of homeland security is one of NAPO’s top priorities. NAPO urges both chambers to take swift action in passage of legislation that seeks to bolster security and thwart criminal acts.

Securing cockpits is an important safety measure that law enforcement is willing to support. NAPO believes H.R. 386 and companion legislation is essential to assist the law enforcement community in the protection of our nation from security threats. If you have any questions on how NAPO can support your efforts, please feel free to contact me, or NAPO’s Director of Government Affairs, Rachel Hedge.

Sincerely,

WILLIAM J. JOHNSON,
Executive Director.

Mr. WHITEHOUSE. Mr. President, I thank Senators KIRK, BOXER, DURBIN,

CASEY, MENENDEZ, and SCHUMER for their leadership on this issue. I also thank our partners in the House for their work, and let me thank Chairman ROCKEFELLER and Ranking Member HUTCHISON for considering this amendment.

I hope Senators on both sides of the aisle will join me in voting for this amendment that will protect our public safety against this new hazard.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent to be added as a cosponsor to this superb amendment.

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

Mr. ROCKEFELLER. I have some notes, but the distinguished Senator from Rhode Island has exhausted my brilliant notes in his own speech. Just let it be said that it is an extraordinarily dangerous situation, this whole concept of stronger lasers, more carefully targeted lasers from greater distances, and being able to do it from behind trees and hidden places blinding, probably temporarily at this point but maybe permanently as they become stronger or doing damage to the eye.

When the Senator spoke about having to turn over the duties of landing the airplane or taking off the airplane to a copilot because of this threat, it makes me worry that it is going to get worse because this is kind of easy to do. In essence, it becomes an act of terrorism, not just the problem of safety for the airplane and its passengers and the pilots.

It is a superb amendment. It is my strong feeling it will pass this body easily and it will become law. The Senator from Rhode Island deserves enormous credit for bringing this to the attention of the Congress.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. WHITEHOUSE. I thank the distinguished chairman for his very kind words. Let me thank him for his efforts to support this amendment. His cosponsorship is extremely important. I look forward to working with whatever I can bring to get this amendment successfully adopted into the bill and to get the bill successfully passed. I very much appreciate the chairman's distinguished leadership.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

MORNING BUSINESS

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the Sen-

ate proceed to a period of morning business, with Senators permitted to speak for up to 10 minutes each.

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

TRIBUTE TO ANDRE KIRK AGASSI

Mr. REID. Mr. President, I rise today to recognize the extraordinary achievements of Andre Kirk Agassi, professional tennis player and fellow Nevadan, for his induction into the International Tennis Hall of Fame earlier this month.

He was born on April 29, 1970, in Las Vegas to Mike and Betty Agassi. The son of a former Iranian Olympic boxer, Andre Agassi's father taught him to play tennis at a very young age. At 16 he made his professional debut, and 1 year later he won his first singles title. He quickly rose to the international stage and was soon ranked No. 1 in the world. He continued to represent Nevada and the United States, as well as athletes by winning a gold medal, which he earned at the 1996 Olympic Games in Atlanta, and by capturing eight Grand Slams.

He is known as one of the most impressive champions in tennis history, and his charisma for the game drew attention and rivals alike. Many recall the great tennis rivalry with Pete Sampras of the mid-1990s which recaptured a robust following of tennis fans.

Despite his tremendous success as an athlete, his accomplishments off the court are just as impressive. After his first Grand Slam title, Agassi founded the Andre Agassi Charitable Association, which has raised more than \$60 million to help disadvantaged youth in Nevada. In 2001, he also established a charter school for children in underserved communities and has funded countless scholarships. And just as he achieved the No. 1 ranking as a tennis player, Agassi recently reached the top spot on the New York Times Best Sellers List when he released his autobiography.

I commend Andre for his efforts and extend my congratulations to his wife Steffi and their two children. Andre Agassi is an inspiration to all Nevada's student-athletes and I am pleased that his hard work and excellence is being recognized with the highest honor an athlete can receive.

DELISTING OF THE GRAY WOLF

Mr. KYL. Mr. President, I have joined my colleagues to introduce legislation to amend the Endangered Species Act of 1973 to remove the gray wolf. The Endangered Species Act has proved a failure for wolf conservation. I believe Congress must pave the way for a new State-based approach.

Since the listing of the gray wolf as endangered in 1976, the Federal wolf recovery programs have been in continuous litigation. The latest Federal district court decision returning the Rocky Mountain gray wolf to the En-

dangered Species List despite a population in excess of agreed upon recovery goals was the last straw. It is evident now that science is not driving recovery; rather, judicial decisions and consent agreements with special interest groups are dictating the fate of wolves and impacted communities. Despite the authorities and responsibilities conveyed to States by Congress under section 6 of the Endangered Species Act, State wildlife agencies have become mere bystanders in wolf management under this paradigm.

Take the Mexican gray wolf in the Southwest. The U.S. Fish and Wildlife Service, USFWS, has not been able to revise the recovery plan for that wolf in 28 years. Why? Because of the litigious nature of activist organizations. Another attempt to overhaul the program and develop a recovery plan is under way, but USFWS estimates that plan is at least 4 to 6 years away, assuming no litigation. We can't expect the public or the wolves to continue to wait.

Acceptance of wolves on the landscape requires preventing, mitigating and responding to livestock depredation and nuisance issues on public, private and tribal lands. It requires trust and implementation of solutions collaboratively developed by local stakeholders. It's time to give States the chance to demonstrate that they can make wolf conservation work for both people and wolves.

Restoring wildlife is not new to States or tribes. In my home State of Arizona, the Game and Fish Department has been very successful in collaborative conservation. A great example is the Southwestern bald eagle. The Game and Fish Department's intensive interagency management of this species has increased its numbers and prevented its listing. The Arizona Game and Fish seeks to apply this proven approach to wolf conservation. This bill, if enacted, would give them the opportunity.

I ask unanimous consent that the following documents be printed in the RECORD in support of this legislation: a letter from the Arizona Game and Fish Department dated December 7, 2010, and a resolution adopted by the Western Association of Fish and Wildlife Agencies dated January 9, 2011.

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

THE STATE OF ARIZONA,
GAME AND FISH DEPARTMENT,
Phoenix, AZ, December 7, 2010.

Hon. JOHN MCCAIN,
U.S. Senate,
Washington, DC.

Hon. JON KYL,
U.S. Senate,
Washington, DC.

Hon. TRENT FRANKS,
House of Representatives,
Washington, DC.

DEAR SENATOR JOHN MCCAIN, SENATOR JON KYL AND CONGRESSMAN TRENT FRANKS: The Arizona Game and Fish Commission has concluded it is beyond time to try a different approach to Mexican wolf conservation. We ask