

of resources there that could be turned back to the private sector for future development. That could actually grow this economy.

Mr. COBURN. Mr. President, the Federal Government has \$950 billion worth of property it is not using right now. We are spending \$9 billion a year taking care of it, and we have a budget gimmick that says an agency that needs a new building, because we are going to account for the cost of that building in the year in which they buy it and charge it all to the agency—what are we doing? We are leasing buildings. I guarantee we could own them much more cheaply than we could lease them. What we should be doing is changing that and getting rid of the excess property, lowering our cost to maintain it—there is 9 out of the 1,500 we have to do, right there, if we would just do that—and then change the way we purchase buildings for the Federal Government so the agency can own it instead of leasing it because it costs, over the life of the building, about twice the lease.

Mr. BEGICH. Mr. President, if the Senator will yield, as someone who has been in the real estate business for almost 30 years, there is enormous opportunity. I know that when I was mayor, we put more of the lands—we are not talking parks; we are talking about just surplus old buildings and sites that are no longer in use—we put them back into operation because not only will it save the Federal Government money in the sense of getting that surplus property off the books, but what we end up doing is turning that into economic development companies for those communities. The private sector will come in and revitalize it and use it. There are many ideas out there.

I thank the Senator for the opportunity to sponsor this with him. As the Senator said, \$500 million is the minimum. I think it is close to \$1 billion just on this one idea.

I yield the floor.

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

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, morning business is closed.

FAA AIR TRANSPORTATION MODERNIZATION AND SAFETY IMPROVEMENT ACT

The ACTING PRESIDENT pro tempore. Under the previous order, the

Senate will resume consideration of S. 223, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 223) to modernize the air traffic control system, improve the safety, reliability, and availability of transportation by air in the United States, provide for modernization of the air traffic control system, reauthorize the Federal Aviation Administration, and for other purposes.

Pending:

Wicker amendment No. 14, to exclude employees of the Transportation Security Administration from the collective bargaining rights of Federal employees.

Blunt amendment No. 5, to require the Under Secretary of Transportation for Security to approve applications from airports to authorize passenger and property screening to be carried out by a qualified private screening company.

Nelson (F1) amendment No. 34, to strike section 605.

Paul amendment No. 21, to reduce the total amount authorized to be appropriated for the Federal Aviation Administration for fiscal year 2011 to the total amount authorized to be appropriated for the Administration for fiscal year 2008.

Rockefeller (for Wyden) amendment No. 27, to increase the number of test sites in the National Airspace System used for unmanned aerial vehicles and to require one of those test sites to include a significant portion of public lands.

Inhofe amendment No. 6, to provide liability protection to volunteer pilot nonprofit organizations that fly for public benefit and to the pilots and staff of such nonprofit organizations.

Inhofe amendment No. 7, to require the Administrator of the Federal Aviation Administration to initiate a new rulemaking proceeding with respect to the flight time limitations and rest requirements for supplemental operations before any of such limitations or requirements be altered.

Rockefeller (for Ensign) amendment No. 32, to improve provisions relating to certification and flight standards for military remotely piloted aerial systems in the National Airspace System.

The ACTING PRESIDENT pro tempore. The Senator from West Virginia is recognized.

Mr. ROCKEFELLER. Mr. President, I have comments of my own, but I will yield to the Senator from Maryland. He has been down here waiting. He is interesting, provocative, thoughtful, and always right. I yield to him such time as he may feel comfortable with, provided it doesn't go past 5 o'clock.

The ACTING PRESIDENT pro tempore. The Senator from Maryland is recognized.

Mr. CARDIN. Mr. President, I thank my colleague and congratulate him on the reauthorization of the Federal Aviation Administration. It is a bill that we can all be proud of. I thank him for his good work.

Mr. President, I rise to speak today on the legislation to reauthorize the Federal Aviation Administration.

Our Nation's economy is recovering from the worst economic recession in decades. Critical to getting our economy moving forward and getting Americans back to work is building an efficient and modern intermodal transpor-

tation system built to handle growing commerce in the 21st century.

I am pleased to see that this legislation, which is estimated to create 280,000 jobs in airports around the country, is one of the first orders of business for the Senate in the 112th Congress. It demonstrates this body's focus on job creation and helping get Americans back to work while updating the Nation's aviation infrastructure to ensure that America is ready for business.

The airline industry accounts for nearly 11 million U.S. jobs and \$1.2 trillion in annual economic activity. This bill provides the airline industry the essential infrastructure it needs to succeed and remain strong and competitive in the global airline industry.

Every day, the Federal Aviation Administration faces the daunting task of marshalling thousands of airliners, and the air travelers on those planes, across the country from airports and airfields both large and small located in nearly every corner of the United States. These members of the Federal workforce safely guide thousands of airplanes, serving tens of thousands of air travelers, across America's skies every day.

I applaud Senator ROCKEFELLER's dedication to getting this much needed legislation to the floor of the Senate. I greatly appreciate his willingness in the last Congress to incorporate a provision of mine that is important to keeping small rural airports in Maryland and in other parts of the country in operation. I look forward to continue working to build upon the great work he has done to get this important bill moving forward.

This bill is not just important to our big airports; it's important to all airports in this country. There are many challenges facing the FAA and air travelers. This bill sets a clear path towards addressing these challenges, not the least of which is working to reduce the number of flight cancellations and the frequency of flight delays that can range anywhere from 10 minutes to 9 or more hours that air travelers experience.

This bill will reduce delays by more than 20 percent—save passenger time, money and reduce airline fuel consumption, making our country more energy secure and reducing harmful greenhouse gas emissions.

While air travel remains a safe and fast way to travel between distant destinations, the technology is readily available to make essential improvements to our Nation's aviation infrastructure to make it even safer and faster.

The bill's authorization of facility and equipment funding reinforces the FAA's commitment to overhauling the guidance systems used to direct flights across the country. The deployment of NextGen flight systems will cut travel times and save energy by directing flights to take shorter routes that use less fuel.

Domestic commercial flight routes follow the same terrestrial based guidance air traffic control system that was put in place more than half a century ago. The paths planes follow between airports is not based on the shortest most efficient routes, but instead based on the location of broadcasting points on the ground. That no longer makes any sense. We know that we now have a GPS system that could put our planes on a much more direct route, which is faster and will save time and energy.

For example, air travelers flying from National Airport, across the Potomac in Arlington, VA, to Boston's Logan International Airport currently follow a route north through central Pennsylvania, east across New York State and the entire State of Massachusetts to Boston located on the Atlantic coast.

This flight pattern goes 537 miles, takes an hour and 15 minutes to fly, and burns 7,376 pounds of fuel.

Alternatively, NextGen's satellite-based guidance system, using global positioning systems, would guide that same flight on a 367 mile, northeasterly route directly up the Atlantic coast, that takes less than an hour, and use 5,883 pounds of fuel.

That's a 1,493 pound savings of expensive, carbon emission intensive, jet fuel.

These are significant savings that benefit the environment and the consumer. The Air Transport Association estimates that "even a 6% fleet-wide reduction in fuel burn results in fuel savings of 1.16 billion gallons of jet fuel and emissions savings of nearly 11 million metric tons or 24 billion pounds of CO₂." We would be saving fuel and costs and would be polluting much less.

NextGen is essential to achieving these types of greenhouse gas emissions reductions from the aviation sector.

NextGen is also critical to meeting future air travel demands and will go a long way to alleviating the actual "air traffic" that is responsible for much of the delays air passengers experience when travelling.

The research, engineering and development funding is set to advance undergraduate and technical school programs for aircraft maintenance focusing on new technology job training for pilots and air traffic controllers. This includes essential job training programs for the next generation of air traffic controllers that will use NextGen systems to guide America's airline fleets.

Job training and education are important for preparing America's workforce to advance into well paid and skilled jobs and are essential to the Nation's economic recovery.

The operations and maintenance, Airport Improvement Program and facilities and equipment funding authorizations give the green light to hundreds of airports across the Nation to advance pressing maintenance, facili-

ties, security and new construction projects that will create thousands of jobs in the engineering, computer science, construction, and software development sectors and much more.

For example, at Baltimore Washington International-Thurgood Marshall Airport in Anne Arundel County, the Maryland Department of Transportation has nearly \$400 million in Airport Improvement Program projects that are ready to go. These projects will help improve runway safety, tarmac capacity and terminal efficiency at Maryland's largest airport.

BWI-Thurgood Marshall served 21 million passengers in 2009 and was ranked first out of 140 international airports, worldwide, that serve 15-25 million passengers annually by the Airports Council International's Airport Service Quality survey. We are proud of that and want to maintain that service at BWI. The reauthorization of these programs is critical to our doing that.

I appreciate the opportunity this bill gives me to show my support for Maryland's flagship airport and the 35 other commercial, municipal, regional and general aviation airports across my State.

I mentioned earlier my colleague's willingness to work with me to incorporate an amendment to help small commercial airports. The program I am referring to is the Essential Air Service Program, which provides funding to keep the small yet critical commercial airports serving rural communities viable.

This program assures that rural communities are provided a minimal level of service to preserve their connection to the national air transportation system.

Western Maryland's Hagerstown Airport has benefitted greatly from this program and has allowed the airport to secure service contracts with Cape Air to fly four daily flights from Hagerstown to Baltimore. Without Hagerstown's daily flights to BWI, western Maryland residents, as well as people living in eastern West Virginia and southern Pennsylvania, would have to drive anywhere from 75 to more than 150 miles to get to the nearest airport with commercial service.

There are many other rural communities where major commercial air passenger service is located at even greater distances and the Essential Air Service helps alleviate the travel isolation of these communities. I am pleased that this bill addresses the needs of Hagerstown Airport and others like it.

Another issue critical to the success of Maryland's airports that will surely come up during the debate of this bill is changing the slot and perimeter rule at Reagan National Airport. This is an issue that I care deeply about because it has a specifically targeted effect on the economic success and job growth potential at BWI-Thurgood Marshall airport and the surrounding area.

In the 111th Congress, the proposed changes to operations at National Airport were made by Senators representing States well beyond the Greater Washington region. Changing the slot and perimeter rule in this fashion subverts the established process for altering these rules and undermines the authority of local transportation experts.

Restricted service at National Airport lends itself to the steady growth at the region's major hub airports, which has been at the heart of the region's business communities' economic development plans.

Companies such as Northrop Grumman, L3, General Dynamics, IBM, Deloitte, and other major employers in the Baltimore-Washington area strategically located themselves around BWI. The growth of that airport is critically important to our economic progress.

The steady growth in service at the region's large international airports helped create an attractive business climate for these major companies. This would not have been possible without Congress's agreement to maintain the status quo of service at National Airport that, in turn, made Dulles and BWI the region's growth airports.

Based on existing service and prior historical evidence of the impacts of increased slots at DCA, allowing flights to be converted from within the perimeter to beyond the perimeter would have a direct impact on the service offered out of BWI Marshall.

Under any slot-change scenario, service reductions at BWI Marshall will reduce the value and return on Federal and State infrastructure investments made at BWI. Maryland has invested more than \$1.5 billion in the airport over the last 10 years and plans to invest \$684 million in the next 6 years. I welcome a collaborative and open process should changes in the region's airport operations be necessary.

In regard to another important provision in this legislation, I support the passenger bill of rights. No one should ever be forced to stay aboard a plane on a tarmac for extended periods of time.

I also applaud the provisions within the bill that provide customers with better information about the wide range of fees airlines and airports place upon the flying public.

I understand that between high fuel costs and the current economy, travelers are flying less and this has hurt the airline industry. As a result, airlines have resorted to charging a variety of fees for services on each flight. Airlines have counted on air travelers adapting to each change of policy so much that today's frequent fliers rarely expect a free meal or to check their bags for free.

Air travelers often have no choice but to pay the airlines' fees. The problem is how these fees come at the customers, often by surprise. If the fees are explained in advance, there is less with which to take issue.

Surprise fees have consumers upset and weary of flying. By the time travelers reach the ticket counter, they are committed to getting on that plane. At that point, the airlines have the clear upper hand when it comes to levying additional charges for baggage based on size, weight or type or even fees for simple onboard amenities such as refreshments, headphones or blankets once passengers are in their seats. In some instances, particularly the at-the-counter baggage fees, travelers have no choice but to pay the fee.

In the 111th Congress, I introduced legislation to ensure air travelers were made well aware of the fees they were being charged to fly. I look forward to working with my colleagues to make sure this issue is adequately addressed in this bill.

I want the airlines to succeed. Working to improve access to information and require the honest disclosure of airline fees and improved passenger treatment help public confidence in the airline industry.

Currently, the airline industry can point at high fuel costs and a downturn in the economy as the top reasons for why less people are traveling by air. As the economy continues to improve and as more Americans find work, both business and leisure travel will begin to pick up. Whether the travelers look to the skies or the ground to get to their destination will largely depend on the users' experience.

The passenger bill of rights goes a long way to improving the users' experience for air travelers.

Before concluding on this legislation to reauthorize the Federal Aviation Administration, I think it is important that I comment on one amendment that may be brought up. I wish to express my opposition to an amendment that would exclude employees of the Transportation Security Administration, TSA, from collective bargaining rights of Federal employees. On June 23, 2010, more than 6 months ago, I spoke on the floor of the Senate about the need for collective bargaining for more than 60,000 TSA employees who work at BWI Marshall International Airport and airports around the Nation.

At that time, some Members of Congress opposed collective bargaining for TSA employees because of their concern that we need to be able to adapt quickly and effectively to specific aviation threats. The underlying premise of that argument is, we must choose between protecting the Nation from threats to aviation and collective bargaining. As I said in my June 23, 2010, speech, that choice is a false choice because national security and what I called smart collective bargaining are not mutually exclusive. Under a smart collective bargaining agreement, where a true emergency exists, TSA would be fully capable of deploying assets without there being any negative impact from collective bargaining.

At his confirmation hearing, Administrator Pistole stated that "we have

to be able to surge resources at any time . . . not only nationwide but worldwide." The smart collective bargaining agreement I called for would enable us to do exactly that. Moreover, I believed then and I believe now that a smart collective bargaining agreement would enhance national security because it would enable TSA to recruit and retain better employees.

Our Nation's history with labor unions clearly teaches us that collective bargaining boosts morale, it allows employees to have a voice in their workplace, and it allows them to increase stability and professionalism.

On the other hand, poor workforce management can lead directly to high attrition rates, job dissatisfaction, and increased costs, which lead to gaps in aviation security. In the past, there have been reports that the TSA has had low worker morale, which can undermine the agency's mission and our national security.

I am now pleased to learn that after he was confirmed by the Senate, Administrator Pistole did what he said he would do—he studied the issue and gathered all the facts and information he could from stakeholders, including TSA employees, TSA management, union presidents, and a variety of present and former leaders and experts in law enforcement agencies and organizations.

This past Friday, on February 4, Administrator Pistole decided that the more than 60,000 TSA employees working at BWI Marshall International Airport and at airports around the Nation could vote on whether they want or do not want representation for limited collective bargaining on nonsecurity employment issues.

Administrator Pistole's determination will provide a framework to protect TSA's ability to respond to evolving threats, while allowing TSA's employees the right to join a union under clear definitions.

This is a smart decision and can lead to the kind of solution I was talking about 6 months ago.

On issues of national security, we need to come together and reject the either/or. We need to be smart on national security, and this collective bargaining decision by Administrator Pistole is a smart decision. The fact is, the Department of Homeland Security's Customs and Border Patrol officers, some of whom work at the same airports as TSA employees, as well as DHS Federal Protective Service and the Capitol Police, all operate under collective bargaining agreements.

As our late colleague, Senator Kennedy, noted in August 2009 when he cosponsored a collective bargaining rights bill for public sector officers, tomorrow morning, thousands of State and local public safety officers, police officers, and firefighters will awake and go to work to protect us. They will put their lives on the line, responding to emergencies, policing our neighborhoods, and protecting us in Maryland

and in communities all across the Nation. These dedicated public servants will patrol our streets and run into burning buildings to keep us safe. No one believes for a moment we are less safe because they have secured collective bargaining rights.

If opponents of Administrator Pistole's decision want to invoke 9/11 to support their views, they will soon discover that the legacy of 9/11 shows very clearly that national security will not be compromised by smart collective bargaining. Before 9/11, New York Port Authority police worked 8 hours a day, 4 days on and 2 days off. By the end of the day on 9/11, however, vacations and personal time were canceled and workers were switched to 12-hour tours, 7 days a week. Indeed, schedules did not return to normal for 3 years. The union did not file a grievance, and everyone recognized it was a real crisis.

Administrator Pistole's decision will enhance our ability to recruit and retain the best TSA employees to protect us.

It will also lead to conditions that will improve our ability to recruit and retain the best employees, such as the countless number of American heroes who work every day to protect us and keep us safe, under collective bargaining agreements.

In concluding, I wish to acknowledge in the reauthorization of the FAA bill the thousands of hard-working government workers, pilots, flight attendants, and other members of our Nation's flight crews. Without their service, air travel would not be possible. I am pleased several of the labor organizations that represent so many hard-working Americans in the aviation industry support this bill. I also note the important worker safety provisions this legislation provides workers in the aviation industry.

Congress has passed 17 short-term extensions of this authorization. It is time for a permanent fix. It is time to pass this bill. It will provide stability, safety, and jobs for both the airline industry and its passengers.

It promotes jobs, consumer travel protections, homegrown technological innovation, and reductions of fuel consumption and greenhouse gas emissions. This could not come at a more opportune time.

I congratulate the chairman for all the work he has done.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, I thank the good Senator from Maryland for his remarks.

I am sure, as I call on my vice chairman, Senator HUTCHISON will have remarks she will want to make. I simply wish to catch us up to where we are.

This is the Federal aviation bill. It has been deemed to be only the Federal aviation bill, which is good, because that means extraneous amendments are not germane. We are trying to work our way through this aviation

policy issue business, which actually is turning out, so far, to be quite smooth. People commented it is being done in a bipartisan fashion. That is the way Senator HUTCHISON and I work always and it is the way the committee works and it is probably why we put out more nominations and legislation than any other committee.

We have a number of pending amendments. I know my colleagues also have others. Some will come to the floor this afternoon to get into the queue and speak on those amendments. We are making progress resolving some of the pending amendments. Others, I believe, will require votes. If we can do something without a vote, that is great. If we have to have a vote, that is also fine.

In addition, Senator HUTCHISON and I continue to work to resolve the issue of slots at National Airport. I thank all our colleagues for engaging in a constructive conversation on this very difficult issue. It has been very heartening that people seem to understand that if we cannot work out this issue, the whole bill goes down and 11 million jobs and over \$1 trillion of the economy are at risk.

We have played with fire with this now for 17 consecutive extensions of the bill. It is a horrible way to do business, to send out a 3-year contract for building an airport runway—it is awful. But we have not faced up to this bill. Senator HUTCHISON and I are doing that.

I suspect we will be on the bill this week. We hope to finish it the following week. I believe we can do that, but then again I am not sure. It is how the Senate wants to work its will.

Again, I urge my colleagues to speak with Senator HUTCHISON and myself if they have amendments they would like to offer. That is what we are here for.

The ACTING PRESIDENT pro tempore. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I appreciate what the chairman has said. His message is the same as my message; that is, this is a very important bill. It is one—the authorization of the FAA—we have extended, since 2007, with 18 short-term extensions. Neither the chairman nor myself want a 19th short-term extension. That is, as he mentioned, not the way we ought to be doing business. We ought to be able to assure that a contract will be let for a new runway or a repair on a runway and that it will be finished. I hope we can get through some of the thornier issues, and there are several of those.

I ask my colleagues to come down and get their amendments pending because we want to close out amendments and then deal with the ones we have and move on.

Senator WICKER and Senator COLLINS are going to be here very shortly. They will be talking about the Wicker amendment. That is one I think they have now agreed to sponsor together. They have made some good changes. We have others that are also being

worked on. It is time, if a colleague wants to offer an amendment, to come down and do it.

We are continuing to work on the perimeter slot rule from Washington National Airport, with the hope of coming to a consensus that will increase the number of opportunities for people from the Western half of the United States to come into Washington National Airport. I will say, I believe it is in everyone's interest to open Washington National on a limited basis. We do not want to add to the congestion. The proposals that are being put forward would not add to congestion. They would be mostly incumbent carriers already flying, just transferring to longer haul flights but not with bigger airplanes.

So you can't make the argument that it is going to add to ground congestion or air congestion because you are not going to add that many new flights. It certainly is not a noise issue anymore, because we have Stage III aircraft that have made a significant improvement in air traffic noise for people who live near airports. I think it is in the interest of the people who live around National to have that same convenience—to be able to go to the western part of the United States, just as people who live farther away from the airports. So I think we are working through this. We need to come up with something that everyone would say is a fair compromise, and I hope we can do that.

The underlying bill is important because it does increase the safety measures we need to have. It certainly will modernize the air traffic control system and put America in the forefront of putting our air traffic control on a satellite-based system, rather than a ground-based radar system. That is the key reason for needing to go forward on this bill so we can start that transformation. It will take time, and it is something that needs to be done, but with a longer term authorization, which we are trying to do.

It will improve rural small town access to our aviation system. There are also good consumer protections. We don't think anyone should have to sit on an airplane for more than 3 hours on the ground with the door closed, and that is provided for in this bill. If you are sitting on the ground in an enclosed aircraft for more than 3 hours, the airline must open the doors and let passengers get off.

There are a lot of things we need to put into law. We have made a good start, and I would ask my colleagues to give us their amendments, if they have them, and let us work through them to move this bill.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Mississippi.

AMENDMENT NO. 14, AS MODIFIED

Mr. WICKER. Mr. President, I ask unanimous consent that my amendment No. 14 be modified with the changes I have sent to the desk.

The ACTING PRESIDENT pro tempore. Is there objection?

Hearing no objection, the amendment is so modified.

The amendment, as modified, is as follows:

At the appropriate place, insert the following:

SEC. —. EXCLUSION OF EMPLOYEES OF THE TRANSPORTATION SECURITY ADMINISTRATION FROM THE COLLECTIVE BARGAINING RIGHTS OF FEDERAL EMPLOYEES.

(a) **SHORT TITLE.**—This section may be cited as the “Termination of Collective Bargaining for Transportation Security Administration Employees Act of 2011”.

(b) **IN GENERAL.**—Section 7103(a) of title 5, United States Code, is amended—

(1) in paragraph (2)—

(A) in clause (iv), by striking “; or” and inserting a semicolon;

(B) in clause (v), by striking the semicolon and inserting “; or”; and

(C) by adding at the end the following:

“(vi) an officer or employee of the Transportation Security Administration of the Department of Homeland Security;” and

(2) in paragraph (3)—

(A) in subparagraph (G), by striking “; or” and inserting a semicolon;

(B) in subparagraph (H), by striking the period and inserting “; or”; and

(C) by adding at the end the following:

“(I) the Transportation Security Administration of the Department of Homeland Security;”.

(c) **AMENDMENTS TO TITLE 49.**—

(1) **TRANSPORTATION SECURITY ADMINISTRATION.**—Section 114(n) of title 49, United States Code, is amended by adding “This subsection shall be subject to the amendments made by the Termination of Collective Bargaining for Transportation Security Administration Employees Act of 2011.” at the end.

(2) **PERSONNEL MANAGEMENT SYSTEM.**—Section 40122 of title 49, United States Code, is amended—

(A) by redesignating subsection (j) as subsection (k); and

(B) by inserting after subsection (i) the following:

“(j) **TRANSPORTATION SECURITY ADMINISTRATION.**—Notwithstanding any other provision of this section (including subsection (g)(2)(C)), this section shall be subject to the amendments made by the Termination of Collective Bargaining for Transportation Security Administration Employees Act of 2011.”.

(d) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on the date of enactment of this Act and apply to any collective bargaining agreement (as defined under section 7103(a)(8) of title 5, United States Code) entered into on or after that date, including the renewal of any collective bargaining agreement in effect on that date.

SEC. —. EMPLOYEE RIGHTS AND ENGAGEMENT MECHANISM FOR PASSENGER AND PROPERTY SCREENERS.

(a) **LABOR ORGANIZATION MEMBERSHIP; APPEAL RIGHTS; ENGAGEMENT MECHANISM FOR WORKPLACE ISSUES.**—

(1) **IN GENERAL.**—Section 111(d) of the Aviation and Transportation Security Act (49 U.S.C. 44935 note) is amended—

(A) by striking “Notwithstanding” and inserting the following:

“(1) **IN GENERAL.**—Except as provided in section 883 of the Homeland Security Act of 2002 (6 U.S.C. 463) and paragraphs (2) through (5), notwithstanding”; and

(B) by adding at the end the following:

“(2) **LABOR ORGANIZATION MEMBERSHIP.**—Nothing in this section shall be construed to

prohibit an individual described in paragraph (2) from joining a labor organization.

“(3) RIGHT TO APPEAL ADVERSE ACTION.—An individual employed or appointed to carry out the screening functions of the Administrator under section 44901 of title 49, United States Code, may submit an appeal of an adverse action covered by section 7512 of title 5, United States Code, and finalized after the date of the enactment of the FAA Air Transportation Modernization and Safety Improvement Act, to the Merit Systems Protection Board and may seek judicial review of any resulting orders or decisions of the Merit Systems Protection Board.

“(4) EMPLOYEE ENGAGEMENT MECHANISM FOR ADDRESSING WORKPLACE ISSUES.—At every airport at which the Transportation Security Administration screens passengers and property under section 44901 of title 49, United States Code, the Administrator shall provide a collaborative, integrated employee engagement mechanism to address workplace issues.”

(2) CONFORMING AMENDMENTS.—Section 111(d)(1) of such Act, as redesignated by paragraph (1)(A), is amended—

(A) by striking “Under Secretary of Transportation for Security” and inserting “Administrator of the Transportation Security Administration”; and

(B) by striking “Under Secretary” each place it appears and inserting “Administrator”.

(b) WHISTLEBLOWER PROTECTIONS.—Section 883 of the Homeland Security Act of 2002 (6 U.S.C. 463) is amended, in the matter preceding paragraph (1), by inserting “, or section 111(d) of the Aviation and Transportation Security Act (49 U.S.C. 44935 note),” after “this Act”.

Mr. WICKER. Secondly, Mr. President, I ask unanimous consent that the following two Senators be added as cosponsors to my amendment: Senator COLLINS and Senator COBURN.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. WICKER. Mr. President, I called up my amendment last week. This amendment would prohibit TSA employees from entering into collective bargaining agreements. A lot has happened since I called up my amendment. The Transportation Security Administration announced his intent on Friday to proceed with allowing TSA security employees to collectively bargain. That would reverse a decade of policy—since the inception of TSA, actually. Currently, TSA employees are not allowed to collectively bargain. The 2001 law that created TSA gives this decision to the Administrator, and previous Administrators have understood that collective bargaining agreements for TSA could compromise our Nation’s security. TSA employees have been treated like those of the FBI, the CIA, and the Secret Service for purposes of collective bargaining. These personnel are treated very well by our government and taken care of in other ways. But because of the security concerns, collective bargaining is prohibited for those security personnel.

Frankly, I think many observers would conclude that the current administration is intent on doling out rewards to campaign supporters and, therefore, is moving to reverse this

decade-old decision and allow for collective bargaining among TSA employees. On November 12, 2010, the Federal Labor Relations Authority decided TSA employees will be allowed to vote on union representation, and then the decision came along on Friday to allow them to have collective bargaining rights.

I don’t believe our country needs 50,000 TSA screeners to be part of a union. But the Obama administration does. Adding workers to union rolls has been a high priority of the administration since day one. As I pointed out, the FBI, the CIA, and the Secret Service do not have collective bargaining rights because burdensome union demands could limit the ability of those responsible for security at some of the most high-risk targets and hamper them in getting their job done.

Let me review a little bit of history. When a British airliner bombing plot was uncovered in 2006, the TSA overhauled security procedures in a matter of 12 hours to deal with the threat of liquid explosives. They had to act very quickly and flexibly. It is difficult to imagine that kind of flexibility under inflexible union rules.

In 2006, following a severe mid-western snow storm, local TSA employees were unable to get to the airport, but TSA was able to fly personnel in temporarily from other airports to cover these snowed-in personnel. This helped keep the airport open and the security lines moving. I wonder how injecting collective bargaining into this type of situation would have impacted TSA’s ability to be flexible, to be quick on its feet, and to move personnel around.

There is also the issue of testing and rollout of software to protect the privacy of passengers utilizing advanced imaging technology. This should be done on the basis of national security and passenger safety and privacy concerns, and not delayed because of union concerns or intervention in the management of TSA employees.

I would reiterate, TSA has existed for almost 10 years without collective bargaining, and there is no legitimate policy reason to change this procedure at this time.

Working with Senator COLLINS, who I believe is prepared to also speak today, I have modified my amendment to make it clear that TSA employees have the baseline protections that almost all our Federal employees have, while preserving the flexibility needed to keep our Nation safe. The modified amendment would codify the 2003 TSA policy that prohibits collective bargaining agreements with security screeners. We do not need to limit the flexibility to respond immediately to emerging and evolving threats.

My amendment would also allow the Merit Systems Protection Board to hear adverse employment actions, such as demotions or firings, so TSA employees would have the same protections as other Federal security employees.

Also, if these modifications are accepted unanimously today, they would codify protections under the Whistleblowers Protection Act and would create an employee engagement process for workplace issues. My amendment simply adds these protections into the statute.

I would also point out that it is the public employees union contracts that States are grappling with today. Several of our States are literally facing bankruptcy because of the expensive and burdensome government union employee contracts—Illinois, New Jersey, California. The Governors, on a bipartisan basis, are struggling to get out from under these burdens and to free their States from these expensive public employee union contracts. They are causing the bankruptcy of States.

In the U.S. Government, we have the ability to deficit spend, and that is quite a problem. We will spend \$1.5 trillion this fiscal year that we don’t have, and the American public is demanding that we do something about it. It is unimaginable to me that under those circumstances the Obama administration is taking action which can only make TSA more expensive and make dealing with our employees there more costly and add to the debt. I don’t see any way around it.

As States and localities are moving in one direction, here comes the Obama administration and, swimming upstream on this issue, proposing to add to the public employee union collective bargaining regime some 40,000 to 50,000 additional Americans. I don’t see how we can afford that. I don’t see how it helps security or helps our Nation to adopt some more burdensome requirements, and I don’t see how it helps national security.

I would urge my colleagues to vote in favor of Wicker amendment No. 14. That vote may occur as early as tomorrow morning, but I would urge its adoption. This is an issue that is not going to go away. It is going to be taken up in the other body. We are going to be following this issue, and it is something I think Americans feel strongly about.

At this point I would urge the adoption of my amendment.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Maine.

Ms. COLLINS. Mr. President, first, let me thank my colleague and friend from Mississippi for working with me over the past few days to modify the amendment he originally proposed. I very much appreciated his willingness to sit down and talk about the amendment, and I am pleased to cosponsor Senator WICKER’s modified amendment, which provides additional workforce protections for transportation security officers while ensuring the management flexibility that is absolutely vital to the operational efficiency of the TSA and to the security of the American people. Our amendment would provide additional employment

protections to TSA employees while preserving the agency's ability to respond quickly and effectively to security and operational challenges.

Through our committee's work on homeland security, I have become convinced that the ability for TSA to respond quickly and effectively to changing conditions, to emerging threats, to new intelligence, to impending crises, even to dramatic weather such as blizzards and hurricanes, is essential. From the intelligence community to our first responders, the key to an effective response is flexibility—the ability to put assets and personnel where they are needed, when they are needed, with a minimum of bureaucracy.

The TSA is charged with a great responsibility. In order to accomplish its critical national security mission, the Aviation and Transportation Security Act provided the TSA Administrator with certain workforce flexibilities. These flexibilities allowed the Administrator to shift resources and to implement new procedures whenever needed—daily, even hourly, in some cases—in response to emergencies, canceled flights, changing circumstances, or threats to our security. This authority has enabled TSA to make the best and fullest use of its highly trained and dedicated workforce.

I want to point out that this debate is not just theoretical. We are not talking about having some theoretical flexibility. We have already seen the benefits of this flexibility. We have seen exactly why it is necessary.

Let me give a couple of examples. In the aftermath of the thwarted airline liquids bombing plot that emanated from Great Britain, TSA was able to move quickly to change the nature of its employees' work and even the location of that work. With the liquids bombing plot, TSA, overnight, had to retrain its employees, had to deploy them differently, and was able to do so precisely because of the flexibility of the current law.

Another example is the December 2006 blizzard that hit the Denver area. When many local TSA employees were unable to get to the airport, TSA was able to act quickly, flying in volunteer TSA employees from Las Vegas to cover the shifts, and covering the Las Vegas shifts with officers who were transferred temporarily from Salt Lake City. Without that ability to deploy personnel where they were needed on a moment's notice, the Denver airport would have been critically understaffed while hundreds, perhaps thousands of travelers were stranded. This flexibility is essential to maintain, and that is what the Wicker-Collins-Coburn amendment would do.

TSA also redeployed hundreds of screeners to Houston and New Orleans in response to hurricanes in 2008. These TSOs relieved local employees at those airports so that they could safely evacuate themselves and their families, and it helped to quickly resume screening operations after the storms had passed.

These were challenging times for TSA. Evacuations in these cities caused high volumes of airline passengers resulting in the TSOs in New Orleans screening more than 32,000 gulf coast residents within a 48-hour period.

TSA's announcement on Friday purports to preclude employees from bargaining over security policies and procedures. But if we look at precisely what it says, it does allow bargaining over the selection process for special assignments and on policies for transfers and shift trading—matters that could require very rapid resolution during an emergency. There will not be time for bargaining over those issues.

In addition, the very definition of what constitutes security policies and procedures could be the subject of dispute and litigation. That is exactly the point Secretary Chertoff made in a letter he sent to me in 2007 when the Senate was considering this very same issue. He wrote:

Although the administrator of TSA purportedly would not be required to bargain over responses to emergencies or imminent threats, it is inevitable that protracted litigation would ensue over the meaning of these terms.

That is exactly what would happen if we allow to stand the decision of the Administrator of TSA. Instead of drastically changing the TSA personnel system in a way that would interfere with TSA's ability to carry out its mission, there is an alternative. We should make some targeted but critical reforms in the personnel system to ensure that TSA's employees are treated fairly.

My point is there is a middle ground that we can reach, and that is what the modified amendment does. First, we should bring TSA employees under the Whistleblower Protections Act, which safeguards the rights of whistleblowers throughout the Federal Government. There is simply no reason to deny TSA employees that protection. Indeed, I would argue it hurts us to deny that protection because if there is a whistleblower at this critical agency who does not feel fully protected and does not come forward, that could hurt our security. So our amendment would codify that coverage and make that protection clear.

Second, we should make clear that TSA members do have the right to join a union. That is a different issue from collective bargaining. Some of them have chosen to be represented by a union now. Many have not chosen to be. But they should have that choice. That allows, for example, for them to get representation by a union if there is an adverse employment action. Our amendment specifically provides that we are not depriving employees of that choice.

Third, we should give TSA employees the right to an independent appeal of adverse personnel actions such as removals, suspensions for more than 14 days, reductions in pay or grade, or certain furloughs. The amendment

would give TSOs the right to have those appeals heard by the Merit Systems Protection Board. That is an independent board, separate from the agency, separate from the Department of Homeland Security, that sits in judgment of appeals filed by most other Federal employees. So I see no reason TSA screeners should not have that same right. That is an important protection because if a screener believes he or she is being treated unfairly by a supervisor, there is an independent arbitrator to whom that employee can appeal.

Here is the bottom line. We can provide TSA employees with important protections enjoyed by other Federal employees, such as the right to appeal adverse employment actions to the Merit Systems Protection Board and the statutory right to whistleblower protections without disrupting TSA's proven personnel system that has served the agency and this Nation well over the past decade. Previous Secretaries of Homeland Security and Administrators of TSA have described that personnel system in great detail to the Homeland Security Committee and to other entities, in the Senate in both classified briefings and open hearings, as necessary to accomplish the critical goals of TSA. Our amendment would preserve these flexible personnel systems while ensuring that TSA employees enjoy important legal protections available to other Federal employees.

I have been trying since 2007 to achieve a middle ground on this issue. Frankly, the previous administration was reluctant on some of the safeguards I have described. This administration has gone way overboard in the other direction, but a middle ground is exactly what this modified amendment strikes. It charts that middle ground, providing significant additional protections and rights to TSA employees without burdening a system that is working well now and that is essential to our security.

We simply have to allow the TSA Administrator to retain exactly the same kinds of flexibility to deploy personnel that he enjoys now and that have been used in the past. That is the important point. This debate is not theoretical. Those personnel flexibilities have proven absolutely essential to meet the threat of a terrorist attack and to deal with blizzards and hurricanes. I urge my colleagues to take a strong, close look at the modified amendment. I hope they will support it.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Oregon.

Mr. WYDEN. Mr. President, I ask unanimous consent to speak as in morning business for up to 10 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

NOMINATION OF MARCO A. HERNANDEZ

Mr. WYDEN. Mr. President, I thank the chairman of the Commerce Committee dealing with an exceptionally

important bill. I appreciate his courtesy at this time.

Mr. President, later in the evening the Senate will confirm Judge Marco Hernandez, who has been nominated to serve as a U.S. district court judge for the District of Oregon. The vacancy that Judge Hernandez will fill is one that Chief Justice Roberts has designated a judicial emergency. Given that, I thank Chairman LEAHY, Ranking Member GRASSLEY, Majority Leader REID, and Minority Leader MCCONNELL for bringing this nomination to the floor today.

I also note Oregon has another opening and another outstanding nominee, Mr. Michael Simon, whom I expect to be reported out of committee this week. I hope he, too, will be brought to the Senate floor quickly.

It is no surprise that Judge Marco Hernandez was nominated to the Federal bench because his life could serve as a billboard for the American dream. At the age of 17, Marco Hernandez moved to Oregon by himself. Needing to support himself, he took a job as a dishwasher, later found a better job as a janitor, and eventually Marco became a teacher's aide. At that point, Judge Hernandez began taking night classes at a local community college with the hope of one day attending a 4-year college. Finally, he was able to enroll at Western Oregon State College, and he quickly demonstrated his ability to excel.

Judge Hernandez earned the Delmer Dewey Award as the most outstanding male student in his class. Following college, Marco went on to graduate from the University of Washington School of Law.

From the beginning of his legal career, Judge Hernandez demonstrated a strong commitment to public service. After law school, Judge Hernandez worked at Oregon Legal Services representing farm workers. He then served as a deputy district attorney and was later appointed as a State court judge, a position he has served in for the past 15 years.

Judge Hernandez is so well regarded across my home State and across the political spectrum that he has been nominated not by one but by two Presidents of different parties and at the recommendations of two Senators of different parties. Judge Hernandez was first nominated for the district court by President Bush in 2008 when my friend and former colleague, Senator Gordon Smith, led the nomination process. At that time I supported the recommendation of Judge Hernandez.

Unfortunately, the 110th Congress was unable to act upon his nomination before adjourning. In the 111th Congress I recommended Judge Hernandez's nomination to President Obama, and I am very pleased that Senator MERKLEY, who has joined me in the Senate, has been a strong supporter of Judge Hernandez as well. I was very pleased when President Obama announced that he, too, like President

Bush, thought it important for Judge Hernandez to serve on the Federal bench.

One of the reasons leaders from both political parties support Judge Hernandez is that throughout his judicial career he has demonstrated a special affinity for creative solutions. He implemented an innovative domestic violence program to aggressively pursue offenders and created a new program for mentally ill defendants, which Judge Hernandez continues to oversee.

With a tremendous record of public service, innovation, and commitment to justice, no one was surprised when Judge Hernandez was reported out of the Judiciary Committee unanimously. He has had the support of both Republicans and Democrats and a broad range of legal organizations. He has received the strong backing of the Hispanic National Bar Association. In fact, Judge Hernandez would be the first Hispanic article III judge in my home State.

It is good news for the people of Oregon, and it is good news for the Federal bench that today the Senate is taking up the confirmation of Judge Hernandez. I strongly urge all my colleagues to join me in supporting an outstanding individual, Judge Marco Hernandez, for U.S. district court judge.

I thank, again, Chairman ROCKEFELLER, who is dealing with an extremely important bill for his courtesy for letting me make these remarks about Judge Hernandez.

I yield the floor.

The PRESIDING OFFICER (Mr. BLUMENTHAL.) The Senator from Arizona.

AMENDMENT NO. 4

Mr. MCCAIN. Mr. President, I ask unanimous consent to set aside the pending amendment and call up amendment No. 4.

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

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. MCCAIN] proposes an amendment numbered 4.

Mr. MCCAIN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To repeal the essential air service program)

Beginning on page 128, strike line 5 and all that follows through page 141, line 9, and insert the following:

SEC. 411. REPEAL OF ESSENTIAL AIR SERVICE PROGRAM.

(a) IN GENERAL.—Subchapter II of chapter 417 of title 49, United States Code, is repealed.

(b) CONFORMING AMENDMENTS.—Title 49, United States Code, is further amended—

(1) in section 329(b)(1), by striking “except that” and all the follows through the semicolon;

(2) in section 40109(f)(3)(B), by striking “, including the minimum” and all that follows through “this title”;

(3) in section 40117(e)(2), by striking subparagraph (B) and redesignating subparagraphs (C) through (F) as subparagraphs (B) through (E), respectively;

(4) in section 41110—

(A) in subsection (a)(2)(B), by striking “41712, and 41731–41742” and inserting “and 41712”; and

(B) in subsection (c)—

(i) in paragraph (1), by striking “carrier—” and all that follows through “does not provide” and inserting “carrier does not provide”; and

(ii) in paragraph (2), by striking “(1)(B)” and inserting “(1)”; and

(5) in section 47124(b)(3)(C), by striking clause (iv) and redesignating clauses (v) through (vii) as clauses (iv) through (vi), respectively.

Mr. MCCAIN. Mr. President, I know we celebrated President Reagan's 100th birthday this past weekend. I quote from him on many occasions. He inspired many of us in many ways. President Reagan once stated:

Government programs once launched never disappear. Actually a government bureau is the nearest thing to eternal life we will ever see on this earth.

I do not know if President Reagan ever observed the Essential Air Service program, but it certainly fits his description. This amendment, to repeal a \$200 million government subsidy, may not be significant. And \$200 million, in the light of a \$1.5 trillion deficit this year, is probably not a lot of money. But a lot of Americans on November 2 said they wanted us to stop spending on things that are not absolutely essential. Although this program is called the Essential Air Service, in my view, it is far from “essential.” But the American people spoke on November 2. They said, stop the spending. Stop programs that are either unnecessary, have grown too much, are unwise, or even make some tough decisions.

In this bill, we are not cutting the Essential Air Service, we are actually increasing it to some \$200 million. My colleagues may be a bit confused by this chart right here. But it shows—by this way, this chart came from the FAA—that 99.95 percent of all Americans—99.95 percent of all Americans—live within 120 miles of a public airport that has more than 10,000 takeoffs and landings annually.

So, yes, there are some parts of America that represent the .05 percent of all Americans who live outside of 120 miles from an airport that has 10,000 takeoffs and landings.

All the watchdog organizations—Citizens Against Government Waste, the National Taxpayers Union, all of those organizations that watch what we do support this amendment. Earlier this month Citizens Against Government Waste President Tom Schatz said: The nonessential air service has outlived its usefulness and is another reason why the country has a \$14 trillion national debt.

A lot of Americans will be watching the vote on this amendment. It is not the first amendment to try to cut back on spending, but it certainly is, in my view, very symbolic of whether we are

serious. Last week, in the President's State of the Union speech, he said: The only way to tackle our deficit is to cut excessive spending wherever we find it, in domestic spending, defense spending, health care spending and spending through tax breaks and loopholes.

As House Budget Committee Chairman PAUL RYAN has told many, "There are no sacred cows when it comes to spending cuts." To put it bluntly, the Essential Air Service is not "essential." The program was created in 1978 when Congress deregulated the airline industry and allowed market forces to determine the price, quantity, and quality of service. Deregulation allowed most airline carriers to focus their resources on profitable, high-density markets. That is the way the market works. In response, Congress established the Essential Air Service to subsidize airline carriers that provide service to small communities at a loss, because, otherwise, no sane business would serve a market at a loss.

Again, as Ronald Reagan once eloquently stated, "Government does not solve problems, it subsidizes them." That is exactly what we did in 1978 by creating the Essential Air Program.

As with so many programs we have created, as Congress initially enacted the program, it was supposed to last 10 years. It was only 10 years that we enacted this program while markets adjusted and communities adjusted. In 1996, of course, we removed the 10-year limit, and like so many programs the government has created, it started with a few airline carriers and a few communities, and now has grown to subsidize a dozen airline carriers and over 100 communities. You cover enough communities, you get enough votes, you keep the program going, and then you increase the spending on the program.

In this bill, it increased costs of \$200 million. Again, not much in comparison to a \$1.5 trillion debt, \$14 trillion deficit—\$1.5 trillion deficit, \$14 trillion debt. But it might be nice to start somewhere. Like so many other government programs, the program was initially funded for several million dollars, now up to \$200 million.

A July 2009 Government Accountability Office report questioned whether the AES program has outlived its usefulness, stating:

Current conditions raise concerns about whether the program continues to operate as it has. The growth of the air service, especially by low-cost carriers, which today serve most U.S. hub airports, weighed against the relatively high fares and inconvenience of Essential Air Service flights can lead people to bypass Essential Air Service flights and drive to hub airports.

As I mentioned, 99.95 percent of all Americans live within 120 miles of public airports with more than 10,000 take-offs and landings—in other words, fairly large airports. Let me give you a good example of the kind of great expenditure of the taxpayers dollar this is.

Last year the Wall Street Journal published an article entitled, "John

Murtha's Airport for No One," which reported on an airport in Pennsylvania that has received more than \$1.3 million over the past few years under the Essential Air Service program. The article states:

The airport sees an average of fewer than 30 people per day. There is never a wait for security, you can park for free right outside the gate. And you are almost guaranteed a row to yourself on any flight.

The article continues:

Tickets to fly to Johnstown are expensive, even though every passenger flying out of John Murtha Airport has a \$100 subsidy behind the ticket, courtesy of the Federal Essential Air Service Program, which provides support to struggling airports. So far it has gotten \$150 million of payments to what is called the Airport for No One. There are a total of 18 flights per week, all of which go to Dulles Airport in Washington, D.C.

The author goes on to say:

I was visiting the airport from Washington but because flights cost a pricy \$400, I drove. The drive took less than three and a half hours and cost about \$35 in gas—not to mention that it was arguably faster than flying. And this isn't a remote area of the state. Murtha airport is less than two hours from the Pittsburgh airport. The airport has an \$8.5 million taxpayer-funded radar system that has never been used. The runway was paved with reinforced concrete at a cost of more than \$17 million. The latest investment was \$800,000 from the \$787 billion American Recovery and Reinvestment Act to repave half of the secondary runway. (Never mind that the first one is hardly ever in use.)

Well, the list goes on and on. That is just an example.

I ask unanimous consent to have printed in the RECORD the article from the Wall Street Journal entitled "John Murtha's Airport for No One," and the Los Angeles Times article entitled, "Planes to nowhere? Congress plans to increase small-town airline subsidies," and the Seattle Times article entitled, "Rural air subsidies test resolve to cut spending."

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

[From the Wall Street Journal, Sept. 3, 2009]

JOHN MURTHA'S AIRPORT FOR NO ONE

A MONUMENT TO EARMARKS IN JOHNSTOWN, PA.

(By Tyler Grimm)

If you hate the hubbub of crowded airports, you might want to consider flying out of Johnstown, Pa. The airport sees an average of fewer than 30 people per day, there is never a wait for security, you can park for free right outside the gate, and you are almost guaranteed a row to yourself on any flight.

You might wonder how the region ever had the air traffic demand to justify such a facility. It didn't. But it is located in the district of one of Congress's most unapologetic earmarkers: Democrat John Murtha.

In 20 years, Mr. Murtha has successfully doled out more than \$150 million of federal payments to what is now being called the airport for no one. I took a trip to southwestern Pennsylvania to explore how this small town received so much money and whether the John Murtha Airport is a legitimate federal investment.

There are many in Johnstown who see the airport as crucial. Johnstown Chamber of Commerce President Bob Layo tells me: "If

the airport isn't paying dividends now, it will in the future." But those dividends appear to be a mirage.

There are a total of 18 flights per week, all of which go to Dulles Airport in Washington, D.C. I was visiting the airport from Washington, but because flights cost a pricey \$400, I drove. The drive took less than three and a half hours and cost about \$35 in gas—not to mention that it was arguably faster than flying. And this isn't a remote area of the state: Murtha airport is less than two hours from the Pittsburgh airport.

The airport has an \$8.5 million, taxpayer-funded radar system that has never been used. The runway was paved with reinforced concrete at a cost of more than \$17 million. The latest investment was \$800,000 from the \$787 billion American Recovery and Reinvestment Act to repave half of the secondary runway. (Never mind that the first one is hardly ever in use.)

Airport Director Scott Voelker admitted in an interview that having a never-used unmanned radar system is "dumber than dirt." But he says the airport is necessary and blames its current shortcomings on the economy. "To get more passengers, we need more flights. To get more flights, we need more passengers," he says. Mr. Voelker believes the "economy has dictated to the airlines to cut back on flights." In other words: The airport was not built in response to passenger or airline needs.

The usually barren airport—there were several times during the day I paced the building for 15 minutes and did not see another human being—has a lot of unused advertising space. But you can't miss the large picture of John Murtha among a collage of Lockheed Martin workers at the airport's center. It's a monument to earmarks: "Partnerships Make a World of Difference," the ad reads.

Tickets to fly to Johnstown are expensive, even though every passenger flying out of John Murth Airport has a \$100 subsidy behind the ticket courtesy of the federal Essential Air Service program, which provides support to struggling rural airports. A woman who had just gotten off a flight told me that there were only four people on her plane. "The plane could have held at least 30 passengers," she said.

In addition to the airport, Mr. Murtha's ability to corral federal funds is apparent in the local medical research center (named after his wife), the John P. Murtha Technology Center, the area's thriving defense contracting industry, and numerous other local landmarks. The unemployment rate in Johnstown is currently below the national average of 9.4% thanks to federal largess and the fact that so many have moved away from the area.

Bill Polacek, a local businessman and a member of the airport's board of directors, told me that the citizens of Johnstown need Mr. Murtha's earmarks. "Quite frankly, if he didn't do that, we wouldn't elect him," he said.

I asked Mr. Layo of the Chamber of Commerce if he thinks Mr. Murtha's earmarks should stop now that Johnstown has emerged from the economic crisis it faced two decades ago. "I don't think you're ever finished," he replied. As long as Mr. Murtha is in Congress, they never will be.

[From the Los Angeles Times, Sept. 19, 2009]

PLANES TO NOWHERE? CONGRESS PLANS TO INCREASE SMALL-TOWN AIRLINE SUBSIDIES

(By Alexander C. Hart)

WASHINGTON.—Ely is a Nevada mining town with a population of 4,000. Located about a four-hour drive north of Las Vegas, it is perhaps most famous as the birthplace of former First Lady Pat Nixon.

Ely also is a beneficiary of Essential Air Service, a federal program established in the 1970s after airline deregulation to prevent small communities from losing access to air travel. But opponents call the program wasteful spending, noting that much of the money provides service to areas with fewer than 30 passengers a day.

This week, the Senate passed a transportation bill that includes a \$38-million funding increase for the program, which now stands to receive \$175 million.

In 2008, according to Senate Appropriations Committee data, Great Lakes Airlines received a subsidy of about \$1.8 million for the 414 passengers it flew to and from Ely—about \$4,500 per person.

Since the program requires companies to offer at least two round trips most days, some subsidized flights were almost certainly empty. Service contracts usually last two years.

Ely is just one of many communities receiving heavily subsidized flights; in June 2009, 152 towns and cities participated, according to the Department of Transportation.

Costs vary widely in part because of differences in ridership. Glendive, Mont., saw a per-passenger subsidy of more than \$2,500 for each of the 418 people who flew last year. The 23,581 passengers using the airport in Manhattan, Kan., only cost the government \$50.82 each.

Steve Ellis, vice president of the watchdog group Taxpayers for Common Sense, said that the program “was supposed to go away over a period of time as we made the transition [from deregulation]. . . . Congress made sure it hasn’t.”

But residents of small towns defend the program.

“We are very isolated,” said Karen Rajala, coordinator for the White Pine County Economic Diversification Council, which covers Ely. “The subsidy provides us a link to the urban areas of our state and the West.”

But in a time of soaring deficits, Congress must be careful with how it spends money, Ellis said. “I’m not saying there aren’t people who benefit from this program,” he said. “But the real question is, are the taxpayers as a whole getting their money’s worth?”

Attempting to scale back the program, however, is difficult, as President George W. Bush learned when he proposed cutting funding to \$50 million in his 2006 budget. His push, which also included a cost-sharing requirement for cities receiving service, collapsed in the face of congressional opposition.

The House’s transportation bill also contains \$175 million for the program. The two bills will be sent to a conference committee before President Obama signs a final version into law.

[From the Seattle Times, Feb. 3, 2011]

RURAL AIR SUBSIDIES TEST RESOLVE TO CUT SPENDING

(By Joan Lowy)

WASHINGTON.—A program that subsidizes air service to small airports, often in remote communities, is shaping up as an early test in the new Congress of conservatives’ zeal for shrinking the federal government.

Sen. John McCain, R-Ariz., has proposed an amendment to an aviation bill pending before the Senate in order to eliminate the \$200 million annual essential air service program. The program pays airlines to provide scheduled service to about 150 communities, from Muscle Shoals, Ala., to Pelican, Alaska.

In the House, the Republican Study Committee—a group of conservative lawmakers—has also proposed killing the program.

Subsidies per airline passenger as of June 1, 2010, ranged as high as \$5,223 in Ely, Nev.,

to as low as \$9.21 in Thief River Falls, Minn., according to Transportation Department data for the lower 48 states.

The program was created to ensure that less-profitable routes to small airports wouldn’t be eliminated when airline service was deregulated in 1978. But critics say the airports often serve too few people to merit the amount of money spent in subsidies. Urban growth over the past three decades has also placed transportation alternatives—other airports, trains and bus service—within a reasonable distance of some communities receiving subsidies.

Studies show that in a lot of those communities people drive to larger airports to get better service at a lower cost than they can get at the smaller airport, even with subsidized air service, said Severin Borenstein, a University of California-Berkeley business professor who is an expert on airline competition.

“Some communities can make a credible claim they need the service, particularly in Alaska, but I think those are a relatively small part of the program,” he said.

The program has been remarkably resilient, partly due to the protection it receives from lawmakers from rural states and districts. It has been proposed for cuts or elimination many times over the years, but continues to grow.

“It’s exactly in the political sweet spot,” Borenstein said. Lawmakers don’t feel it’s worth upsetting the few people the program serves to achieve what amounts to a modest savings in federal budget terms, he said.

Supporters say the small airports and their air service are important to the communities’ ability to attract investment and jobs.

Four Democratic senators—Mark Begich of Alaska, Ben Nelson of Nebraska, Robert Casey of Pennsylvania and Joe Manchin of West Virginia—are circulating a letter among their colleagues for signature. It urges McCain to give up his attempt to kill the program, citing potential economic consequences.

“Eliminating the program will have a devastating impact on the economies of rural communities,” their letter says.

“At a moment when the nation’s economic recovery is starting to gain momentum, it makes little sense to reduce personal and business travel volume by cutting off residents of rural areas,” the letter says. “And at a time when jobs are already so hard to come by in our rural communities, it makes even less sense to enact cuts that will only make the problem worse.”

One of the program’s biggest supporters is Sen. Jay Rockefeller, D-W.Va., chairman of the Senate Commerce, Science and Transportation Committee and the main sponsor of the pending aviation bill. It would increase rather than decrease funding for the program and give the Transportation Department more flexibility in structuring contracts with airlines to improve it. Rockefeller would also let the department adjust contracts to take into account rising fuel costs. There are five communities in West Virginia with subsidized service.

Several conservative senators from rural states declined to discuss McCain’s amendment when approached by The Associated Press.

“I’ll have to see it first. I haven’t seen the amendment,” said Sen. John Barrasso, R-Wyo. Two communities in Wyoming—Laramie and Worland—receive subsidized service, according to the Transportation Department.

“I just don’t know about that,” echoed Sen. Orrin Hatch, R-Utah. Three communities in Utah—Moab, Vernal and Cedar City—receive subsidized service.

Mr. McCain. The Los Angeles Times article entitled “planes to nowhere,” stated:

In 2008, according to Senate Appropriations Committee data, Great Lakes Airlines received a subsidy of about \$1.8 million for the 414 passengers it flew to and from Ely Nevada, which is about a 4-hour drive to Las Vegas. This amounts to a \$4,500 per-person subsidy. Since the program requires companies to offer at least two round trips most days, some subsidized flights were almost certainly empty.

The article says: Ely is a beneficiary of the Essential Air Service program established in the 1970s after airline deregulation, et cetera. Costs vary widely in part because of differences in ridership. Glendive, MT saw a per-passenger subsidy of more than \$2,000 for each of the 418 who flew last year. The 23,581 passengers using the airport in Manhattan, KS, only cost the government \$50.82 each.

Steve Ellis, vice president of the watchdog group Taxpayers for Common Sense, said: The program “was supposed to go away over a period of time as we made the transition [from deregulation]. . . . Congress made sure it hasn’t.”

Then, of course, I mentioned the Seattle Times article entitled, “Rural air subsidies test resolve to cut spending.”

A program that subsidizes air service to small airports, often in remote communities, is shaping up as an early test in the new Congress of conservative zeal for shrinking the federal government.

It goes on to say:

A program that subsidizes air services to small airports, often in remote communities, is shaping up as an early test in the new Congress of conservative zeal for shrinking the Federal Government.

Subsidies per airline passenger as of June 1, 2010, ranged as high as \$5,223 in Ely, NV, to as low as \$9.21 in Thief River Falls, MN, according to Transportation Department data for the lower 48 States.

But critics say the airports often serve too few people to merit the amount of money spent in subsidies. Urban growth over the past three decades has also placed transportation alternatives—other airports, trains and bus service—within a reasonable distance of some communities receiving subsidies.

Studies show that in a lot of those communities people drive to larger airports to get better service at a lower cost than they can get at the smaller airport, even with subsidized air service, said Severin Borenstein, a University of California-Berkeley business professor who is an expert on airline competition.

“Some communities can make a credible claim they need the service, particularly in Alaska, but I think these are a relatively small part of the program,” he said.

The program has been remarkably resilient, partly due to the protection it receives from lawmakers from rural states and districts. It has been proposed for cuts or elimination many times over the years, but continues to grow.

“It’s exactly in the political sweet spot,” Borenstein said. Lawmakers don’t feel it’s worth upsetting the few people the program serves to achieve what amounts to a modest savings in federal budget terms, he said.

I received a letter from four Senators that stated:

Eliminating the program will have a devastating impact on the economies of rural communities.

I believe the real devastation to rural communities—big communities, small communities, and medium-size communities—is if we don't stop mortgaging our children and grandchildren's futures, if we don't stop doing things that are unnecessary. This program was put into being in 1978. It was supposed to be there for 10 years. It was a few million dollars. Now, according to this bill, it will be \$200 million.

It is about time we match our rhetoric with our votes. I believe this will be a very interesting vote we will be taking on this amendment.

All of these red dots represent people served by large and major airports. There are some areas of the country that are not. Most of these are very sparsely populated areas.

I hope my colleagues will vote in favor of eliminating this program that was designed for 10 years of life and now has continued on for some 30 years. And, as Ronald Reagan said, they are the hardest thing in the world to either reduce or eliminate.

I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be. There is a sufficient second.

The yeas and nays were ordered.

Mr. MCCAIN. I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

AMENDMENT NO. 50

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent to set aside the pending amendment so I may call up, on behalf of Senator LEAHY, amendment No. 50, which is at the desk.

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

The clerk will report.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. ROCKEFELLER], for Mr. LEAHY, proposes an amendment numbered 50.

Mr. ROCKEFELLER. 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:

(Purpose: To amend title 1 of the Omnibus Crime Control and Safe Streets Act of 1968 to include nonprofit and volunteer ground and air ambulance crew members and first responders for certain benefits, and to clarify the liability protection for volunteer pilots that fly for public benefit)

At the appropriate place, insert the following:

TITLE _____—EMERGENCY MEDICAL SERVICE PROVIDERS PROTECTION AND LIABILITY PROTECTION FOR CERTAIN VOLUNTEER PILOTS

Subtitle A—Emergency Medical Service Providers Protection

SEC. 01. DALE LONG EMERGENCY MEDICAL SERVICE PROVIDERS PROTECTION ACT.

(a) **SHORT TITLE.**—This subtitle may be cited as the “Dale Long Emergency Medical Service Providers Protection Act”.

(b) **ELIGIBILITY.**—Section 1204 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796b) is amended—

(1) in paragraph (7), by striking “public employee member of a rescue squad or ambulance crew;” and inserting “employee or volunteer member of a rescue squad or ambulance crew (including a ground or air ambulance service) that—

“(A) is a public agency; or

“(B) is (or is a part of) a nonprofit entity serving the public that—

“(i) is officially authorized or licensed to engage in rescue activity or to provide emergency medical services; and

“(ii) is officially designated as a pre-hospital emergency medical response agency;”; and

(2) in paragraph (9)—

(A) in subparagraph (A), by striking “as a chaplain” and all that follows through the semicolon, and inserting “or as a chaplain;”;

(B) in subparagraph (B)(ii), by striking “or” after the semicolon;

(C) in subparagraph (C)(ii), by striking the period and inserting “; or”; and

(D) by adding at the end the following:

“(D) a member of a rescue squad or ambulance crew who, as authorized or licensed by law and by the applicable agency or entity (and as designated by such agency or entity), is engaging in rescue activity or in the provision of emergency medical services.”

(c) **OFFSET.**—Of the unobligated balances available under the Department of Justice Assets Forfeiture Fund, \$13,000,000 are permanently cancelled.

(d) **EFFECTIVE DATE.**—The amendments made by subsection (b) shall apply only to injuries sustained on or after June 1, 2009.

Subtitle B—Liability Protection

SEC. 11. SHORT TITLE.

This subtitle may be cited as the “Volunteer Pilot Protection Act of 2011”.

SEC. 12. FINDINGS AND PURPOSE.

(a) **FINDINGS.**—Congress finds the following:

(1) Many volunteer pilots fly for public benefit and provide valuable services to communities and individuals.

(2) In calendar year 2006, volunteer pilots provided long-distance, no-cost transportation for more than 58,000 people during times of special need.

(b) **PURPOSE.**—The purpose of this title is to promote the activities of volunteer pilots that fly for public benefit and to sustain the availability of the services that such volunteers provide, including the following:

(1) Transportation at no cost to financially needy medical patients for medical treatment, evaluation, and diagnosis.

(2) Flights for humanitarian and charitable purposes.

(3) Other flights of compassion.

SEC. 13. LIABILITY PROTECTION FOR VOLUNTEER PILOTS THAT FLY FOR PUBLIC BENEFIT.

Section 4 of the Volunteer Protection Act of 1997 (42 U.S.C. 14503) is amended in subsection (a)(4)—

(1) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(2) by striking “the harm” and inserting “(A) except in the case of subparagraph (B), the harm”;

(3) in subparagraph (A)(ii), as redesignated by this paragraph, by striking the period at the end and inserting “; and”; and

(4) by adding at the end the following:

“(B) the volunteer—

“(i) was operating an aircraft to promote the activities of volunteer pilots that fly for public benefit and to sustain the availability of the services that such volunteers provide, including transportation at no cost to financially needy medical patients for medical

treatment, evaluation, and diagnosis, and for humanitarian and charitable purposes; and

“(ii) was properly licensed and insured for the operation of such aircraft.”

Mr. ROCKEFELLER. Mr. President, I wish to respond to the most interesting facts pointed out by the Senator from Arizona and also the collective bargaining matter. Senator NELSON is here with a particularly good amendment. Before we get to the 4:30 hour, at which time we will be debating judges, I wish to give him a chance to talk.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. NELSON of Nebraska. Mr. President, I thank my colleague, the chairman, for this opportunity to discuss an amendment to the FAA reauthorization bill which I will be offering shortly. We are currently working with the minority on some language changes. This amendment will be proposed before long. When it is, I will be seeking a rollcall vote.

The amendment, which I propose along with Senators SCHUMER, AKAKA, MENENDEZ, WHITEHOUSE, TESTER, and SHAHEEN, would make it a crime to photograph, record, or distribute a body scan image taken by a body scan imaging machine at either an airport or any Federal building without express authorization to do so either by law or regulation. I have heard from many Nebraskans who are concerned that the use of body scan imaging machines is overly invasive and their privacy is being ignored. I, too, share these concerns. This isn't an abstract concern. According to news reports, the U.S. Marshals Service acknowledged last year that some 35,000 images from a body scanner at a security checkpoint at a Florida courthouse had been saved. That is despite promises from Federal agencies that these images would not be stored. One hundred of the saved images were leaked, and some are now online for anyone to view. So an invasion of privacy has already occurred.

Nebraskans and the American people understand that every step needs to be taken and every resource needs to be used to ensure the safety of our citizenry. Using technology to scan individuals for hidden weapons is a necessary, albeit sometimes unpleasant, aspect of making sure our airways and public buildings are safe. However, in the scope of doing such things, safeguards can and must be put in place to help deter individuals from collecting and using those images inappropriately. This is the goal of the amendment I and my colleagues are offering.

I am well aware Transportation Security Agency officials have said the agency will not keep, store, or transmit images, but that has not and doesn't ensure compliance. If passing laws or directives ensured compliance, there would be no speeders in America. What is needed is additional consequences to make anyone considering keeping, storing, or transmitting these scanned images think twice about the

fact that they will be committing a felony. If the consequence is enough of a deterrent, we will have better compliance and the privacy of every American will be better protected.

Let me explain specifically what the amendment does. One, it makes it illegal to photograph, record, and subsequently distribute the images taken by body scan machines in an airport or any Federal building.

Two, it imposes a penalty of up to 1 year in prison and up to a \$100,000 fine for those who inappropriately collect and distribute these images.

Three, it says that any individual who is acting within the course and scope of their employment is not breaking the law by saving these images or sending them if the purpose for doing so is to use these images in a criminal investigation or prosecution.

By adopting this amendment, we will be telling the American people and my constituents that we are not going to ignore or compromise their privacy in the process of making sure we have safe airports and Federal buildings. Our amendment takes a commonsense approach to addressing this issue and why I am seeking its inclusion in the FAA authorization.

I thank the chairman and yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, in that we have a short reception at 4:30 and then we are going to judges, 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. HARKIN. I ask unanimous consent that the order for the quorum call be rescinded.

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

VISIT TO THE SENATE BY THE PRIME MINISTER OF THE REPUBLIC OF SLOVENIA, THE HONORABLE BORUT PAHOR

Mr. HARKIN. Mr. President, today we are honored to have as our guest the Prime Minister of the Republic of Slovenia, the Honorable Borut Pahor. He is the sixth Prime Minister since Slovenia won independence in 1991.

As many of my colleagues know, the Republic of Slovenia holds a very special place in my heart. My mother came to America from the village of Siha in what is now Slovenia nearly 90 years ago, and I have been tremendously impressed with the great strides Slovenia has made since breaking away from the former Yugoslavia. For the last 2 years, Prime Minister Pahor with great skill has continued to lead his nation on a successful course of democratic and free market economics. So make no mistake, the success of independent Slovenia, like the success of the young American Republic two centuries ago, was no accident. It was

secured by visionary leaders and by a determined people. Nine decades ago, my mother left Slovenia—a Slovenia that was impoverished, ruled by autocrats, and dominated by foreign powers; a nation that sent forth immigrants desperate to find a better life. Today, a free, prosperous, and democratic Slovenia sends forth statesmen, diplomats, and humanitarians helping to build a better world.

Again, on behalf of the Senate, I welcome our honored guest, Prime Minister Pahor.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. HARKIN. I ask unanimous consent that the Senate stand in recess subject to the call of the Chair so that we may welcome the Prime Minister of Slovenia and guests on the Senate floor.

There being no objection, the Senate, at 4:29 p.m., recessed subject to the call of the Chair and reassembled at 4:40 p.m. when called to order by the Presiding Officer.

EXECUTIVE SESSION

NOMINATION OF DIANA SALDANA TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF TEXAS

NOMINATION OF PAUL KINLOCH HOLMES III TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF ARKANSAS

NOMINATION OF MARCO A. HERNANDEZ TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF OREGON

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session to consider the following nominations, which the clerk will report.

The legislative clerk read the nominations of Diana Saldana, of Texas, to be United States District Judge for the Southern District of Texas, Paul Kinloch Holmes III, of Arkansas, to be United States District Judge for the Western District of Arkansas, and Marco A. Hernandez, of Oregon, to be United States District Judge for the District of Oregon.

The PRESIDING OFFICER. Under the previous order, there will be 1 hour of debate equally divided in the usual form.

The Senator from Vermont.

Mr. LEAHY. Mr. President, today, the Senate will consider, and I anticipate confirm, 3 of President Obama's nominations to fill judicial vacancies on Federal district courts in Arkansas, Oregon, and Texas. All 3 of the nominations—P.K. Holmes to the Western Dis-

trict of Arkansas, Judge Diana Saldana to the Southern District of Texas, and Judge Marco Hernandez to the District of Oregon—will fill judicial emergency vacancies. Given the serious need on those courts, and the qualifications of these nominees, there is no reason they could not have been confirmed when they were nominated and reported unanimously by the Judiciary Committee last Congress. There is every reason for the Senate to act promptly now that President Obama has renominated them, the Judiciary Committee has reconsidered them, and they have again been reported to the Senate unanimously.

I am hopeful that our actions today signal a return to regular order in the consideration of nominations without unexplained and damaging delays. I am hopeful that this signals a return to cooperation to confront a judicial vacancies crisis that has put at serious risk the ability of all Americans to find equal access to a fair hearing in court. Chief Justice Roberts commented on this in his most recent statement on the judiciary. The White House counsel recently spoke to the crisis. The President wrote us last year urging action. The real costs of these unnecessary partisan delays fall on Americans who depend on the courts. Last September, President Obama wrote that these delays in Senate consideration of judicial nominees are “undermining the ability of our courts to deliver justice to those in need . . . from working mothers seeking timely compensation for their employment discrimination claims to communities hoping for swift punishment for perpetrators of crimes to small business owners seeking protection from unfair and anticompetitive practices.” The President was, and still is, right.

The Attorney General warned us last year that “the system on which we all depend for a prompt and fair hearing of our cases when we need to call on the law—is stressed to the breaking point.” The National Association of Assistant United States Attorneys, a group of career Federal prosecutors likewise wrote to us, stating that, “Our federal courts cannot function effectively when judicial vacancies restrain the ability to render swift and sure justice.”

As we consider these nominations today, there are still more than 100 vacancies in the Federal judiciary. Unlike the progress we made during President Bush's first 2 years in office when the Senate confirmed 100 judges and sharply reduced judicial vacancies, during the first 2 years of President Obama's term, we were only allowed to consider 60 judicial nominations. Despite vacancies for nearly 1 out of every 8 Federal judgeships, last year the Senate adjourned without voting on 19 judicial nominations favorably reported by the Judiciary Committee. The 3 judges we will confirm today were among those 19. They could and should have been confirmed last year.

The Senate must do better. We can consider and confirm this President's