clear to the Secretaries of State and Defense that I will not release the funds for this reprogramming unless and until appropriate action is taken to produce results in Kosovo.

Secretary Albright has repeatedly stated that the only kind of pressure Milosevic and his mafia understand is the kind which exacts a real price for his unacceptable conduct. His campaign to burn Kosovo to the ground was launched as the Administration pushed Kosovars to the negotiating table and continues as we speak today. it is well past the time for threats of sanctions and NATO flyovers. The Administration must move decisively, offering the necessary leadership to back up our ultimatums with the effective use of air strikes and force in order to secure our common goals: a cease fire, the withdrawal of Serb forces, and the protection of refugees, displaced people and relief efforts.

Balkan history provides substantial evidence that Belgrade's abuse of force demands a commensurate response. Without this fundamental guarantee, diplomacy will most certainly fail and we will bear witness to yet another of Milosevic's genocidal slaughters. His victims will not only be those who suffer, lose their life possessions, and die on Kosovo's fields. He will also destroy American honor and credibility—taking along with that what shred of hope there is for us to lead this troubled world onto a peaceful path into the next century.

Mr. President, I yield the floor.

WENDELL H. FORD NATIONAL AIR TRANSPORTATION SYSTEM IMPROVEMENT ACT OF 1998

The Senate continued with the consideration of the bill.

Ms. MOSELEY-BRAUN. Mr. President, I want to take this opportunity to thank the chairman of the Senate Commerce Committee, Senator MCCAIN, and the ranking member, Senator HOLLINGS, as well as Senators FORD and GORTON for their patience and help in working with me to reach an acceptable agreement regarding O'Hare Airport.

I do not think I need to remind them how upset I was when I learned they had added a provision to the FAA reauthorization bill adding 100 additional flights per day at Chicago's O'Hare International Airport. The provision was added to the original legislation without consulting the local officials who manage the airport, without input from the mayor of Chicago who is responsible for the airport, without input from the local communities surrounding the airport who will be most affected by additional noise and air pollution, and without consulting either of the senators from Illinois.

This provision immediately raised a firestorm of criticism in the Chicago area. I have an inch-thick stack of newspaper clips from about a 10 day period after this provision appeared in the FAA reauthorization bill, which attests to the deep level of interest Chicago-area residents have in this matter.

O'Hare is already the busiest airport in the world. There are at least 400,000 people whose daily lives are affected by the noise and air pollution generated by the airport. The quality of life of these suburban residents must be taken into account before changes are made affecting the number of operations at O'Hare Airport.

While I was displeased that the new-flights provision was added to the FAA bill without consulting me, the chairman and ranking member have since been gracious and accommodating and have worked with me to reach an agreement on this issue. I want to thank the chairman for his patience, and for his willingness to work with me on a compromise that I believe accommodates his needs, as well as the needs of Chicago-area residents.

The agreement we reached reduces from 100 to 30 to the number of additional flights per day at O'Hare. The agreement provides that 18 of the 30 slot exemptions will be reserved for ''under-served'' markets, and no less than six of the 18 will be ''commuter'' slot exemptions reserved for planes with less than 60 seats.

Before any of these slot exemptions are made available, the Secretary must: certify that the additional flights will cause no significant noise increase; certify that the additional flights will have no adverse safety effects; consult with local officials on the environmental and noise effects of the additional flights; and perform an environmental review to determine what, if any, effect the additional flights will have on the environment.

In addition, only ''Stage 3'' aircraft, the quietest type of aircraft recognized by the FAA, will be eligible to use the new take-off and landing slots.

Finally, after three years the Secretary of Transportation will study and report to Congress as to whether the additional flights resulting from the new slot exemptions have had any effects on: the environment, safety, airport noise, competition at O'Hare, or access to under-served markets from O'Hare.

The Secretary will also study and report on noise levels in the areas surrounding the four ''high-density'' airports (Chicago O'Hare, Washington National, New York LaGuardia, and New York JFK) once the national 100 percent Stage 3 requirement is fully implemented in the year 2000.

I believe this agreement goes a long way toward addressing the concerns of the local officials and residents of the cities surrounding O'Hare. I want to again thank Senators MCCAIN, HOLLINGS, FORD, and GORTON for their attentiveness and understanding. The people of Illinois spoke out in response to the O'Hare provision they inserted in the FAA reauthorization bill, and these Senators listened.

I am particularly pleased that the agreement we reached on this issue, that was reflected in the managers' amendment adopted yesterday, allows this important FAA reauthorization legislation to advance in the Senate. This bill must become law before the end of the year in order to ensure that important airport improvement projects are not delayed or disrupted.

The legislation also includes several important provisions designed to increase air service to small and underserved communities. In Illinois, some of the most serious complaints regarding air service come from our small and medium-sized communities that want air service to O'Hare and other major airports in order to attract global businesses. I am delighted I was recently able to help restore air service between Decatur, Illinois and O'Hare. The restoration of this service will help the city of Decatur, which promotes itself as ''America's Agribusiness Center,'' grow in today's global economy. There are a number of communities across my state demanding flights to Chicago and New York, and the provisions of this legislation should help them get more air service.

I want to again thank the chairman for his understanding.

Mr. ROBB addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. ROBB. Mr. President, while we are waiting for what I hope will be a final resolution of one remaining matter on this bill, I would like to speak to the bill itself, with the understanding of my friend and colleague from Arizona, who knows that I am going to be critical of a portion of the bill. I would like to also thank my colleagues from the capital area, the distinguished senior Senator from Virginia, Senator WARNER, as well as Senators from Maryland, Senator SARBANES and Senator MIKULSKI, for their efforts to make some improvements in an area of this bill that concerns all of us, and many others.

Mr. President, I rise this afternoon to express my strong opposition to interference in our region's airports that is included in the FAA reauthorization bill. I certainly understand that this overall legislation is important for the Nation as a whole, and I fully support most of the bill. We must clearly prepare for the future by investing in aviation infrastructure, safety, and security. This bill provides for those critical investments and, for that, I thank Senators MCCAIN and FORD.

This bill also reauthorizes the Airport Improvement Program, which funds the capital needs of our Nation's airports, including millions of dollars for Virginia facilities. Moreover, as the bill's name implies, it reauthorizes the Federal Aviation Administration. The FAA monitors aircraft inspections, manages air traffic control, and develops new ways to detect and prevent security threats. Without these efforts, few people would want to travel by air.

But beyond all of the good and necessary things this bill does, Mr. President, it also reneges on two important Federal commitments to the citizens of Virginia and this area—the existing flight limits and the existing perimeter rule at Ronald Reagan Washington National Airport. These two Federal commitments are extremely important to the future strength and stability of both National and Dulles Airports, Mr. President. They are also extremely important to the communities that surround the airports and have relied on the existing rules.

Mr. President, as my friend and the author of this legislation is quoted as saying just yesterday—but admittedly in a different context—''a deal is a deal.'' And changing that deal to the clear detriment of the communities and businesses that relied on it—is fundamentally unfair.

This Congress should not involve itself in matters that are essentially local and regional, that serve both the airports and their communities well, and that have provided and continue to provide a road map to future economic strength for the people of northern Virginia as well as those throughout the metropolitan Washington area.

Mr. President, these changes are bad public policy because they benefit, in some cases, Members of Congress, and certainly a small group of consumers, while harming a far larger group. They wreak serious damage on the interdependence of National Airport and Dulles National Airport. They erode the quality of life for communities surrounding the airports. And they fly in the face of an agreement this Congress made in 1986 to turn those airports over to a regional authority and essentially leave them alone.

First, Mr. President, proponents argue that this bill would marginally assist air travelers by increasing the number of daily flights at Ronald Reagan Washington National Airport. But when we increase the number of flights to benefit a few people, we increase the congestion for everyone, and we add to the overall delays of all who fly in and out of National Airport.

In weakening the perimeter rule, we allow a few select people to take long-haul flights out of National. But what about consumers who may lose their short-haul flights to make room for flights to California, Nevada, and Arizona? I am concerned that once we breach the perimeter rule we will eventually lose small-haul flights to smaller communities altogether. This would be brought about in a bill intended to assist travelers to underserved communities.

Second, adjusting the perimeter rule at National will fundamentally shatter the carefully crafted interdependence between National and Dulles airports that has proven so effective in fostering growth at both airports.

Today Dulles flourishes as an international gateway for our region. National thrives, providing convenient regional service. The history of both airports shows us that this constructive, vibrant interdependence is not by accident.

National first opened in 1941, before the advent of large commercial jets such as the DC–8. And Dulles was built in 1962 because larger jets could not land on National's short runways. Medium-sized jets arrived on the scene in 1966, and National soon became overcrowded. Jets were forced to circle, and delays were considerable.

In 1966, the airlines agreed to limit the number of flights at National. They also agreed to a perimeter rule to further reduce overcrowding.

But these were voluntary limits and did not provide the security or the stability needed to maximize the potential of either airport. So during the 1970's and early 1980's, improvements were negligible or nonexistent at both National and Dulles, for two reasons.

One, National drained flights from Dulles. And so improvements at Dulles were put on hold. Two, improvements were also on hold at National. Extensive litigation and public protest over increasing noise lead to this freeze. And there was even some discussion of shutting down National completely.

Congressional legislation in 1986 solved these problems by codifying the perimeter and slot rules that the airlines themselves had agreed upon, and by creating an independent authority to manage the airports. This statutorily limited the number of flights at National, along with the accompanying delays and noise, and increased the business at Dulles providing what we thought was long-term stability to both airports.

Mr. President, there is no way around the fact that weakening the perimeter rule will bring long-haul flights to National at the expense of Dulles.

This marriage between National and Dulles—along with the stability that accompanies most strong unions—has been extremely lucrative for both airports.

Billions of dollars have been invested by businesses in the area near Dulles Airport based on the assumption that Dulles would remain the region's major international gateway. And the public represented by the Metropolitan Washington Airports Authority has made significant investments in Dulles, including more than $1.6 billion in bonds.

Investments in Reagan National Airport have also grown under the stability provided by local management and the slot and perimeter rules. Since the airport was transferred to the Metropolitan Washington Airports Authority, more than $940 million has been invested in the airport. The new terminal is well designed, and represents our Nation's capital well. But the new terminal at National and the substantial investments at Dulles would not have occurred, Mr. President, without the perimeter and slot rules.

In 1986, Congress was sensitive to community outrage as well as the need to improve service. In hearings on the legislation, Congressman Hammerschmidt asked how the Congress could be sure residents would support improvements at National. Secretary of Transportation Elizabeth Dole stated:

> With a statutory bar, to more flights, noise levels, will continue to decline, as quieter aircraft, are introduced.
>
> Thus all the planned projects at National, would simply improve the facility, not increase, its capacity, for air traffic.
>
> Under these conditions, I believe that National's neighbors, will no longer object, to the improvements.

Mr. President, as a result of this understanding between the local community and the Congress, we have had enormous benefits to air service in this region—benefits that we shouldn't imperil by changing rules that have worked so well.

Third, Mr. President this exchange between Secretary Dole and Congressman Hammerschmidt illustrates that there was some concern about the effect of the transfer legislation on the people who live in the communities around National Airport. We need to be sensitive and respectful of their concerns and wishes today.

Increasing the number of flights at National Airport will increase the noise level for local citizens, will exacerbate the congestion for residents, will increase delays for those who fly in and out of National, and could also pose safety risks for surrounding communities.

Weakening the perimeter rule could wreak economic hardship on Dulles, which would threaten the countless businesses and families who settled around the airport expecting it to remain our Nations regional international gateway.

By focusing on the few travelers who may benefit from increasing the flight limits at National, this bill ignores the harm it will cause to the many northern Virginia families who are neighbors to National Airport. Local communities and local businesses surrounding both airports are in opposition to changes in the flight limits and the perimeter rules. It is their quality of life, their economic strength, their ability to plan for a secure future, that is at risk with this portion of the legislation. We have a system in place that works for this region. We have a careful balance between two airports that needs to be preserved.

Finally, Mr. President, with this bill we are again meddling in the affairs of two airports that Congress transferred to a regional authority which we created because we thought airports could be managed better by the authority than by Members of Congress.

The 1986 transfer legislation signed into law by President Ronald Reagan embodied two important concepts that are demolished by the bill we are considering today: That local authorities—not the Federal Government—should decide local issues; and, that the two airports work together in tandem, and with BWI, to serve the national capital region.

As I mentioned earlier, the operation of one airport cannot be changed without affecting the operation of the other.

As the Senate Commerce Committee report noted at the time:

[I]t is the legislation's purpose, to authorize the transfer under long-term lease of the two airports ''as a unit, to a properly constituted independent airport authority, to be created by Virginia and the District of Columbia, in order to improve the management, operation, and development of these important transportation assets.''

Let me quote from Congressman DICK ARMEY, who has the following to say about transferring the airports from Federal to local control:

The simple fact is that our Federal Government was not designed, nor is it suited, to the task of running the day-to-day operations of civilian airports.

Transferring control of the airports to an ''independent authority'' will put these airports on the same footing as all others in the country.

It gets the Federal Government out of the day-to-day operation and management of civilian airports, and puts this control into the hands of those who are more interested in seeing these airports run in the safest and most efficient manner possible . . . Rather than throw limited federal funds at the airports and tell them to do what they can, this legislation will allow the type of coordinated long-range planning necessary to keep the airports safe and efficient into the future.

The Metropolitan Washington Airports Authority has engaged in the type of long-range coordinated planning that Mr. ARMEY encouraged. Essential to that long-range plan is to balance the operations of the two interdependent airports. National is designed to handle short-haul flights inside the perimeter, and Dulles is designed to handle long-haul flights which are essential to maintaining Dulles as an international gateway.

Yesterday, I heard one of my colleagues comment on the bustling activities surrounding Dulles. The current robust growth at Dulles results directly from the balance between the two airports. The legislation we are considering today begins to tip that balance in a way that will harm both of the airports as well as the communities that surround them.

As Senator Dole said during debate on the 1986 legislation:

Mr. President, I would like to take just one moment to reaffirm my support for passage of the regional airport bill.

Continuing to quote Senator Dole. ''There are a few things the Federal Government—and only the Federal Government—can do well. Running local airports is not one of them.''

Finally, Mr. President, in making these changes to the flight limits and the perimeter rule, proponents argue that we are just following the wisdom of the free market. I am aware that the slot and perimeter rules are limits on the market, and I am also aware that GAO studies have criticized the rules as anticompetitive. Moreover, I believe in the free market.

But Government has a role in checking the excesses that can flow from an unfettered free market. The market won't educate children, the market won't protect workers, the market won't check monopolies, and the market won't safeguard our natural resources.

So our charge as policymakers in a capitalist economy is to allow individuals and entrepreneurs and businesses the freest rein possible while safeguarding society's other concerns. Defining those concerns and implementing those safeguards without destroying the benefits we achieve from the free market is one of the most difficult tasks we face.

Mr. President, the free market doesn't care if Ronald Reagan Washington National Airport is unnecessarily congested, but we do. The free market doesn't care if there are flight delays, but we do. The free market doesn't care if there is excessive noise in Alexandria or Arlington, but we do. The free market doesn't care if Dulles Airport is harmed, but we do.

We seek a balance here between the free market and the strength of our airports and the quality of life of our people. That balance is embodied in the flight limits and perimeter rule. They should not be sacrificed to the free market in this debate.

And perhaps more egregiously, Mr. President, this legislation applies an adherence to free market principles on an inconsistent and selective basis. This bill, for example, contemplates restricting air flights over both small and large parks. The report on the bill states that the Commerce Committee ''intends that the [Federal agencies] work together to preserve quiet in the national parks.'' The report goes on to say that while ''natural quiet is not an important attribute for all national parks, such as historic sites in urban settings,'' preserving quiet in some parks ''may require banning commercial air tour operations over the park altogether.''

I agree with the committee, Mr. President. We should work to preserve the pristine nature of our national parks for the public to enjoy.

But how can we abandon free market principles to preserve the sanctity of our parks and use free market principles to damage the sanctity of life here in our Nation's Capital? It would be wrong, Mr. President, to force Virginians and those who live in this area to endure more noise from National Airport.

There is a second significant inconsistency in this bill, and that involves service assistance for small communities.

On the one hand, the bill attempts to expand service to underserved communities. It creates the Community-Carrier Air Service Program which seeks to develop public/private partnerships with commercial airlines and the local State and Federal governments. These partnerships will offer service previously unavailable. In addition, the bill maintains the Essential Air Service Program which now subsidizes air service in communities such as Kingman, AZ; Rockland, ME; and Seward, AL.

On the other hand, we jeopardize short-haul service from National. This legislation weakens the perimeter rule which was created to both improve service to underserved airports and to expand service at Dulles Airport. Again, if we weaken the perimeter rule, we weaken more than Dulles Airport. We begin a dangerous journey that could jeopardize consumer access to smaller airports across the Nation that currently benefit from the perimeter rule.

Fortunately, Mr. President, the bill before us does not erase the perimeter rule altogether. Unfortunately, it does damage to the rule, and I believe it contemplates doing away with the rule completely, which embodies its own threat to the economic performance of our region.

Before I conclude, I want to ask that Members of this body step back for just a moment and recommit ourselves to honoring the commitment that we made to our regional airports in 1986. Those of us who represent this region have spent enormous time and energy over the last decade trying to keep the Congress from breaking its commitment to communities that we serve. We need to stop wasting valuable time micromanaging these airports. Let's put out a moratorium, if you will, on legislating changes that are in the purview of the Metropolitan Washington Airports Authority. Let's give the Authority, say, 5 years to continue to develop a strong, vibrant air transportation system we want and need for this area at the dawn of a new millennium.

I understand that Senators MCCAIN and LOTT will express their commitment not to interfere further in the slot and perimeter rule should this bill pass. I welcome that commitment. But let's acknowledge that the existing rules we change with this bill were carefully crafted, are based on sound public policy, and should not be altered. And let's oppose this Federal intervention in the operation of two airports that are doing just fine without us.

Mr. President, I know this bill will pass, and it should for the reasons I stated at the outset. But in opposition to yet another broken promise by this Congress to the citizens of Virginia and this region, I will vote no on final passage and hope that my concerns, shared by so many of our colleagues, will be addressed in conference.

With that, Mr. President, I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. MCCAIN. While my friends from Virginia are here on the floor, both Senator WARNER and Senator ROBB, I want to first of all tell Senator ROBB I appreciate all his words of criticism and scorn. They are well received.

Mr. ROBB. And friendship.

Mr. MCCAIN. In the spirit of friendship.

I also want to say that both Senator ROBB and Senator WARNER have been staunch advocates for the people who live in the State of Virginia who are directly affected by these policy changes. I understand that concern and that commitment, and I think it is not only appropriate but laudable. I assure both Senators, my commitment to them and their citizens is we will do everything we can to see that there is not an increase in noise in the neighborhoods surrounding these airports. If we renege on that commitment, I will be glad to come back and revisit this issue. If there is an increase of noise pollution of any kind, I want to tell my two dear friends that I will come back, revisit this issue, so that we can repair any damage that is inflicted on the people of the State of Virginia—and Maryland as well, I might add. Maryland as well.

Both Senators from Virginia have been staunch opponents. They have done remarkable things in preventing even this very modest—let's be realistic here—this is very modest. When we are talking about a total of six round-trip flights a day, it is not a huge increase. But they have done a great job, and I commit to them, finally, we will be glad to revisit this issue if problems arise as a result of this legislation.

Also, we can put all the blame on Senator FORD because he will no longer be with us at that time.

Mr. FORD. There he goes, talking out of school again.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. ROBB. Mr. President, may I thank our friend and colleague from Arizona, who has worked for many, many years. He does reflect an ongoing dialog that my distinguished senior Senator and I, and the two distinguished Senators from Maryland, have had with him as well as Senators representing a couple of the other airports that were affected by both flight and perimeter rules.

I appreciate very much and take sincerely his offer to revisit the question on noise. I hope he will also include, at least in the spirit of the commitment that he makes, both congestion and diminution in the vitality of Dulles, which is really the other major issue that we are talking about. All of these are in play.

But I understand and appreciate very much, as does my senior colleague, both the commitment the Senator from Arizona has made as well as the spirit of that commitment and the spirit with which he has worked with us over a very long period of time, many years, to get to this particular point.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I join with my distinguished colleague, Senator ROBB, in expressing to both managers our appreciation. It is clear that we are about to adopt a bill which will have measurable impact, in terms of the environment, on the immediate region—Maryland, Virginia, and the District of Columbia. I am about to make a correction in an amendment which will provide, I think, adequate monitoring of that impact on the environment.

I started on the question of these airports—I can't remember, it is so many years ago now. Now that Senator ROBB has joined me in the Senate, he, too, has worked very hard on the airports. I was on the airport commission when we transferred them from Federal ownership to the current legal concept with MWAA. As a matter of fact, I think my colleague was Governor; isn't that correct?

Mr. ROBB. If my colleague will yield just for a comment, I was indeed and, as a matter of fact, had an opportunity to come up and work with the distinguished senior Senator and with others on this legislation. Before I left the Governors' office, I appointed the first two members of the board.

Mr. WARNER. Mr. President, that is correct. I actually wrote the legislation that was eventually adopted. But so much for history.

The residents of this community have to endure the hardships as occasioned by this growing airport. But in the course of my analysis here, in the past year, of this question, I talked at great length with the technical people. The margin, the incremental margin that could increase both in noise pollution and safety—we should include safety in this, and certainly in my conversations no alarm bells were sounded. I hope the NEPA report eventually verifies that finding.

I also would like—having a few moments here with the distinguished managers of this bill, would like to talk a moment about the MWAA board. I know the Committee on Commerce has had the hearing on them. They are yet to go on the Executive Calendar. This is something I have been following very closely. I do not wish to say more about it, but I just look my constituents straight in the eye and say, ''Trust the old senior Senator that somehow this thing is going to be resolved.'' I have known Mr. MCCAIN a quarter of a century as a colleague. Trust me, this will be resolved.

I would like to place in the RECORD the importance of allowing last year's money, and such moneys that flow from this piece of legislation—exactly what those projects are. I enumerated them in the course of the hearings on the MWAA appointees, but I think it is important to put them in the RECORD. Foremost among them is, hopefully, the elimination of those vehicles that go out between the terminals at Dulles—how many of our colleagues have come up to me on the floor: ''JOHN, the time has come; we have outlived those''?—and other very important modifications, modernization for both of these airports, for which I and others have fought hard in these years.

At Reagan National Airport and Washington Dulles International Airport several major projects are virtually on hold as a result of inaction by the Senate on the confirmation of Metropolitan Washington Airports Authority board members:

(1) At Dulles, the temporary gates attached at the foot of the tower need to be replaced. $11.2 million would come from PFCs; (2) an all-weather connector between a new, badly-needed parking garage and the Main Terminal would require about $29 million from PFCs; (3) for the Midfield B Concourse, a tunnel with moving sidewalks would replace the mobile lounge ride, with about $46 million provided by PFCs; (4) a new baggage handling requires $31.4 million in PFC revenue.

At Ronald Reagan Washington National Airport there are several more:

(1) Rehabilitation of the historic old main terminal, now called Terminal A, will cost $94 million, and is to be paid for with $21 million in grants and $36 million in PFCs; (2) the ''connector'' between the old and new terminals will be widened, and moving sidewalks added. The cost is $4.8 million, with $4.3 million in PFCs.

Mr. President, these two airports are vital to the economic development of Virginia and the entire metropolitan Washington area. We are anxious that they are physically able to support the improvements in air service the region so badly needs.

I would urge the Commerce Committee to act promptly to forward these nominations to the Senate for its advice and consent.

So I thank the managers. This is an important colloquy we have had right now. I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Very quickly we will go—Senators GORTON and SPECTER are here with the final amendment which we will go to in a moment.

Mr. WARNER. May I make a technical change?

AMENDMENT NO. 3639, AS AMENDED

Mr. FORD. Prior to that, we have a pending amendment that is agreed to.

Mr. MCCAIN. We have a pending amendment.

The PRESIDING OFFICER. If there is no further debate, the amendment of the Senator from Maryland is adopted.

The amendment, No. 3639, as amended, was agreed to.

Mr. MCCAIN. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. MCCAIN. I assure my colleague Senator WARNER on his technical amendment, we are going to mark up the nominees to the board on Thursday and we will report them out on Thursday.

Mr. WARNER. I thank the Senator.

Mr. MCCAIN. I yield the floor.

AMENDMENT NO. 3643 VITIATED

Mr. WARNER. Mr. President, earlier the Senate adopted amendment No. 3643, which the Senator from Virginia introduced on behalf of Senator ROBB, Senator SARBANES, Senator MIKULSKI.

By an innocent error, the wrong sheet of paper got into the hands of the clerk. I take full responsibility.

I now ask that amendment No. 3643 be vitiated.

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

Amendment No. 3643 was vitiated.

AMENDMENT NO. 3644

Mr. WARNER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for himself, Mr. SARBANES, Ms. MIKULSKI and Mr. ROBB, proposes an amendment numbered 3644.

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

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

The amendment is as follows:

On page 43 of the Manager's Amendment beginning with line 21, strike through line 5 on page 44 and insert the following:

(d) ASSESSMENT OF SAFETY, NOISE AND ENVIRONMENTAL IMPACTS.—The Secretary shall assess the impact of granting exemptions, including the impacts of the additional slots and flights at Ronald Reagan Washington National Airport provided under subsections (a) and (b) on safety, noise levels and the environment within 90 days of the date of the enactment of this Act. The environmental assessment shall be carried out in accordance with parts 1500–1508 of title 40, Code of Federal Regulations. Such environmental assessment shall include a public meeting.

Mr. WARNER. I am pleased to offer this amendment for myself and Senators SARBANES, MIKULSKI and ROBB.

The purpose of this amendment is in the event the conference report adopts part or all of the provisions of this bill which would increase the number of slots—that is in this legislation that we are now considering—the Secretary of Transportation is given authority to grant additional slots and additional flights beyond the 1,250-mile perimeter of the Ronald Reagan Washington National Airport. These provisions will permit 24 additional flights daily at Reagan National Airport.

I have worked with the managers of the bill for some time. I have expressed my grave concern about the perimeter rule and the associated potential, and probably likely degradation of environmental consequences from these flights.

So, to the extent our bill as passed through the Senate, which still remains to be seen but I presume it will—will contain this provision, then of course, in the conference I cannot predict what will come out of conference. But in that event, then I think we better put a little insurance policy in here as regards the environmental concerns. That is the purpose of this amendment. These additional flights are permitted without any evaluation of the potential impact on noise level, safe operations of the airport, or other environmental impacts.

The amendment I offer today, together with my distinguished colleagues from Virginia and Maryland, requires the Secretary of Transportation to conduct an environmental assessment of the potential impacts of these additional flights on noise levels, safety and the environment prior to the Secretary granting any exemptions.

That is a very important provision. The environmental assessment process, as defined under the National Environmental Policy Act, ensures that the Secretary will fully review possible impacts of these additional flights. Also, this process provides the opportunity for the public to fully participate—I underline that, the public gets a voice—in making known their views on the potential impacts of these additional flights.

I believe this amendment is critical to ensuring that the Ronald Reagan Washington National Airport continues to be a safe and efficient airport for the traveling public, the area residents, and, indeed, the many thousands of employees who work at this airport, together with the aircrews who operate these aircraft.

Having worked the better part of the day on this amendment with the managers, it is my understanding at this time the managers indicate they will accept this amendment without the necessity of a rollcall vote.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. My friend and colleague is not here, the manager of the bill from the majority side. We have discussed this between us and the Senator's statement, as far as I am concerned, is absolutely true. He has worked hard on it, done a lot of hard work on it. I think it is absolutely necessary we have it in for his protection and others. I would not want to speak for my colleague.

Mr. WARNER. Mr. President, I did speak with the manager just moments ago, the Senator from Arizona, Mr. MCCAIN, and he has agreed. I convey that to the distinguished minority leader.

Mr. FORD. I don't doubt your word.

Mr. WARNER. I urge its adoption.

The PRESIDING OFFICER. If there is no further debate, without objection, the amendment is adopted.

The amendment (No. 3644) was agreed to.

Mr. MCCAIN. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. WARNER. I thank the Chair and thank the managers.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. I thank the Chair.

AMENDMENT NO. 3645

(Purpose: To amend title 46, United States Code, to provide for the recovery of non-pecuniary damages in commercial aviation suits)

Mr. President, on behalf of Senator SANTORUM, Senator LOTT and myself, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Pennsylvania [Mr. SPECTER] for himself, Mr. SANTORUM and Mr. LOTT, proposes an amendment numbered 3645.

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

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

The amendment is as follows:

At the appropriate place in the bill, insert the following:

SEC. . COMPENSATION UNDER THE DEATH ON THE HIGH SEAS ACT.

(a) IN GENERAL.—Section 2 of the Death on the High Seas Act (46 U.S.C. App. 762) is amended by—

(1) inserting ''(a) IN GENERAL.—'' before ''The recovery''; and

(2) adding at the end thereof the following:

''(b) COMMERCIAL AVIATION.—

''(1) IN GENERAL.—If the death was caused during commercial aviation, additional compensation for non-pecuniary damages for wrongful death of a decedent is recoverable in a total amount, for all beneficiaries of that decedent, that shall not exceed the greater of the pecuniary loss sustained or a sum total of $750,000 from all defendants for all claims. Punitive damages are not recoverable.

''(2) INFLATION ADJUSTMENT.—The $750,000 amount shall be adjusted, beginning in calendar year 2000 by the increase, if any, in the Consumer Price Index for all urban consumers for the prior year over the Consumer Price Index for all urban consumers for the calendar year 1998.

''(3) NON-PECUNIARY DAMAGES.—For purposes of this subsection, the term 'non-pecuniary damages' means damages for loss of care, comfort, and companionship.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies to any death caused during commercial aviation occurring after July 16, 1996.

Mr. SPECTER. Mr. President, this amendment clarifies the 1920 shipping law known as the Death on the High Seas Act which has been interpreted to prohibit families of victims, such as those who were on TWA Flight 800, from seeking relief for other than pecuniary damages.

This amendment is a modification of Senate bill 943 which I had introduced

earlier with the following cosponsors Senators SANTORUM, D'AMATO, LAUTENBERG, INHOFE, GRAMM of Texas, HUTCHISON of Texas, MOYNIHAN, WELLSTONE, DODD, FEINSTEIN, TORRICELLI, MURRAY, DURBIN, MOSELEY-BRAUN, MIKULSKI, SARBANES, ROBB and LEVIN.

We have not had an opportunity to circulate this amendment, but I do think it would have very broad support since those cosponsors supported the broader legislative proposal contained in Senate bill 943.

Mr. President, we are submitting this compromise amendment in order to move ahead to obtain some possible compensation for damages beyond pecuniary damages. Specifically, the families of victims of plane crashes more than 3 miles off our shores will be able to sue not only for economic losses such as the lost salary of a deceased spouse, but also for non-economic losses such as loss of companionship, loss of care, and loss of comfort.

The amendment provides that a court can make an award for nonpecuniary damages which shall not exceed the greater of the pecuniary loss sustained or a total of $750,000 per victim.

This amendment is retroactive to the crash of TWA 800, which tragically took 230 lives on July 17, 1996. The hardest hit community in the TWA 800 crash was Montoursville, PA, which lost 16 students and 5 adult chaperones from the local high school who were participating in a long-awaited French club trip to France. It was the parents of some of these children who first contacted our office about introducing legislation to allow them to seek compensation other than for pecuniary losses, which they believed courts would not provide.

Mr. President, under this amendment, the loss for noneconomic damages will be the greater of the pecuniary loss sustained for a total of $750,000 per victim. Illustratively, if the pecuniary loss to an individual was $1 million, then that individual could obtain $1 million for nonpecuniary damages. But if the pecuniary damages are less than $750,000, the maximum that an individual can take would be $750,000.

I offer this amendment, Mr. President, to make the best of what I consider to be a less-than-desirable situation. I am philosophically strongly opposed to caps on damages. I believe that there is very substantial evidence that corporate America has disregarded damages to victims on a calculated pecuniary evaluation as to what will cost them the least money.

Illustrative of that is the famous Pinto case where Ford decided to leave the gas tank in the back of the car because it would cost $11 or $12 to move it to a safe position; and there was a calculation, as disclosed in the files of the Ford Motor Company, that that judgment was made because it would be cheaper to pay the damages than it would be to change the location of the gas tank.

I have some detailed knowledge of recent litigation involving Ford Motor Company where there was a defective brake at issue. It was acknowledged to be defective and the National Transportation Safety Board said it was defective, and there were efforts made to get Ford to recall it, but Ford did not recall it, again, obviously, because the costs they calculated would be less onerous from a financial point of view to allow that danger to remain. A young child aged 3 was killed as a result of that incident.

And there are many, many cases—case after case—the tobacco cases, which were recently illustrative, where there is a calculation made by the corporation to give false information for pecuniary gain, which would warrant punitive damages; cases involving IUDs where there were known defective instrumentalities; cases involving flammable pajamas where children were burned; many, many cases which have led me to conclude that there really ought not to be caps.

I have had some experience as a litigator, mostly on the defense side, some for claimants for personal injuries, but mostly on the defense side with the firm of Barnes, Dechert, Price and Rhoads, later known as Dechert, Price and Rhoads of Philadelphia, and have seen this issue from both sides of the fence. But it is not possible to move ahead on the FAA reauthorization bill, which is an appropriate spot to have this aviation amendment, without tying up this important legislation.

We have had a series of meetings with interested parties and had an amendment to the Death on the High Seas Act been enacted which would have had unlimited damages, there was the announced intent to filibuster the bill. However, the pending FAA bill really needs to be enacted because it contains very substantial money for airport construction across my State of Pennsylvania and throughout America.

So this is a compromise which can be worked out. The figure moved from $250,000 for nonpecuniary damages to $600,000, to the greater of the pecuniary loss or $750,000. I think that the figure is too low as it stands now, but this is the best that can be obtained today. I would note that in offering this amendment today, I make the pledge that if we fail to remove them in Conference on the FAA bill, I will introduce legislation in the next Congress to take the caps off because I think one day there will be a Congress which will be sympathetic to eliminating such caps.

When there was a threat of a filibuster, that was on the basis that a Death on the High Seas Act amendment might be enacted without any cap at all. The whole issue of product liability is a complex issue. And there are some who think that it ought to be curtailed to some substantial extent and others who think that it ought not to be curtailed.

But this does advance the position of families of individuals who have met with tragic death. And it is not uncommon in our Congress and our U.S. Senate that we reach compromises and live to fight another day to push the principles that we believe in. But this is the best that can be done.

In conversations with my constituents and interested parties there is, I think, a sense that this is a desirable consequence today, the $750,000 in noneconomic damages, and that we will look to another day to try to remove the caps altogether.

I want to comment briefly about what I consider to be a very serious potential problem for the Senate procedurally on what has occurred in this matter with respect to what amendments are in order under our rules and what notification Senators like me receive on that matter. It was well known by all of the interested Senators—the majority leader's office, the managers of the bill, and others—that an amendment on Death on the High Seas would be offered.

Then there was a unanimous consent request where the matters that could be presented were limited. At that time, the technical consideration was raised as to what was a relevant amendment, which challenged the ingenuity of the Parliamentarian as to what is relevant in technical Senate rules.

Had there been any doubt in my mind that this amendment was to be challenged on the basis of relevance, and all the interested parties knew what it was, it would be a relatively simple matter for me as a Senator having a right to object to a unanimous consent agreement and to have this specific amendment protected so that I would not face a technical challenge on relevancy. I brought that issue to the attention of the distinguished majority leader and said if we were starting to parse semicolons in this body we would have to have a lot of Senators on the floor to protect their interests on unanimous consent agreements, because it was plain that this amendment was to be offered. Our distinguished majority leader thought my point was well taken.

Thereafter, there was another unanimous consent agreement entered into on the floor of the Senate without ''hotlining''—and I don't know that anybody listening to C–SPAN2 cares about it, but the Senators do care—and hotlining is a procedure where Senators' offices are called and told this unanimous consent agreement is to be entered into, which is more than an announcement on the floor of the U.S. Senate, which may be noted or may not be noted.

This Senator did not have notice about a limitation on the amendments which were to be limited in the FAA bill under the unanimous consent agreement. Here again, all the parties were on notice that this was an issue which this Senator intended to pursue.

Now, I have made it plain in my discussions with the interested parties

and the majority leader that I understood the importance of this FAA bill, that I would not take steps which would tie the bill up and that I was prepared to try to reach an acceptable compromise as to a figure on noneconomic damages.

However, this experience has taught me something new. From what I have seen in the Senate up to this point, there is a recognition of what Senators intend to offer and there is notification so that Senators can appear and protect their technical interests.

I am not claiming it is prejudice because, as I repeat, I was prepared to accept this compromise. But to be put in a position where, had I chosen not to do so, to have been foreclosed under these circumstances, I think, would have been an inappropriate limitation on my rights to offer a broader amendment. If I must take the position of filing an objection to every unanimous consent agreement, that is an alternative that I would not like. But, that may be necessary if we are not to have our interests protected and to be notified where our interests are known—to come and make sure our amendments can be offered.

I speak about that at some great length because I am very concerned about what has happened in this case. I cannot be more emphatic in saying I disapprove of the procedures which were followed here.

I yield the floor.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, the Death on the High Seas Act was either passed or last amended some 70 years ago. It is an act relating to exactly that—death on the high seas—that sets out limitations on damages that can be recovered in fault-based actions for such deaths.

Obviously, the absence of any change in those limitations can be said to be something of an anachronism at this point. The Death on the High Seas Act does not limit the dollar amount of actual economic damages that can be recovered. The Death on the High Seas Act applies equally to death over the seas or on the seas as a result of an aircraft accident. The rationale, of course, for that kind of limitation on damages is the vital importance to the people of this country, of the maritime transportation of goods and passengers, and the air transportation of goods and passengers over the seas of the world.

The view, I am sure, of those who passed the act in the first place was that this was such an important part of our society, that it was so important to encourage the development of efficient, swift, and inexpensive transport of goods and passengers, that there should be certain limitations to legal actions resulting in deaths on the high seas.

The bill to which the Senator from Pennsylvania refers was the subject of a hearing in the Commerce Committee. That bill was not reported favorably or at all by the committee. So some portion of it or all of it was originally posed as an amendment to this bill on the reauthorization of the Federal Aviation Administration, to which this subject is not clearly relevant.

The proponents of S. 943 and of the original form of this amendment wanted to remove all limitations—both for noneconomic damages and for punitive damages—from any such actions. That seemed to me, and continues to seem to me, to be an inappropriate response. The necessity for transportation by air over seas remains absolute in the world in which we live, and to subject either aircraft manufacturers or airlines to unlimited amounts of noneconomic damages and to punitive damages would have a clearly negative impact on the design and maintenance of airliners and of the airlines that operate.

Flight 800 is not a Ford Pinto. All airlines and all aircraft manufacturers, domestic and foreign, are required to meet extraordinarily strict safety standards imposed by the Government of the United States. After 2 or 3 years of study, the greatest experts in the world are not certain of the cause of that crash. They think they know, but if one thing is clear to the ordinary observer, the crash did not take place due to the negligence of the manufacturer or of TWA.

Nevertheless, in the fault-based litigation field which afflicts the United States, there is little doubt that a number of juries by trial lawyers could be persuaded that negligence that no one could have determined in advance was, in fact, present, and these damages would thereby be unlimited.

So as the Senator from Pennsylvania has so graciously pointed out, we have here a compromise. I think that it is appropriate that certain noneconomic damages be recoverable. I think they will be recoverable and will be recovered even though in the normal sense of the word ''negligence'' against any of the defendants, it will never actually be proven. But I do not think that they should be unlimited. I do not think that cases like this admit to punitive damages under any conceivable set of circumstances.

What this bill does is two things: It allows the recovery of certain noneconomic damages for the loss of care, comfort, and companionship of those who were killed in the aircraft crash to which this bill is retroactively applicable, and in future aircraft accidents, up to the amount of actual economic damages or $750,000—whichever figure is larger. I believe that is a generous award and a generous limitation for aircraft accidents.

The Senator from Pennsylvania feels they should be unlimited, and he represents a strongly held point of view held by a large number of other Members of this body. But this is a legislative compromise. These damage limitations are far greater than they are under present law. They are far less than the American Trial Lawyers Association would like.

It does seem to me that in a body that has struggled with product liability legislation for the better part of two decades, and which includes a majority of Members who feel that certain limits should be placed on product liability litigation, but whose goals have been frustrated through filibusters and the like, that to add another field to the kind of unlimited litigation that so plagues society at the present time and has so troubled debates in this body, not just over product liability but over medical malpractice as well, that such an extension would be highly unwise.

As a consequence, the Senator from Pennsylvania and I disagree on the general philosophy of the vehicle with which we are involved here. But I think that, in the best traditions of the Senate, our disagreements have been resolved, at least for the time being, by a compromise—a compromise that has limits —limits that I think are perhaps too high on the kind of damages that can be recovered and implicitly as to whether they should be recovered at all under the circumstances, and the belief of the Senator from Pennsylvania that standard negligence rules ought to apply here as they do in many other areas.

We have reached compromise on this. He has proposed an amendment which he doesn't completely agree with himself, but he thinks it represents an improvement. And I agree with an amendment that I do not completely disagree with and one I think is relatively too generous. It may well be that the Senator from Arizona thinks this will be the last amendment on this bill and we will move forward from here. I guess we can say that at some future time there will be another contest during which we can examine the premises of our fault-based system of liability and its relationship to aircraft accidents at greater length and at more leisure.

For the time being, I thank the Senator from Pennsylvania and the other Senator from Pennsylvania, Mr. SANTORUM, who first brought this to my attention, and the many others who worked very hard to reach an accommodation. The senior Senator from Pennsylvania has done a very good job on a cause in which he believes, even though he didn't get everything he wanted.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I thank my colleague from Washington for those kind remarks. I thank him for saying the Senator from Pennsylvania has done a good job. If I can attract the attention of the Senator from Washington, I think he has done even a better job. He and I were elected in 1980 and have served in this body for some considerable period of time, and we are lawyers. It may be unwise to make that kind of admission publicly on C–SPAN2, but we are lawyers. We have many discussions and we agree most of the time.

I heard Don Meredith, the legendary quarterback of the Dallas Cowboys, make a comment about lawyers one day. He said, ''99 percent of the lawyers give the rest of them a bad name.'' Senator DOMENICI, who is listening, is also a lawyer and, with some frequency, he disagrees with the legal profession. We will continue to take up these issues. This is the conclusion for today.

The bill will now go to conference and, in conference, on the House side there has been a decision that the Death on the High Seas Act should not apply to any aircraft accidents. It should apply only to other instrumentalities, but not to airplanes. That will be a matter for conference. If the House should prevail, then the objectives of this Senator would have been accomplished because there would be no limitation on damages because the Act would be inapplicable to airline crashes.

With respect to the TWA 800 incident, it ought to be noted that the federal district court, the trial court, has recently ruled that the limitation of the Death on the High Seas Act does not apply because, while it was outside of 3 miles, it was within 12 miles, and a certain action by President Reagan extended that definition of our waters to a 12-mile limit. But that hasn't been ruled upon by the court of appeals, nor by the Supreme Court. So that district court judge's ruling may change. There are issues that are yet to be resolved in conference and also in the courts on this matter.

In conclusion, I think we have advanced the matter. It is in accordance with the traditions of the Senate to try to reach an accommodation and move the legislation forward and reenter the fray and rejoin the issue at a later date. I thank the Chair and yield the floor.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I want to take a moment to thank my two lawyer colleagues. I am very pleased that I am not of that profession. I will refrain from telling any more lawyer jokes on the floor.

There were two very different positions here and strongly held views. I believe this is what our work here in the Senate is all about. The Senator from Washington, in his responsibilities as chairman of the Aviation Subcommittee, has preserved some fundamental principles here, and I also think the Senator from Pennsylvania, who has taken a major step forward concerning children. For the first time, now children will be ranked along with everybody else in compensation and in the case of tragedy. I believe that the people who have fallen victim to these terrible aircraft tragedies owe a great debt of gratitude to Senator SPECTER for what he did tonight. There is now some hope for them for some reasonable compensation. We all know that there is no compensation for the loss of a life. But there are certainly ways that we can make their lives better and give them a chance to have a decent future.

I thank Senator SPECTER for what he did here tonight. I also want to thank Senator GORTON, who fundamentally protected principles that he has adhered to for a long period of time.

I yield to the Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I thank the distinguished Senator from Arizona for those comments. He has done an outstanding job as chairman of the Commerce Committee on this bill and on other matters.

I urge adoption of the amendment.

Mr. FORD. Mr. President, I object to that right now, and 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. MCCAIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. MCCAIN. Mr. President, because of the unanimous consent agreement, which limited the number of amendments, the Senator from Pennsylvania and I have agreed to put that amendment into the managers' package, which we will be proposing very shortly. It will be Senator SPECTER's amendment. We do this only for the sake of preserving the process of the unanimous consent agreement. It will be part of the managers' amendment.

Mr. SPECTER. Mr. President, that accurately states our agreement. For technical reasons, I will withdraw the amendment and it will become a part of the bill as if voted on and passed as part of the managers' package. I concur with what my colleague just articulated.

The PRESIDING OFFICER. The amendment is withdrawn.

The amendment (No. 3645) was withdrawn.

Mr. MCCAIN. Senator WYDEN has very strong views on the High Seas Act. We have been working together on a colloquy that will be included in the RECORD to reflect that.

ALASKA EXEMPTION FROM TITLE VII

Mr. STEVENS. I thank the Manager, the Senator from Arizona, Chairman MCCAIN, for his able and fair management of the FAA Reauthorization bill. Subsection 702(b) exempts overflights in Alaska from the provisions of the new section 40125 of title 40 set forth in the subsection 702(a). Is that the Committee's intent?

Mr. MCCAIN. Yes.

Mr. STEVENS. Subsection 702(b) also exempts overflights in Alaska from the provisions of Title VII of S. 2279. Is that the Committee's intent?

Mr. MCCAIN. Yes.

Mr. STEVENS. The effect of subsection 702(b) then, is to expressly prohibit the federal government's prohibition and regulation of overflights over national park land and tribal land in Alaska, if there were lands or waters in Alaska that would otherwise qualify as such land in the absence of this exemption.

Mr. MCCAIN. That is correct.

Mr. STEVENS. I ask that the chairman of the authorizing committee for the Alaska National Interest Lands Conservation Act, Senator MURKOWSKI, to comment on section 702(b) and the operation of section 1110(a) of the Alaska National Interest Lands Conservation Act.

Mr. MURKOWSKI. Section 1110(a) of the Alaska National Interest Lands Conservation Act provides an express and affirmative right to air access to federal lands in Alaska. Section 1110(a) provides as follows:

> Notwithstanding any other provision of this Act or other law, the Secretary shall permit, on conservation system units, national recreation areas, and national conservation areas, and those public lands designated as wilderness study, the use of snowmachines (during periods of adequate snow cover, or frozen river conditions in the case of wild and scenic rivers), motorboats, airplanes, and nonmotorized surface transportation methods for traditional activities (where such activities are permitted by this Act or other law) and for travel to and from villages and homesites. Such use shall be subject to reasonable regulations by the Secretary to protect the natural and other values of the conservation system units, national recreation areas, and national conservation areas, and shall not be prohibited unless, after notice and hearing in the vicinity of the affected unit or area, the Secretary finds that such use would be detrimental to the resource values of the unit or area. Nothing in this section shall be construed as prohibiting the use of other methods of transportation for such travel and activities on conservation system lands where such use is permitted by this Act or other law.

Overflights, including those conducted for profit, are a ''traditional activity'' in Alaska, and as such currently may be subject to ''reasonable regulation'' by the Secretary of the Interior under section 1110(a). This policy works for Alaska. Although section 1110(a) applies notwithstanding any other law, section 702(b) clarifies that Congress is not changing its policy toward Alaska in any way.

Mr. STEVENS. The last time Congress enacted legislation on the overflights matter was in the 100th Congress under Public Law 100–91 (101 Stat. 674 et seq.). Prior to enactment, this legislation was reviewed by both the Senate Committee on Energy and Natural Resources and the Senate Committee on Commerce Science and Transportation. As a Commerce Committee member then and now, I would like to discuss P.L. 1001–91.

Under P.L. 100–91, Congress mandated a study by the Secretary of the Interior, acting through the Director of the National Park Service, to determine the impacts that overflights of aircraft have on park unit resources. Section 1(c) expressly excluded all National

Park System units in Alaska from the research and the study. In a hearing held during the 105th Congress on S. 268, the park overflights bill that ultimately became Title VII of S. 2279, the National Park Service testified that Alaska parks were not a part of the study commissioned in 1987 and completed in 1995. Therefore, that study mandated by Congress did not provide a basis for applying S. 2279's park overflights provisions to Alaska.

Mr. MURKOWSKI. That's clear.

Mr. COATS. Mr. President, I filed an amendment on this bill regarding the eligibility for new slots at Reagan National Airport. I have decided not to seek a vote on my amendment at this time. I appreciate the efforts of my colleague, Senator MCCAIN, the chairman of the Committee, and his leadership on the FAA bill. I would like to ask if the Chairman would be willing to continue to review this issue and its merits as he takes this bill to conference.

Mr. MCCAIN. The Senator from Indiana has made clear his concerns regarding increasing the ability of airlines to compete for slots at Reagan National. I can assure him that we will continue to look at this issue as we approach conference in the hopes of crafting a final provision which best meets the many competing interests of members and their states, including those expressed by the Senator from Indiana.

Mr. COATS. I thank the Chairman.

CONSUMER ACCESS TO TRAVEL INFORMATION ACT

Mr. D'AMATO. Mr. President, I would like to engage the distinguished senior Senator from Arizona, the manager of this bill, in a discussion about the growing concern of consumers about airline travel in this country.

Earlier this year, I introduced S. 1977, the Consumer Access to Travel Information Act of 1998. I introduced this important piece of legislation to address a growing problem in the airline industry. For over three years, the major airlines have been moving to gain more control over the airline travel ticket distribution system. While this effort may seem harmless, the ramifications to consumers are significant. Currently, most air travelers get their information from one of the 33,000 travel agencies around the country. These agencies provide consumers with unbiased and comprehensive air travel information, i.e. the best flight at the cheapest fare. Without that independent source of travel information, there is no doubt that consumers will be paying more, in many cases, substantially more for air travel.

S. 1977 would simply require the Secretary of Transportation to investigate the extent of possible anti-consumer, anti-competitive behavior of major airlines, including discriminatory and predatory practices of airlines which target travel agents, other independent distributors, and small airlines. This is authority that the Secretary currently has under the Airline Deregulation Act of 1978, but has failed to act upon. this bill would make certain this investigation is undertaken. If it is determined that anticompetitive, discriminatory or predatory practices exist, the Secretary would report to Congress those steps the Department intends to take to address such practices.

Mr. President, I ask the distinguished Chairman of the Commerce Committee whether he has been made aware of concerns raised by consumers regarding air travel?

Mr. MCCAIN. I want to thank the Senator from New York for raising concerns in this area. I have, indeed, heard from consumer groups, particularly small businessmen, regarding the high price of air travel, and the lack of competition in certain markets. Although most of the concerns in this area focus on small, upstart, and regional airlines' ability to compete with the big airlines, I am glad that you have brought to my attention the role of the larger airlines in the ticket distribution system.

Mr. D'AMATO. I thank the Senator. I salute and support the efforts by the manager of this bill to address the competition issue with small airlines. A critical part of a small airline's ability to compete is to have its tickets distributed by an independent entity, mainly the travel agent. Travel agents provide critical services to air travelers, and air travelers depend heavily on travel agents to provide an accurate, broad selection of schedules, fare quotes, and ticketing services for all airlines.

Mr. President, I ask the Senior Senator from Arizona if Congress should address possible anti-competitive behavior with respect to the airline ticket distribution system?

Mr. MCCAIN. Mr. President, the Senator raises a valid concern and I believe it is one our Committee needs to explore further. Although I understand the Senator's legitimate concern about the treatment of travel agents by the major airlines, the Committee needs to investigate this issue further before we pass any legislation on the matter.

Mr. D'AMATO. Mr. President, I naturally would prefer to pass this legislation now and have the Department begin looking into possible anti-competitive activities, but I understand the distinguished Chairman's position. In addition, I realize this FAA Reauthorization legislation must be signed into law by the end of this month, and I do not want to delay it further. I ask the Senior Senator from Arizona if the Commerce Committee could have a hearing on this matter in the near future to thoroughly examine the airline ticket distribution system and the critical role of travel agents for consumers?

Mr. MCCAIN. I say to my friend from New York that the Committee needs to explore this issue further, and I would like to work with him to put together a hearing on this matter as soon as it is feasible. The air travelling consumer has a real advocate in the Senator from New York, and his leadership on this issue is to be commended.

Mr. D'AMATO. I thank the Senator, and I look forward to working with him further on this important issue.

I thank you, Mr. President.

Mr. HOLLINGS. Mr. President, I rise today in support of S. 2279. This is an important bill that we must finish before we adjourn. Without it the Federal Aviation Administration (FAA) cannot spend any money on airport improvements, and airports in my state of South Carolina and throughout the nation would have to stop needed improvements that will bring better, safer air service to local communities—service which allows those communities to attract and expand businesses.

The bill authorizes approximately $10 billion per year for the FAA for fiscal years 1998 and 1999. This will allow the FAA to focus on its most important mission—safety. Last year, more than 500 million passengers boarded planes and arrived at their destinations safely. Out air traffic control system is the safest in the world, but it needs to be upgraded if we are to remain the world's leader.

The FAA is about to deploy new controller work stations—first in the Seattle en route center, and later in other en route centers. New controller work stations should also begin to be deployed within the next year under the Standard Terminal Automation Replacement System (STARS) contract.

More needs to be done. The National Civil Aviation Review Commission (NCARC) reported that unless something is done, the air traffic system faces gridlock. The FAA has estimated that future passenger growth will be about 3.5% per year through 2009, with enplanements going from 561 million in 1998 to 821 million in 2009. More controllers and more equipment are needed. Not only are we looking at relying on satellites to track aircraft, but each of our airports will need to expand. Concrete, new lighting systems, new terminals, and new security measures are required.

Right now, with the passage of last year's tax increase on the air carriers, the Airport and Airway Trust Fund is flush with money. The FAA estimates that the Trust Fund will take in total receipts of $10.622 billion in FY 1999. Only about 60 percent of the FAA's budget comes from the Trust Fund, with the remainder coming from the General Fund. There is more than enough money in the Trust fund to pay for the Airport Improvement Program (AIP), and I wish we could invest more funding for the program than is included in the bill.

Next year I will fight to make sure that we restore the trust in the aviation trust fund by taking it off budget. The state of South Carolina has an airport in every county. These airports serve small and large communities

that benefit from the opportunities that are created by construction on an up-to-date airport. For example, runway improvements at the Greenville/Spartanburg Airport allowed the South Carolina Upstate to attract BMW to build its North American plant there. AIP funding helped the former Myrtle Beach Air Force Base become the Myrtle Beach Jetport, bringing hundreds of tourists to vacations on the South Carolina Grand Strand. Whether it is Orangeburg, Marlboro County, or Hilton Head, South Carolina needs strong air transportation infrastructure. I can tell you as I travel around the state how critical aviation is. I have supported these interests for many years. This bill allow us to continue to meet the needs of the state and country.

Finally, included in the managers' amendment are provisions of the Visit USA Act, introduced earlier this year as S. 2412 by Senator BURNS and myself to further the international standing of the U.S. travel and tourism industry. As co-chairman of the United States Senate Tourism Caucus along with Senator BURNS, I know that the tourism industry is a winner for the United States. In my state of South Carolina, tourism generates over $6.5 billion and is responsible for 113,000 jobs. Over 46 million international visitors came to the United States and spent over $90 billion in 1997. These visitors generated more than $5 billion in Federal taxes alone. To compete with other nations for a larger share of international tourism over the next decade, we must support an international tourism marketing effort. Provisions of this legislation would do that by authorizing appropriations for the marketing program of the U.S. National Tourism Organization (NTO). This authorization would allow the NTO to continue operations beyond the October 11 sunset date.

This legislation is the product of a lot of hard work by many members of the Commerce Committee. I would like to thank them for their dedication to improving America's airport infrastructure and bolstering the safety of airline travel. I look forward to expeditious consideration and passage of S. 2279.

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

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

AMENDMENT NO. 3646

(Purpose: To make technical corrections in the managers' amendment)

Mr. MCCAIN. Mr. President, I ask that a managers' amendment be included at this time, which also includes what had previously been the Specter amendment.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona (Mr. MCCAIN), for himself and Mr. FORD, proposes an amendment numbered 3646.

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

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

The amendment is as follows:

On page 18 of the managers' amendment, line 17, strike ''11(4)'' and insert ''(4)''.

On page 34 of the managers' amendment, line 6, insert ''directly'' after ''person''.

On page 34, beginning in line 10, strike ''aircraft registration numbers of any aircraft; and'' and insert ''the display of any aircraft-situation-display-to-industry derived data related to any identified aircraft registration number; and''.

On page 34 of the managers' amendment, beginning in line 14, strike ''that owner or operator's request within 30 days after receiving the request.'' and insert ''the Administration's request.''

On page 34 of the managers' amendment, strike lines 16 through 21.

On page 34 of the managers' amendment, line 22, strike ''(c)'' and insert ''(b)''.

On page 36 of the managers' amendment, strike lines 16 and 17 and insert the following:

''(1) An airport with fewer than 2,000,000 annual enplanements; and

On page 39 of the managers' amendment, beginning in line 4, strike ''shall, in conjunction with subsection (f),'' and insert ''shall''.

On page 40 of the managers' amendment, strike lines 1 through 8 and insert the following:

''(i) REGIONAL JET DEFINED.—In this section, the term 'regional jet' means a passenger, turbofan-powered aircraft carrying not fewer than 30 and not more than 50 passengers.''.

On page 41 of the managers' amendment, beginning in line 9, strike ''In addition to any exemption granted under section 41714(d), the'' and insert ''The''.

On page 41 of the managers' amendment, beginning in line 24, strike ''In addition to any exemption granted under section 41714(d) or subsection (a) of this section, the'' and insert ''The''.

On page 42 of the managers' amendment, beginning in line 5, strike ''smaller than large hub airports (as defined in section 47134(d)(2))'' and insert ''with fewer than 2,000,000 annual enplanements''.

On page 42 of the managers' amendment, line 10, strike ''airports other than large hubs'' and insert ''such airports''.

On page 46, line 18, strike ''(d)'' and insert ''(f)''.

On page 46, line 24, after ''and the'' insert ''metropolitan planning organization for''.

On page 47, line 1, strike ''Council of Governments''.

On page 35 of the managers' amendment, between lines 2 and 3, insert the following:

SEC. 529. CERTAIN ATC TOWERS.

Notwithstanding any other provision of law, regulation, intergovernmental circular advisories or other process, or any judicial proceeding or ruling to the contrary, the Federal Aviation Administration shall use such funds as necessary to contract for the operation of air traffic control towers, located in Salisbury, Maryland; Bozeman, Montana; and Boca Raton, Florida, provided that the Federal Aviation Administration has made a prior determination of eligibility for such towers to be included in the contract tower program.

On page 114, insert:

SEC. 530. COMPENSATION UNDER THE DEATH ON THE HIGH SEAS ACT

(a) IN GENERAL.—Section 2 of the Death on the High Seas Act (46 U.S.C. App. 762) is amended by—

(1) inserting ''(a) IN GENERAL.—'' before ''The recovery''; and

(2) adding at the end thereof the following:

''(b) COMMERCIAL AVIATION.—

''(1) IN GENERAL.—If the death was caused during commercial aviation, additional compensation for non-pecuniary damages for wrongful death of a decedent is recoverable in a total amount, for all beneficiaries of that decedent, that shall not exceed the greater of the pecuniary loss sustained or a sum total of $750,000 from all defendants for all claims. Punitive damages are not recoverable.

''(2) INFLATION ADJUSTMENT.—The $750,000 amount shall be adjusted, beginning in calendar year 2000 by the increase, if any, in the Consumer Price Index for all urban consumers for the prior year over the Consumer Price Index for all urban consumers for the calendar year 1998.

''(3) NON-PECUNIARY DAMAGES.—For purposes of this subsection, the term 'non-pecuniary damages' means damages for loss of care, comfort, and companionship.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies to any death caused during commercial aviation occurring after July 16, 1996.

Mr. MCCAIN. Mr. President, there is no further debate on the amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 3646) was agreed to.

Mr. MCCAIN. Mr. President, I move to reconsider the vote.

The PRESIDING OFFICER. I move to lay on the table in my capacity as a Senator from Utah.

The motion to lay on the table was agreed to.

Mr. MCCAIN. Mr. President, I believe there are no other amendments.

We are prepared for third reading of the bill.

I would like to withhold that for just 1 minute.

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

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

Mr. MCCAIN. Mr. President, I understand there are no further amendments.

We are prepared for third reading of the bill.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time.

Mr. MCCAIN. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 536, H.R. 4057, all after the enacting clause be stricken, and the text of S. 2279, as amended, be inserted in lieu thereof, the bill then be read the third time, and immediately following the convening of the Senate on Friday there be 20 minutes for closing remarks divided equally between the majority and minority managers; and, following that time, the Senate proceed to a vote on passage of H.R. 4057, with no other intervening action or debate.

I finally ask unanimous consent that following passage of the bill the Senate insist on its amendment, request a conference with the House, and the Chair be authorized to appoint conferees on the part of the Senate.

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

Mr. MCCAIN. Mr. President, for the information of all Senators, there will be a vote tomorrow morning at approximately 9:50 on passage of the FAA reauthorization bill.

UNANIMOUS CONSENT REQUEST—S. 442

Mr. MCCAIN. Mr. President, I ask unanimous consent that it be in order for the majority leader, after consultation with the Democratic leader, to proceed to the consideration of Calendar No. 509, S. 442, and it be considered under the following limitations:

The Commerce Committee amendment be agreed to, and the Finance Committee substitute then be agreed to, and the substitute then be considered as original text for the purpose of further amendment.

I further ask unanimous consent that the only other amendments in order to the bill be the following:

A managers' amendment; McCain-Wyden, extending length of moratorium; Coats, Internet porn, 1 hour equally divided; Nickles, relevant; Bennett, relevant; two Warner amendments, relevant; Senator Hutchison, relevant; Senator Murkowski, relevant; Bond, relevant; Bumpers, mail order; Graham, relevant; Abraham, government paperwork; Enzi, three amendments, relevant; Domenici, interest rates; Bumpers, a commission amendment; and another Nickles relevant amendment.

I further ask unanimous consent that relevant second-degree amendments be in order to all amendments other than the Coats amendment.

I further ask that there be 2 hours of general debate equally divided on the bill.

I finally ask that following disposition of the above listed amendments and the expiration of the time, the bill be read a third time and the Senate proceed to a vote on passage of the bill with no other intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. FORD. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. MCCAIN. Mr. President, I ask unanimous consent that on Friday, September 25, the Senate turn to Calendar No. 509, S. 442, the Internet tax bill, and immediately following reporting by the clerk, the Commerce Committee substitute be agreed to, and immediately following that action the Finance Committee substitute be agreed to and considered original text for the purpose of further amendments. I further ask that during the Senate's consideration of S. 442 or the House companion measure, only relevant amendments be in order.

Mr. FORD. Mr. President, reserving the right to object, if the acting leader would take the first paragraph and use that as his unanimous consent request, this side is willing to accept that. The one I cannot agree to is: ''I further ask that during the Senate's consideration of S. 442 or the House companion measure, only relevant amendments be in order.'' I would object to that. But I would accept the upper part if the Senator is willing to make that unanimous consent request.

Mr. MCCAIN. Mr. President, I can't do that, but I appreciate the willingness of the Senator from Kentucky. Let me also state that I am aware that the leadership on the other side is basically prepared tomorrow for us to move forward. I appreciate that. There is great understanding that this is a very important piece of legislation. The Internet Tax Freedom Act is of the highest priority all over America. I believe we will move to it. I believe that we will do it soon. I appreciate the interest and the agreement of the Senator from Kentucky that we could work out some agreement on this—perhaps not tonight but perhaps tomorrow.

Mr. FORD. Mr. President, I will be more than willing to agree to a unanimous consent agreement to proceed to the bill without any other reservations or any time agreements or agreements to amendments. I would be more than willing to do that. But under the circumstances, I doubt if that would be acceptable so we will just have to work overnight and tomorrow on the legislation and see if we can't come to some kind of agreement. And I am hopeful, because we were close tonight, and I think if we had waited until morning I would not have been placed in a position to object. You do a lot of things around here sometimes you don't really like to do, but then I always like to be ''Senator No.''

Mr. MCCAIN. Mr. President, I thank the Senator from Kentucky, especially as we approach the end of this very important legislation which bears his name. I do not wish to end up this evening in any kind of disagreement with the Senator from Kentucky. It is not worth it.

Mr. FORD. A red letter day.

Mr. MCCAIN. I do know he is committed to passage of this legislation, the Internet Tax Freedom Act. He understands as well as I do, with just a few days remaining, that if we didn't have some kind of agreement, which I do believe we will agree to, on circumscribing the number of amendments to the bill, then it would be very difficult to get it done in a short period of time. I am not going to pursue this issue. Again, I spent too many hundreds of hours working with the Senator from Kentucky for us to end up in some disagreement over an issue such as this before completion of the bill that is called the Wendell H. Ford legislation, which is very fittingly named after him as the reality is that there is no Member of the Senate who has done more to further the cause of aviation in America than the Senator from Kentucky.

So, Mr. President, for the information of all Senators, there will be a vote tomorrow morning at approximately 9:50 a.m. on passage of the FAA reauthorization bill.

MORNING BUSINESS

Mr. MCCAIN. I now ask unanimous consent that there be a period for the transaction of morning business with Senators permitted to speak up to 5 minutes each.

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

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Wednesday, September 23, 1998, the federal debt stood at $5,517,883,379,683.46 (Five trillion, five hundred seventeen billion, eight hundred eighty-three million, three hundred seventy-nine thousand, six hundred eighty-three dollars and forty-six cents).

One year ago, September 23, 1997, the federal debt stood at $5,382,650,000,000 (Five trillion, three hundred eighty-two billion, six hundred fifty million).

Five years ago, September 23, 1993, the federal debt stood at $4,380,953,000,000 (Four trillion, three hundred eighty billion, nine hundred fifty-three million).

Ten years ago, September 23, 1988, the federal debt stood at $2,587,266,000,000 (Two trillion, five hundred eighty-seven billion, two hundred sixty-six million).

Fifteen years ago, September 23, 1983, the federal debt stood at $1,354,045,000,000 (One trillion, three hundred fifty-four billion, forty-five million) which reflects a debt increase of more than $4 trillion—$4,163,838,379,683.46 (Four trillion, one hundred sixty-three billion, eight hundred thirty-eight million, three hundred seventy-nine thousand, six hundred eighty-three dollars and forty-six cents) during the past 15 years.