

is violating the peace accord or whatever accord it is they have initialed and they are proposing to sign.

The fact that there is no way for the military, the soldier in the field, to know if there is an uprising of some type or a conflict, whether that is a systematic violation or maybe just some rogue element that is firing upon troops—did they express that concern when you were there?

Mr. BROWN. Those concerns were expressed, and added to this is the fact that the border will be free flowing. You will not have an interdiction at the border. It will be very difficult to tell if the people coming across the border are refugees and allowed to go back to an area that has changed hands, or if they are terrorists, or if they are a military element.

They also expressed great concern about a couple of other aspects. One was a conviction on the part of the military personnel that I talked to—U.S. military personnel—that none of the parties would abide. When I asked, they said, “Look, the normal pattern here is people sign agreements and then when spring comes, they go ahead and proceed with their plans afoot.” Frankly, our people who are on the ground were very skeptical that you would see any of the three parties follow these agreements.

The problem, of course, is that you have U.S. military personnel in a position that is very difficult to defend in between them at a point they have wholesale violations of the peace agreements.

At this point, it is very difficult for me to see what it is U.S. personnel accomplish in that area, other than being targets.

Mr. INHOFE. Certainly in a 12-month period, if we are, in fact, committed to a timeframe—and I do not know from my reading and, of course, my experience in the military, of any time we have gone into hostile conflict with a time-oriented departure—it is always a function or an action, something that has taken place.

It was General Hupmann, I believe, who used this analogy, and maybe he used it with you. He said, “Twelve months is like putting your hand in water for 12 months and you take it out and look down and nothing has changed.” Twelve months in the Balkans does not mean anything. If we are going to be out in 12 months, those individuals that would be warring factions would be in a position to start up again.

Mr. BROWN. One thing I might say, it will mean the expenditure of \$1.5 billion to perhaps \$3 billion. I say to the Senator, I suspect this body will face supplemental appropriation requests from the administration that exceed those numbers.

There simply is no way to put down the 20,000 people they are talking about in that region, or perhaps 25,000 they have talked about—my guess is it may be the higher figure—without the ex-

penditures of huge amounts of money in roads, in clearing areas, in some sort of quarters for the personnel that will be there, and the whole infrastructure they are talking about as a backup.

What will be different 12 months from now is an enormous expenditure of U.S. Treasury in taxpayers' money on an enterprise that does not have a defined function or a defined date of accomplishment.

Mr. INHOFE. I think the Senator from Colorado is being very conservative when he quotes the figures of the administration of \$1.5 to \$2 billion. I have seen figures up to \$4.5 to \$6 billion.

I recall not too many weeks ago the administration came to this body for a \$1.4 billion supplemental appropriation to take care of some of the past humanitarian gestures that were forecast to cost a third or a fourth of that amount. It is hard to talk about dollars when we are talking about human lives.

My concern is if we are concerned, as the President indicated he was last night, about NATO and the integrity of NATO, where is NATO going to be if we go in there and start this thing, the body bags start coming back to America and people start getting concerned as they were as the incidents of Mogadishu? Then we cut and run, which surely we would do at that time. Then, where is NATO and the integrity of NATO?

Mr. BROWN. I think the Senator has put his finger on the entire problem. Before we commit U.S. troops to a role where they are in danger, the Weinberger rules of engagement, I think, provide a good basis.

It seems to me for every American, just simple and basic understanding, before you send troops into combat, you ought to have a clearly defined military mission that is accomplishable, and without that, they should not go.

What we are literally seeing is the use of U.S. troops as international social workers. The fact is, U.S. armed services personnel ought to be used as soldiers to accomplish a military mission. That is what they are trained for. That is what they are accomplished at. That is what they are good at.

For U.S. troops to be used in this function without a clear mission, at least in this Senator's view, is an invitation to a tragedy of the first order.

Mr. INHOFE. I am very much concerned about it, and I know we are using up more time than we should.

Let me just conclude and speak only for myself. I have listened to the President. I thought the President would come out with something new that has not already been part of the debate. There was not one new argument or element introduced into the debate in the President's statement last night.

In the absence of that, knowing that each hour that goes by the President is deploying more Americans into that hostile area, I have to get on record

right here in this body, Mr. President, as saying I will fight with every fiber of my being to stop the President from sending troops in on the ground into Bosnia.

INTERSTATE COMMERCE COMMITTEE SUNSET ACT

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. Under the previous order, the Senator from California is recognized.

AMENDMENT NO. 3065

(Purpose: To provide for the comparable treatment of federal employees and members of Congress and the President during a fiscal hiatus)

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

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from California [Mrs. BOXER], for herself, Mr. HARKIN, Mr. BRYAN, Mr. BUMPERS, and Mr. FEINGOLD, proposes an amendment numbered 3065.

Mrs. BOXER. Mr. President, I ask unanimous consent 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 section:

SEC. . PAY OF MEMBERS OF CONGRESS AND THE PRESIDENT DURING GOVERNMENT SHUTDOWNS.

(a) COMPARABLE PAY TREATMENT.—The pay of members of Congress and the President shall be treated in the same manner and to the same extent as the pay of the most adversely affected federal employees who are not compensated for any period in which appropriations lapse.

(b) This section shall take effect December 15, 1995.

Mrs. BOXER. Mr. President, the purpose of the amendment I have sent to the desk which is sponsored by myself, Mr. HARKIN, Mr. BRYAN, Mr. BUMPERS, and Mr. FEINGOLD, simply says that Members of Congress and the President should be treated the same way as other Federal employees during a shutdown, a partial shutdown, during any period where there is a lapse in appropriations.

Now, Mr. President, the Senate has passed it a couple of times, but I hope it was not a sham when everyone said, “Yes, we are for it,” take it by voice vote. We put it on the D.C. appropriations bill. It seems to be stuck there. The other times we passed it, it has not seen the light of day.

I have been around here long enough to know when I am getting conned. This is not happening. Everyone says they are for it, it passes here, and it has not really gone to the President's desk. He supports it.

The reputation of this Congress is at a very low point. The approval rating of this Congress is in the 20's. I submit that one of the reasons, first of all, was the fact that there was a Government

shutdown, that we could not get our job done. We failed.

This Congress did not get the appropriation bills out to the President. This Congress could not even pass a clean debt extension. Chaos is the name of the game around here.

During the Government shutdown, we know there was a lot of angst, anxiety, to Federal workers, for people who needed the Federal Government, for people who want to go to the parks, for veterans who could not get help, for new Social Security applicants who wanted to file their papers, but no sacrifice around here. Our own staff was not getting paid, but we were getting paid. No problem.

Yes, some Members of Congress felt bad about it and gave some money to charity. Some did not take their checks. Some gave their money back to the Treasury. But this was an institutional failure, Mr. President.

There was a poll done in San Francisco, a place that believes there is a very important need for a national Government, and 89 percent of the people responding to the poll of the San Francisco Examiner said Congress should not get paid unless they do their work.

What could be more fundamental than making sure that appropriation bills move forward or, in lieu thereof, a continuing resolution that keeps this Government running?

Now, Mr. President, we have deep divisions in this body on Federal priorities. The Republicans have laid out their budget. It is clear. Mr. President, \$270 billion cuts in Medicare, huge cuts in Medicaid, education, the environment. The President says, "No way." We will balance the budget in 7 years, we all agreed, but we need to take a better look at priorities.

Well, that is all well and good, but the fact is we should not be playing games with people's lives, and if we do, we should get penalized just as other Federal employees would.

So we have our disagreements on the level of spending, but we should still get to work, get some compromises going, and move forward as a Nation.

So we have not passed the Boxer-Durbin bill. It is stuck in all sorts of committees. I intend to offer it every single chance I get, on every single bill that I can. I intend to get a vote on it. I will be persistent, and I know around here persistence is looked at in two ways: Some people love it, other people hate it. They especially like it if they agree with you; and if they do not, they hate it. But I am going to be persistent on this. I have been persistent on other things around here. And I will say this. This bill makes eminent sense. Let me read it to you. As an amendment it says:

The pay of members of Congress and the President shall be treated in the same manner and to the same extent as the pay of the most adversely affected federal employees who are not compensated for any period in which appropriations lapse.

This section shall take effect December 15, 1995.

The PRESIDING OFFICER. Under the previous order, the Boxer amendment will be set aside.

Mrs. BOXER. Thank you very much, Mr. President, for your patience.

AMENDMENT NO. 3064

The PRESIDING OFFICER. The Senate will resume deliberation of the Dorgan amendment.

Who yields time?

Mr. PRESSLER. Mr. President, I yield myself 2 minutes to say I urge all Senators to vote against the Dorgan amendment. We have taken care of the problems which the Senator from North Dakota raised in this bill. This is a carefully crafted bill which Senator EXON and I and others have worked out over months of negotiation and this is unnecessary additional regulation. I rise in strong opposition to the Dorgan amendment. I urge all Senators to vote against it.

I reserve the remainder of my time and, Mr. President, I suggest the absence of a quorum and I ask unanimous consent that time be charged equally.

The PRESIDING OFFICER (Mr. ABRAHAM). Without objection, it is so ordered.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD. 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. BYRD. Mr. President, I ask unanimous consent that it be in order for me to offer an amendment at this time and to have it voted on immediately following the vote on the amendment by Mr. DORGAN.

The PRESIDING OFFICER. Is there objection?

Mr. PRESSLER. Mr. President, reserving the right to object—and I do not want to object—some of the Members may want to have a chance to speak on the amendment. I am trying to find a way here to cooperate quickly. But we do not know what the amendment is.

Mr. BYRD. Very well. The Senator makes a good point.

Mr. President, I ask unanimous consent that it may be in order for me to offer my amendment at this time.

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

AMENDMENT NO. 3066

(Purpose: To provide for a minimum penalty of 30 years of imprisonment and a maximum penalty of life imprisonment for the destruction of a motor vehicle or motor vehicle facility if a motor vehicle carrying high level nuclear waste or spent nuclear fuel is involved, or for wrecking or sabotaging a train that carries high level nuclear waste or spent nuclear fuel)

Mr. BYRD. Mr. President, today we are considering S. 1396, the Interstate Commerce Commission Sunset Act of 1995. For over a century, the ICC has protected shippers from unfair com-

petition and monopolistic pricing by the railroad and trucking industries. The bill before us reflects the deregulation of the transportation industry, and the declining need for many of the functions of the ICC. But, even as we consider the changing nature of transportation, we must also consider that new threats have emerged against shippers and the Nation's rail and trucking industries. Those threats are not in the indirect form of predatory price gouging, but rather manifest themselves as direct acts of violence and terrorism that threaten innocent bystanders.

We are considering this bill in the wake of the sabotage of the Sunset Limited in the Arizona desert on October 10. That derailment is the latest act of terrorism against the American people, following on the bombings of the World Trade Center in New York City and the Federal building in Oklahoma City. When the ICC was first created, such acts of violence were unknown.

Today, we must act to deter terrorism, and in so doing, must think the unthinkable—namely, that a terrorist could target a shipment of the most lethal of all possible cargoes, high level nuclear waste. This is the most toxic substance known to mankind. Exposure to even the smallest amount—amounts so small that you could not see it—would result in death. High level nuclear waste is not simply lethal, but also long lasting. It can take up to a quarter of a million years for this waste to fully decay, and lose its lethal radioactive character.

My amendment would increase the penalties for an act of sabotage against a train or motor vehicle carrying spent nuclear fuel or high level nuclear waste. Current Federal law stipulates that the penalty for an act of sabotage against a train or motor vehicle is a maximum of 20 years—which means they could be given 5 years, or 10 years, or 2 years—or in the event of a fatality, a minimum of life imprisonment or the death penalty. Therefore, a terrorist who targets a train or truck carrying high level nuclear waste, but who fails in his mission to spread this poisonous radioactive contamination, might receive considerably less than 20 years in prison.

Under my amendment, any individual who commits a "willful" or deliberate act of sabotage against a train or motor vehicle used in interstate commerce transporting high level nuclear waste or spent nuclear fuel would receive a minimum penalty of 30 years to life. The current provision of law regarding a fatality would remain in effect.

My amendment is necessary because shipments of nuclear waste and spent fuel are already occurring. Furthermore, there is the possibility of a significant increase in the number of such shipments within the next few years. If that should occur, there would be increased public attention focused on

these shipments. The public would be aware that, under my amendment, any act of sabotage would receive the certain and minimum penalty of 30 years imprisonment.

Past shipments of nuclear waste have crossed through the majority of our States, including my own State of West Virginia. These shipments traveled on many of the primary routes of interstate commerce, and passed within close proximity to major urban areas, and millions of American homes. Thus far, we have been lucky, with no recorded acts of sabotage against these shipments. But the possibility has always been present, since this toxic cargo is carried by both rail and truck.

From 1979–1994, there were 1,282 separate shipments of commercial spent nuclear fuel. Ninety percent of these shipments traveled on the Nation's highways, with only 10 percent traveling by rail. And it is important to note that this figure does not include classified shipments of high level nuclear waste from Department of Energy or military facilities, although my amendment covers those shipments, as well.

Even though more trucks were involved in this commerce than trains, over 70 percent of the total volume of radioactive waste was carried by rail. And, this volume could dramatically increase before the end of this century. Current plans call for this spent nuclear fuel, along with even more high level radioactive waste from Federal facilities, to be deposited in a permanent geologic repository. At the present time, Yucca Mountain in Nevada is under consideration as such a repository. The Yucca Mountain site is behind schedule, and the site suitability study is not due to be released until 1998 at the earliest.

In the meantime, pending legislation would authorize the construction of an "interim" storage facility at the Nevada Test Site. This interim storage facility would be used until Yucca Mountain, or an alternative site, is approved. I want to emphasize that my amendment does not address the issues posed by that pending legislation, namely, whether Yucca Mountain, or an interim storage facility, should be made operational.

My amendment, does, however, address the danger presented by the dramatic increase that would occur in the shipments of toxic nuclear waste to either of these facilities. Current proposals call for the shipment of 2,000 to 3,000 metric tons per year, from up to 79 commercial nuclear reactor sites that have spent nuclear fuel and waste stored on-site. Furthermore, this does not include DOE facilities. The interim site, if it is approved and constructed, would eventually receive up to 100,000 metric tons of spent fuel and high level nuclear waste, pending the opening of a permanent geologic repository.

The Department of Energy has not publicly announced which routes will be used in shipments to Yucca Moun-

tain or an interim storage site. However, these shipments would originate at up to 79 commercial sites, as well as Department of Energy facilities, and would therefore likely travel across large sections of our Nation.

But our concern should not be only about the routes that will be used, but also the sheer number of shipments, and the quantity of highly radioactive waste involved. From 1979 to 1994, a total of one ton of spent nuclear fuel was shipped in the United States by commercial facilities. These proposals to build an interim or permanent nuclear waste facility envision shipments of thousands of tons in a single year.

Again, I am not commenting on whether a permanent waste repository or interim storage facility is needed, or whether such shipments should occur. This body has debated that issue in the past, and will do so again in the future.

Regardless of how that debate is resolved, the fact remains that we are currently shipping the most toxic substance known on our Nation's highways and railroads. And we may dramatically increase those shipments in the future. The very least that we can do is to increase the penalty for sabotage against such shipments, in an effort to deter such acts of terrorism from occurring.

Mr. President, I send the amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from West Virginia [Mr. BYRD] proposes an amendment numbered 3066.

Mr. BYRD. 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, insert the following new section:

SEC. . DESTRUCTION OF MOTOR VEHICLES OR MOTOR VEHICLE FACILITIES; WRECKING TRAINS.

(a) DESTRUCTION OF MOTOR VEHICLES OR MOTOR VEHICLE FACILITIES.—Section 33 of the title 18, United States Code, is amended by adding at the end the following new undesignated paragraph:

"Whoever is convicted of a crime under this section involving a motor vehicle that, at the time the crime occurred, carried high-level radioactive waste (as that term is defined in section 2(12) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(12)), or spent nuclear fuel (as that term is defined in section 2(23) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(23))), shall be imprisoned for not less than 30 years."

(b) WRECKING TRAINS.—Section 1992 of title 18, United States Code, is amended—

(1) by inserting after the fourth undesignated paragraph the following:

"Whoever is convicted of any such crime that involved a train that, at the time the crime occurred, carried high-level radioactive waste (as that term is defined in section 2(12) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(12)), or spent nuclear fuel (as that term is defined in section 2(23) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(23))), shall be imprisoned for not less than 30 years."

Mr. PRESSLER. Mr. President, I think we very much want to accept the amendment, and the Senator from West Virginia would like a rollcall vote on it immediately following this one. I should be clearing with my partner here. But as far as I am concerned we would be delighted to either accept it or have a rollcall vote immediately following this vote, whichever the Senator prefers.

Mr. BYRD. Mr. President, I thank the distinguished manager of the bill.

I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. PRESSLER. Mr. President, I ask unanimous consent that this vote occur immediately after the vote on the Dorgan amendment which will occur momentarily, I understand.

Mr. BOND. Mr. President, reserving the right to object, this amendment, the Dorgan amendment, was to be debated in this time period. There are some brief points that could be made, and I wonder if the floor manager would include 2 minutes for the proponents and 2 minutes for the opponents so that we may conclude discussion.

Mr. PRESSLER. Just to explain, the times were reserved between 5 and 5:15. Some Senators have to go on to other schedules. We now will have two rollcall votes starting almost immediately. As far as I am concerned, I would suggest we could yield 2 minutes to the Senator. The Senators who had that time were not here. It might inconvenience other Senators is my point, but as far as I am concerned, I have no objection to 2 minutes being added on at this point.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BYRD. Mr. President, reserving the right to object, and I will not object, would the distinguished manager ask unanimous consent that there be no intervening debate on my amendment and that there be no amendment to the amendment?

Mr. PRESSLER. Yes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Missouri will now proceed to speak for 2 minutes on this amendment, after which there will be two consecutive rollcall votes without there being any discussion in between.

AMENDMENT NO. 3064

Mr. BOND. Mr. President, I would ask to be notified when 1 minute is gone. I want to give the prime sponsor the final minute.

Basically, the amendment by the Senator from North Dakota says that the Clayton Act standards—will there be lessening of competition in any line of commerce—be applied to rail mergers. All of us have seen the case in airlines where there is no competition

from one nearby city to another and find the cost of that travel is greater than the cost of travel coast to coast. That is because competition is not in effect.

I agree that we ought to get rid of Government regulation, but we need competition to protect the customers in the marketplace, and we can only have competition if the Transportation Board has to apply the same standards to rail mergers it does to other industries.

I urge support of the Dorgan amendment. I reserve the remainder of my time.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. I ask unanimous consent that I be allowed 2 minutes for closing argument.

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

Mr. EXON. Mr. President, I addressed this amendment earlier, and I hope that the Senate will vote it down. It is a violation of the basic principles that we put together with a near unanimous vote, if not a unanimous vote, of the Commerce Committee. This amendment would simply place in the Justice Department a veto over things that should be properly decided by the independent body that used to be the Interstate Commerce Commission and now will be a body under the Department of Transportation.

Once again I say, I think that the Justice Department should be a legal advisor, which they are, in the bill introduced by myself and the chairman of the committee, but this is a bad step in the wrong direction, and I hope the Senate will vote it down.

Mr. PRESSLER. Mr. President, I move to table the Dorgan amendment, and I ask for the yeas and nays.

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

The yeas and nays were ordered.

The PRESIDING OFFICER. Who yields time?

Mr. BOND. Mr. President, I might ask the sponsor of the amendment if he wishes additional time.

I yield back the remaining time.

The PRESIDING OFFICER. All time for debate having expired, the question is on agreeing to the motion to table the amendment of the Senator from North Dakota. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Virginia [Mr. WARNER] is necessarily absent.

Mr. FORD. I announce that the Senator from Delaware [Mr. BIDEN] is necessarily absent.

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

The result was announced—yeas 62, nays 35, as follows:

[Rollcall Vote No. 585 Leg.]

YEAS—62

Abraham	Gramm	McConnell
Ashcroft	Grams	Moseley-Braun
Bennett	Grassley	Murkowski
Bingaman	Gregg	Nickles
Brown	Hatch	Nunn
Bryan	Hatfield	Pressler
Burns	Helms	Reid
Campbell	Hollings	Robb
Chafee	Hutchison	Rockefeller
Coats	Inhofe	Roth
Coverdell	Inouye	Santorum
Craig	Jeffords	Shelby
D'Amato	Kassebaum	Simpson
Dole	Kempthorne	Smith
Domenici	Kerrey	Kohl
Exon	Kyl	Specter
Faircloth	Lott	Stevens
Feinstein	Lugar	Thomas
Ford	Mack	Thompson
Frist	McCain	Thurmond
Gorton		

NAYS—35

Akaka	DeWine	Leahy
Baucus	Dodd	Levin
Bond	Dorgan	Lieberman
Boxer	Feingold	Mikulski
Bradley	Glenn	Moynihan
Breaux	Graham	Murray
Bumpers	Harkin	Pell
Byrd	Heflin	Pryor
Cochran	Johnston	Sarbanes
Cohen	Kennedy	Simon
Conrad	Kerry	Wellstone
Daschle	Lautenberg	

NOT VOTING—2

Biden Warner

So the motion to table the amendment (No. 3064) was agreed to.

Mr. EXON. Mr. President, I move to reconsider the vote by which the motion was agreed to.

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

The motion to lay on the table was agreed to.

VOTE ON AMENDMENT NO. 3066

The PRESIDING OFFICER (Mr. GORTON). At this time, the Senate will proceed to vote on amendment No. 3066 offered by the Senator from West Virginia. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Virginia [Mr. WARNER] is necessarily absent.

Mr. FORD. I announce that the Senator from Delaware [Mr. BIDEN] is necessarily absent.

The result was announced—yeas 97, nays 0, as follows:

[Rollcall Vote No. 586 Leg.]

YEAS—97

Abraham	Craig	Hatch
Akaka	D'Amato	Hatfield
Ashcroft	Daschle	Heflin
Baucus	DeWine	Helms
Bennett	Dodd	Hollings
Bingaman	Dole	Hutchison
Bond	Domenici	Inhofe
Boxer	Dorgan	Inouye
Bradley	Exon	Jeffords
Breaux	Faircloth	Johnston
Brown	Feingold	Kassebaum
Bryan	Feinstein	Kempthorne
Bumpers	Ford	Kennedy
Burns	Frist	Kerrey
Byrd	Glenn	Kerry
Campbell	Gorton	Kohl
Chafee	Graham	Kyl
Coats	Gramm	Lautenberg
Cochran	Grams	Leahy
Cohen	Grassley	Levin
Conrad	Gregg	Lieberman
Coverdell	Harkin	Lott

Lugar	Pell	Simpson
Mack	Pressler	Smith
McCain	Pryor	Snowe
McConnell	Reid	Specter
Mikulski	Robb	Stevens
Moseley-Braun	Rockefeller	Thomas
Moynihan	Roth	Thompson
Murkowski	Santorum	Thurmond
Murray	Sarbanes	Wellstone
Nickles	Shelby	
Nunn	Simon	

NOT VOTING—2

Biden Warner

So the amendment (No. 3066) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 3065

The PRESIDING OFFICER. The pending business is the amendment proposed by Mrs. BOXER for herself and Mr. HARKIN.

The Senator from Alaska.

Mr. STEVENS. Mr. President, I am constrained to point out to the Senate that article II, section 1, clause 6 of the Constitution states very succinctly:

The President shall, at stated Times, receive for his Services, a Compensation, which shall neither be increased nor diminished during the Period for which he shall have been elected. . . .

In addition to that, the people of the United States have ratified the 27th amendment to the Constitution, which states:

No law, varying the compensation for the services of the Senators and Representatives, shall take effect, until an election of Representatives shall have intervened.

I intended to make a point of order that this amendment is unconstitutional. In the interests of time, I have been asked not to do that and to permit this amendment to be taken to conference. I want to put the Senate on notice that should this provision come back to the Senate in a conference report, I shall raise that point of order.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, I appreciate the fact that the Senator from Alaska is not going to have us vote on the constitutionality of the amendment that is pending. In fact, we have passed a version of this already at least twice in this U.S. Senate.

I think anyone who looks at the legislative history of why we moved not to change pay for Members of Congress until the next election knows it was because of pay raises, first.

Second, I would point out to my friend that we did talk with many various attorneys on this—Senate legal counsel, we talked to CRS.

Mr. STEVENS. Does the Senator have any such opinion from either of the agencies she just mentioned?

Mrs. BOXER. If the Senator will let me finish I will give him a synopsis of what they said and I will be happy to get that to the Senator in writing. There is divided opinion on this. It is a gray area. If the Senator read this

amendment, which I know he has done, there is nothing in this to say we are changing the pay. As a matter of fact, if you look at the last shutdown, every single Federal employee was made whole. The issue was would they be made whole, and many Senators feel, I think on both sides of the aisle, including Senator SNOWE from Maine who actually wrote this with me, that it is very important we not treat ourselves in a different fashion.

So, I say to my friend, I will be happy to send him the opinions and I will, in fact, monitor this myself. Because, I have to tell my friend, this issue is not getting serious attention. It has been kicked around and everyone says what a good idea it is, but it is never becoming law. I will say to my friend, the Senator from Iowa and I are very clearly of a mind that we are going to make this stick. We will work to make this constitutional. We think there is nothing in this that says the pay is changed. We feel there is a way we can even make that point clearer.

But I will be glad to furnish my friend with these opinions over the next few days, as we get them, in writing.

Mr. HARKIN. Will the Senator yield for a question?

Mr. STEVENS addressed chair.

Mrs. BOXER. I yield to the Senator from Iowa for a question.

The PRESIDING OFFICER. The Senator from California has the floor.

Mr. HARKIN. Will the Senator yield for a question?

Mrs. BOXER. I will be happy to do so, yes.

Mr. HARKIN. I will ask the Senator, since I am a cosponsor of this, am I of the understanding—this has passed before, has it not? At least twice before it passed in the Senate?

Mrs. BOXER. Actually a harsher version of this has passed twice.

Mr. HARKIN. And in both of those cases the President was not included, was he?

Mrs. BOXER. Yes. The President has been included because, when I put this out the first time, the other side made that point. The President said he wants to be included. As a matter of fact, he thinks that is the appropriate course. And we did put the President in because the other side said they would not take it unless the President was in it.

Mr. HARKIN. In other words, our friends on the Republican side said they would not take it unless the President was in it and now we are hearing the argument from the Republican side it is unacceptable because the President is in there, is that right?

Mrs. BOXER. Yes. It feels like a run-around, to me.

Mr. HARKIN. Article II of the Constitution says that the President's salary shall neither be increased nor diminished during the period for which he shall have been elected. But amendment 27 is much different. The 27th amendment, we all know why that was

adopted, and the language shows that deals with pay raises. Is that not correct?

Mrs. BOXER. I believe that is correct.

Mr. HARKIN. That is worded differently than article II of the Constitution because it states in there that the pay of Senators and Representatives, the compensation, shall not be varied during that period of time.

Mrs. BOXER. That is correct.

Mr. HARKIN. So there is a difference between the wording of the 27th amendment and article II.

The Senator answered my questions.

Mrs. BOXER. I yield the floor.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, first of all, I want to commend my colleague from California for her excellent work and diligence in pursuing this important amendment.

For the life of me I cannot understand what this is really all about. Late last year and earlier this year a hue and cry went up that Members of the Senate and the House ought to be treated the same as other people in this country. OSHA laws and all of these other things ought to apply to us as well as everyone else so we would know what ordinary people went through. We all voted for that. So we covered the Congress with these laws. I think the people of this country thought that was wise.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. HARKIN. Yes, I am delighted to yield.

Mr. BYRD. Just to correct the RECORD, there is one Senator who did not vote for that. That was the Senator from West Virginia.

Mr. HARKIN. I think the RECORD will show that I did not say it was unanimous.

Mr. BYRD. One Senator, no Member of the House voted against it. One Member of the Senate voted against it. I voted against it, and I do not regret my vote. I think time will prove me to have been at least partially right.

Mr. HARKIN. I appreciate that the Senator from West Virginia did not vote for it, but we may have a difference of opinion on this since I believe the Congress should have been covered by the same laws, just like I think this also should cover us the same way.

I find it more than passing strange that when the Government shuts down, as it recently did, that FBI agents, air traffic controllers, even our staff, all of our staff who work here, do not get paid. Most people thought that those who were not essential did not get paid, that the ones that went home did not get paid. I talked to a lot of my colleagues who did not know that those who were essential and went to work every day still did not get paid except for Senators and Members of the House.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. HARKIN. Yes, I am glad to yield for a question.

Mr. STEVENS. I assume the Senator knows it is because of a law passed by this Congress that put that into effect and that it was never exercised by any President before, but this President did exercise it. This President did, contrary to what President Carter did in 1977. He closed down the national parks. He closed down the various other essentials. But the concept was just to put pressure on Congress.

If you want to get into a political argument here, I thought that the understanding was that we would make a statement, and that if it came back I would raise a point of order. If the Senator wants to have this debate now and go into the evening, I am more than willing to get some documents in here and have the debate now. It was my understanding we would have it, if it came back from the conference.

Is what the Senator from Iowa saying is the Senator intends to say that the provisions I have raised do not cover this? I happen to be chairman of the Governmental Affairs Committee, and I share the Senator's feelings about putting people in the position where they are either told to go home or work and not get paid. But that is an act of Congress which I would like to get changed.

But I do not intend to get beat around the head because I want to raise a point of order based on the Constitution of the United States. Are we going to have this bill go to conference tonight or are we going to have this debate?

Mr. HARKIN. I do not know. I cannot answer the Senator's question. I know I want to speak on this. I went to some extent and length to get here to talk on this tonight. I intend to have my say on it. I have the floor, and I intend to speak on it. I do not know how long it is going to take me. It may take me just a little bit, but I am going to have my say on it because I feel very strongly about it.

Mr. President, once again the people of this country see Congress being treated differently than other people that work for the Federal Government. You know when you get laid off of a job and the plant closes down, you do not get paid. We have laws here that say when the Government closes down and we do not pass the appropriations bills, it is not a law. It is basically that we do not have any money to pay them.

So I really do not know what law the Senator was talking about. When we do not pass the appropriations bills—and that deadline occurs at the end of the fiscal year and we do not have any money to run the Government—for those appropriations bills that have not been passed, those agencies shut down unless we have a continuing resolution. When that runs out, then, of course, there is no money to pay it.

Well, there is a law that talks about essential personnel who have to show

up. For the life of me, I still do not understand how you can demand that someone come to work every day and still not pay them. I thought slavery went out of existence 130 some years ago in this country. I tell people this, and they are dumbfounded by it. I say, yes, the Federal Government can order people to come to work every day and not pay them. Imagine that: Order them to come to work and not pay them. But that is exactly what is happening. It is unfair.

Quite frankly, I think it is unconstitutional. I do not know if anyone has ever tested it, but I do not think that is constitutional. Certainly, I think it is a violation of civil rights to have someone come to work and say, "However, you are not being paid for that period for which you work."

So I think that we ought to cover Congress just as well as we cover other members of the Federal Government. We passed it two or three different times here. It always goes to conference, and then it gets lost. We know what kind of game that is. We passed it, and everyone says, "Oh, yes, I voted to cover Congress just like everybody else, but something happened in that gray mist of the conference committee."

Well, I think the Congressional Accountability Act that we passed is a good bill. I know the Senator from West Virginia did not think so. But I think the vast majority of Congress obviously did think so. I think it is time that we cover ourselves the same way as other Federal workers. If there is a shutdown in the Government, and the appropriations bills have not been passed and other Federal workers are not being paid, whether they come to work or not, then I do not think Senators and Congressmen ought to be paid for the same period of time either.

It is a basic issue of fairness and equity. You can cloak arguments in constitutionality. I do not want to violate the Constitution. But I think a clear reading of the 27th amendment and the reading of the history of the 27th amendment shows clearly that it was not intended to cover this. It was only intended to cover pay raises enacted by Congress.

The Senator from Alaska may have—indeed, I think probably does—a valid point regarding article II of the Constitution. But I do not believe it is a valid point when it comes to the 27th amendment which talks about Members of the Congress.

The continuing resolution I know did stipulate that all Federal workers could be paid in the next pay period.

So, again, we have this odd system where we had the Government shut down and no one gets paid. They are not paid, but they are paid later. A lot of people get time off but still are going to be paid.

We may be facing another shutdown of the Government on December 15. I do not know. I hope not. But we will be in a situation there again where Fed-

eral workers could be told to come to work every day and not get paid. When? During the height of the Christmas season when they have their bills to pay and, as I said, earlier, their mortgages to pay, their car payments to make, and Christmas presents to buy. And, yet, we are going to tell them, no, they do not get paid. But that is all right; Senators and Congressmen will get paid.

It is, Mr. President, a basic issue of fairness and equity. I congratulate the Senator from California for pursuing this, and I am proud to be a cosponsor of it. I join with her in saying that, if it does not make it on this bill, there will be another one and another one and another one, and we will keep attaching it until finally we get something that must pass.

This is an issue we should not let go of because it has to do, as I said, with basic fairness and equity. And we should not be treated any differently than any other Federal worker, I do not care where that Federal worker works, for what agency.

I yield the floor.

Mr. STEVENS. Mr. President, I am not going to prolong the debate. Clearly, it is the intersection of the Antideficiency Act and our having reached the debt ceiling as enacted by Congress and the failure to have appropriations bills all occur at the same time that led to an Executive order of the President instructing Cabinet officers not to have other than essential people work. It was an act of the President of the United States himself in signing that Executive order that brought about everything that the Senator from Iowa has just complained about.

Now, we would be more than happy in my committee to consider changing the law. I have said before I think it should be changed. And I do not see any reason why we should have a situation such as existed. We are not in a position where we are borrowing money to pay those people, but it was just done to put pressure on the Congress.

At this time, however, I am not going to raise this point of order, but I again put the Senate on notice if it comes back from conference we will have a debate on the constitutionality and we will let the Congress and the Senate in particular determine whether it wants to enact an unconstitutional law.

I take it without any question that the article II concept applies. Under the 27th amendment to the Constitution, if the Senator from Iowa wants to know how that would work, if we have such a collision on December 15, as we think we will have, and it extends beyond December 31, the compensation of every Senator in this body would be varied because he or she would not have been paid the compensation we are committed to pay him or her for the year of 1995, and this would be a denial of the compensation to a Member of Congress in violation of the 27th amendment.

There may be a way we could do it, and I do not have any problem about doing it right, but it is not to be done by an amendment just thrown out in the Chamber every time something comes up to try and make the proposition that this Senate under our majority control is somehow or other treating Federal employees different than we are treating ourselves.

That is not true. The laws that we are following were enacted before. The President of the United States followed those laws and signed an Executive order, and that is why people stayed home when they were told not to report to work and we are paying them, as we should, under the laws. But they are not covered by the Constitution as is the President of the United States and Members of Congress.

I would be perfectly willing to continue the debate. I personally would like to vote on the amendment by voice vote, and we will discuss it later. But if the Senate wants to get into it, I will get a few tomes over here and we will get into chapter and verse of why this is unconstitutional legislation.

Mrs. BOXER. Mr. President, I am not going to devote chapter and verse, and I look forward to working with my friend from Alaska to make this right if he feels it can be improved. I just want to point one thing out. This is not something that was just put together. This particular amendment is something I have been working on with my colleagues for a long time because I saw this train wreck coming.

A lot of people said, oh, it will never happen; everything will go smoothly. And I said, well, I am concerned because I had heard certain statements made, particularly in the other body, where I felt we were going to have a train wreck, and at that very moment when I had that sense I realized I wanted to make sure Members of Congress were treated the same way as other Federal employees.

So I just want to say this is not sloppy work, I do not believe, on the part of Members of this body, including the Senator from Maine [Ms. SNOWE], who actually really helped to write this. But I will work to make sure that every time we offer this up, because clearly we are going to have to do it again, we improve it in terms of clarity as far as its constitutionality.

I yield the floor.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. I just want the RECORD to be clear in response to my friend from Alaska. I do not think the RECORD will show I was saying it is because the Republicans are now in the majority. That is not the problem at all. I never said that and the RECORD will show I never said that. Basically, I have said all along this is an issue of basic fairness and equity, and it goes to the heart of whether or not we consider

ourselves some sort of different class of people in this country above everything else, where we can continue to get paid while other Federal workers do not during a period of time when the Government is shut down. People in this country understand that. I do not care who is in the majority, whether Democrats or Republicans. It is not fair and it ought not to be done that way. That is my basic point and I will continue to make that point.

I yield the floor.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3065) was agreed to.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. GORTON). The Chair asks that the RECORD show he opposes the Boxer amendment.

Are there further amendments to the bill?

Mr. PRESSLER. Mr. President, I ask unanimous consent that Senator GRASSLEY be added as a cosponsor to S. 1396.

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

Mr. JEFFORDS. Mr. President, the managers' amendment accepted earlier today to the Interstate Commerce Commission Sunset Act of 1995 will greatly assist Vermont in maintaining its intercity passenger rail service. I want to thank the managers of the bill for working with me on this important amendment.

Almost 1 year ago, residents of Vermont were informed that they would lose their passenger rail service. In an effort to cut costs and revitalize our struggling national passenger rail corporation, Amtrak announced a major restructuring. This effort included cutbacks in service, downsized management, streamlined operations, and retirement of older equipment. This plan also called for elimination of certain routes, including the Montrealer, which had served Vermont for many years.

Ending Vermont's connection to our national passenger rail system would certainly have hurt our small State. An integral component of our transportation infrastructure, Amtrak brought skiers, business people, and leaf peepers to our beautiful State. In addition, Amtrak allows residents of Vermont to travel economically to nearby destinations and across the country.

In an effort to save this service, I worked with Senator LEAHY, Governor Dean, the Vermont State Legislature, and many dedicated Vermont citizens to develop a plan to continue passenger rail in Vermont. Amtrak became an active partner in assisting with this goal, and early last spring the new Vermonter began service from Washington, DC to Burlington, VT.

The Vermonter has become a model for how Amtrak and States can work together to preserve passenger rail

service. Monthly ridership on the Vermonter has increased over 60 percent since April. The train allows residents of New York City to reach the ski slopes of Vermont in a few hours. A baggage car was added to the train, with state-of-the-art ski and bike racks designed by Vermont crafts people and Vermont-made food products are served in the dining car. Vermonter's are proud of this train and we will do all we can to see it survive for the long term.

The plan establishing the Vermonter required the State of Vermont to pay any costs over and above the revenue generated by the train. For 1995, the State agreed to pay \$750,000 to support the train. Like all States, Vermont responsibly maintains a balanced budget. This task is becoming more and more difficult, as there are increasing demands on the State to provide services.

To assist States such as Vermont, Senator ROTH offered an amendment to the National Highway System Designation Act, NHS, which would have granted States the flexibility to use highway funds to support Amtrak service. This effort had the strong backing of many State legislatures and the National Governors Association. When brought to a vote in June, the amendment passed by an overwhelming margin here in the Senate, giving States hope for preserving their passenger rail service. However, during conference negotiations on the NHS bill, Senate leaders were forced by the House to drop this important provision.

My amendment will allow Vermont to use unobligated highway funds to pay its portion of the Vermonter's operating costs. In fiscal year 1996, Vermont will obtain over \$71 million under the Federal-aid highway program. This funding comes from the highway trust fund, paid for by motor fuel taxes. Vermonter's pay into the trust fund each time they fill their cars with gasoline. I believe these same Vermonter's would strongly support using this funding to maintain our passenger rail service.

All States should be granted this flexibility, and the success in utilizing this flexibility in Vermont should prove to skeptics the value of giving all States the authority to spend their Federal transportation dollars to support passenger rail.

Mr. President, I hope in the future we are successful in providing this flexibility to all States. But for now, without the authority provided by my amendment, Vermont may risk losing the Vermonter. This would be a tragedy.

I thank my colleagues for considering this provision, and I appreciate their support.

Mr. DOLE. Mr. President, throughout this Congress, a great deal of discussion has been devoted to a review of existing agencies and functions. The budget resolution and the Department of Transportation appropriations bill called for the elimination of the Interstate Commerce Commission. S. 1396 sunsets the Interstate Commerce Com-

mission and the Federal Maritime Commission and creates a new intermodal board within the Department of Transportation. I believe S. 1396 has taken the right steps to provide for reform while retaining a competitive atmosphere for railroad, motor carrier, and shipping industries.

I have been a strong proponent over the years for rail reform that provides an atmosphere for a strong rail industry as well as retaining a competitive balance for small shippers. I am particularly concerned about the impact of changes upon small shippers, including the small grain handlers, shippers and processors of Kansas and the Midwest.

The legislation before us retains important provisions that have been provided in the past to small shippers while reducing unnecessary regulatory requirements. I believe S. 1396 more adequately addresses the concern of small shippers by providing common carrier obligations, protections on agriculture contracting authority, notice procedures for rate increases, and abandonment procedures. In addition, protections are provided for individuals who lose their jobs due to mergers or acquisitions. For these reasons, S. 1396 has gained bipartisan support and deserves passage.

The railroad industry is going through some interesting times. The Burlington Northern/Santa Fe merger coupled with the proposed Union Pacific/Southern Pacific merger has created concern about the impact of these mergers on shippers. Shippers face unique challenges as railroads merge, creating less options and uncertain futures. Under these circumstances, it becomes increasingly important to ensure an atmosphere where economically viable competition is allowed to exist. The mergers being proposed are of great concern for several States, including Kansas. I believe these mergers can accomplish a strong base for the various industries and small businesses they serve, however, the impacts of the merger must be closely monitored. The reduction in the overall number of railroads should not mean a reduction in services to those who depend on these services the most.

I would like to thank Senator PRESSLER and Senator EXON for their efforts on this legislation and urge your support.

Ms. SNOWE. Mr. President, I rise in support of the Interstate Commerce Commission Sunset Act, and I would like to thank the chairman, the Senator from South Dakota [Mr. PRESSLER], for his interest in, and assistance, in putting language in the bill that addresses the serious problem of trucker fatigue.

The bill would place the Federal Highway Administration [FHWA] on a time line for publishing regulations related to trucker fatigue. The purpose of

this language is to move the decision-making process forward.

What this language in section 216 will do is require FHWA to issue an advanced notice of proposed rulemaking [ANPR] dealing with fatigue-related issues such as 8 hours of continuous sleep after 10 hours of driving, loading and unloading operations, and rest and recovery cycles no later than March 1, 1996. This would be followed by a notice of proposed rulemaking [NPR] within 1 year and a final rulemaking within 2 years.

It is estimated, Mr. President, that truck driver fatigue may be a contributing factor in as many as 30 to 40 percent of all heavy truck accidents.

FHWA has been looking at the issue of trucker fatigue since the 1970's. I believe it is time we moved from studying the issue to making decisions about what is to be done to reduce the number of accidents related to fatigue. I know that regulations alone will not stop these tragic accidents, we need increased education, we need increased awareness and better enforcement as well. But we can set an example and start making changes in laws and regulations—some of them adopted 60 years ago—to improve safety on our highways.

The Office of Motor Carrier Safety currently has six studies underway on tired truckers. Three of them will be completed this year: Fitness for Duty Testing, Multiple Trailer Combination Vehicle Driver Fatigue, and Stress and Rest Areas, and one, Driver Fatigue and Alertness Study will be completed next spring. And I would like to thank the chairman again for arranging a series of staff briefings on these studies, at my request. I believe it is important that this committee stay abreast of the work being done in this area so that we may better formulate legislative responses, where necessary.

In addition, the National Transportation Safety Board [NTSB] released a study in January, 1995 on trucker fatigue that called on FHWA to complete rulemaking within 2 years on issues related to trucker fatigue, so the bill's language is in keeping with NTSB's recommendation.

By establishing a time line for FHWA, we are requiring that the decisionmaking process begin on this important issue. There is a lot more to be done in this area, but the beginning of the rulemaking process is a big step in the right direction.

Mr. PRESSLER. Mr. President, I urge any Senators who have any final amendments to come to the floor. I understand one Senator may offer an amendment, at which time I hope we can pass this bill by unanimous consent. I think we are prepared on this side of the aisle to pass this bill. But as I understand it, Senator ASHCROFT may have an amendment.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ASHCROFT. 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. 3067

Mr. ASHCROFT. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Missouri [Mr. ASHCROFT] proposes an amendment numbered 3067.

Mr. ASHCROFT. 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 413, after line 14, insert the following new subsection:

“(d) The remedies provided in this part, concerning matters covered by this part with respect to the transportation of household goods by motor carriers are exclusive and preempt the remedies provided under Federal or State law.”

Mr. ASHCROFT. Mr. President, I offer this amendment to provide for a fair and uniform way of compensating individuals, shippers of household goods for damage to those goods and to ensure that there is a fair and uniform way of making sure that those damages can be received by shippers of household goods.

Interstate commerce involves the transmission of goods from one jurisdiction to another. Something shipped in California may well cross numerous States on its way to Connecticut. It is important that we do not have the responsibility for those who ship goods to try and prove where damage happened to the goods if there are damages to the goods. It is important that we do not have to try and impose on those who are the carriers of the goods some ability to defend about whether or not there was negligence.

There is in this amendment, and the meaning of this amendment, a requirement that if goods are damaged, that no person whose goods have been damaged has to prove that the damages were caused by the negligence of the carrier or, otherwise, by the improper activities of the carrier. There is an automatic right of the person who ships the goods to recover the value of the goods, and that would be uniform.

Absent that uniformity, there are other things which might exist. For instance, normally, in order to recover against someone who has damaged something, you have to prove negligence. And I do not think that people who ship goods are in a position to prove negligence. They were not in possession of the goods. They usually were not with the goods. They were not in the area where the goods were damaged. They would have a hard time proving that.

So, this measure would provide that you do not have to prove negligence,

that if you deliver the goods to the shipper, the household goods were being shipped across the country, and they were damaged, that you could automatically recover the value of the goods without proving negligence, without having to show that there was a particular substandard way of dealing with the goods on the part of the carrier involved.

In return for the concession that the shipper of the goods, the person who sends the goods, does not have to prove negligence, the damages are limited to the value of the goods. You cannot recover emotional harm or pain and suffering because of the anguish of learning that your Aunt Millie's vase was crushed in the shipment. You can only get the value of the vase.

So, the carrier is protected from having to pay some very subjective damages, but the person who ships the goods is guaranteed that if the goods are damaged, that those goods can be replaced because of the strict liability on the part of the carrier. This is a good system. It is a system which has long worked. It ought to be enshrined in this statute.

Now, the alternative is to have States create different laws about what kinds of recovery could be made by individuals whose goods were damaged. You have the potential of someone who ships something from California to Connecticut trying to prove that their goods were damaged in the most generous State or that their goods otherwise were valuable so that if that State allowed for pain and suffering or emotional distress, that those kinds of damages ought to be considered.

In my judgment, such damages ought not to be considered because they provide an incentive for forum shopping, people trying to make sure and prove that goods were damaged in one State as opposed to another. They subject shippers to unreasonable requirements to try and prove where the damage happened or where it did not happen. And we would be well-served in regulating interstate commerce to say that the person shipping the goods does not have to prove negligence, but the person who is carrying the goods is not responsible for a level of damages which is above and beyond the value of the goods, which would include emotional distress or other kinds of subjective things which are very difficult to prove and the amount of which could go into very high levels of expenditure above and beyond the value of the goods.

It is with that in mind that I have proposed the amendment, and I believe the amendment would be something that should be included in this measure.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, we have on this side not seen the amendment before it was proposed tonight. As I understand it, there may be some on our side, particularly on the Commerce

Committee, that would object to the Senator's amendment. I am put in the position of trying to secure some advice and counsel now from at least the ranking member of the Commerce Committee. So, we will be delayed for some time because he is in a conference, and we will have to try to reach him and see what we can do.

So, Mr. President, I have no alternative but to suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. PRESSLER. 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 3063, AS MODIFIED

(Purpose: To modify the manager's amendment)

Mr. PRESSLER. Mr. President, I send an amendment to the desk to modify the manager's amendment. This amendment just changes one word, and it has been agreed to by both sides of the aisle.

I send the amendment to the desk.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside.

The amendment is so modified.

The amendment, as modified, is as follows:

On page 3 of the amendment, between lines 14 and 15, insert the following: "On page 311, line 16, insert 'reasonable' after 'a'."

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

GOOD NEWS FOR ALASKANS

Mr. STEVENS. Mr. President, I come to the floor today to say this is a good day for my State of Alaska. This afternoon President Clinton signed legislation which lifts the ban on the export of Alaskan North Slope crude oil and authorizes the sale of the Alaska Power Administration.

Alaskans have been fighting for both of these provisions for more than 20 years. The ban on the export of our own oil was unjust and unconstitutional, as I have said here on the floor many times. Before today, Alaska was the only State prohibited from exporting its most valuable product. There is no ban on the sale of oil from Texas or the exporting of apples from Washington State. I see the distinguished occupant of the chair is from my southern neighboring State.

Today's action by the President lifts years of discrimination against Alaska, and I think it proves that perseverance can overcome bad policy. Lifting this

ban will promote domestic oil production, provide jobs, and make Alaska less dependent on foreign oil. The ban has had the unintended effect of actually threatening our energy security by discouraging further energy production in the south 48 and creating unfair hardships for a struggling oil industry in the United States.

Fundamentally, the existing export restriction distorts the crude oil markets in Alaska and on the west coast. The inability to export Alaskan North Slope crude oil depresses the open market price of Alaska North Slope crude on the west coast, which is essentially the only market for our oil. Some people will tell us that it makes no sense to lift the export ban while Congress is pursuing an effort to authorize oil exploration on Alaska's arctic coastal plain. And nothing could be further from the truth.

Lifting the export ban simply restores a true market price for Alaskan oil, and the west coast will still be the principle consumer of that product. What this new law does is allow an Alaskan product to be sold at a fair price, the same demand farmers in the Midwest make when they sell their crops or automakers in Detroit make when they sell their products.

The Department of Energy noted in a 1994 study of the export ban that the result of the export ban means "that the west coast generates the largest gross refiner margins in the world."

So what does this new law do? It puts fairness back into the economic system and removes an ugly vestige of protectionism.

One of the main reasons I have come to the floor is to congratulate the chairman of the Energy Committee, my colleague and good friend, Senator FRANK MURKOWSKI. I also congratulate Congressman DON YOUNG, chairman of the House Resources Committee. My two colleagues made great efforts to shepherd this bill through the legislative process.

Actually, Mr. President, I think the President signed the bill principally to help California because most of the jobs to be restored will be in California. And I do thank him and Energy Secretary O'Leary for their support of this bill.

The Department of Energy did issue a comprehensive report last year that proved once and for all that the ban on exporting Alaskan oil made no sense. Lifting that ban will create 25,000 jobs nationally, most of them in California, as I said, and could return substantial funds to the Nation and to the States of California and Alaska.

The sale of the Alaska Power Administration is another item, an item that I have worked on for more than two decades. During the Nixon administration, I introduced in the Senate the first bill to authorize the sale of this entity.

Today's actions restore some of the promise that was made when we obtained statehood for Alaskans. We al-

ways sought to be a full partner with other States. For too long, Alaska has been treated as a second-class citizen, and I think the export ban was one example. The refusal to pass the law to sell the Alaska Power Administration, as was requested by our citizens 20 years ago, is also an example of just holding up something that was good for Alaska because one Senator in the Congress opposed it.

I do believe that in a State where the Federal Government controls more than 70 percent of the land that we should have been able to export our oil as a marketable product. There would have been a great deal more demand for Alaska's oil exploration in the last period particularly since the discovery of oil on the North Slope. I think it was unfortunate that that was one of the provisions we had to agree to to obtain approval by Congress of the bill that gave us authority to grant the right-of-way for the Trans-Alaska Pipeline.

In my judgment, this has been a long time coming. There is still a long line of actions, Mr. President. The Alaskans have requested us to give them full rights of statehood, and I intend to come to the Senate and ask for those rights as the time goes by.

Thank you very much, Mr. President. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk called the roll.

Mr. PRESSLER. 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. PRESSLER. Mr. President, I ask unanimous consent to speak for 5 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from South Dakota is recognized.

OPPOSED TO SENDING TROOPS

Mr. PRESSLER. Mr. President, I am opposed to sending troops to Bosnia based on the information I now have. I base that judgment, in part, on my own experience as a lieutenant in the Army in Vietnam many years ago. It has been my observation that our soldiers have a very hard time in a civil-war situation in another country, and that is because our soldiers are frequently used essentially as shields. We value human life so highly that we react very strongly to any body bags coming back or to any casualties, as we should.

There is probably no other country in the world that reacts to its soldiers being killed or captured as we do in the United States, and again, Mr. President, we should act that way. Any action by our soldiers will be shown on television in living color. If there are any funerals, they will be a nationwide event. U.S. soldiers become shields and hostages and symbols very quickly.

If we had a vital interest that we could accomplish there, I would be for