

to maintain the roads and bridges necessary in our State, in order to make it a national road system. We cannot do it.

In fact, if you measure the burden another way, we in North Dakota rank among the highest in the country in per-person payments of Federal gas tax. Our burden ranks among the highest in the country. But others want to segregate it out and say, "Well, you are a recipient State and that is not right."

I say, but we in North Dakota pay for the Coast Guard.

We don't mind doing that. I am a taxpayer. My constituents are taxpayers. We pay for the Coast Guard. We don't really have any coast to guard. North Dakota is landlocked. We don't mind really doing that. That is the way these things should be done on a national basis.

When it comes to investing in highway programs, we feel also that there ought to be a national program to make sure that our country is a country that is not divided by those areas that have good roads and those that don't, because some can afford it and some can't.

Roads and infrastructure represent a national need and a national priority, and the satisfaction of that need and priority makes this a better and a stronger country. I hope that the discussions on the floor of the Senate by Senator BYRD, Senator GRAMM and Senator BAUCUS and so many others who are urging that we be allowed on this agenda to consider very, very soon the highway reauthorization bill, I hope those urgings will be heard and that we will very soon be on that particular business.

Mr. President, with that, I see a colleague is on the floor. I yield the floor.

Mr. HUTCHINSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. HUTCHINSON. Mr. President, I ask unanimous consent to proceed as in morning business for a period not to exceed 10 minutes.

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

Mr. HUTCHINSON. I thank the Chair.

(The remarks of Mr. HUTCHINSON pertaining to the introduction of S. 1631 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. HUTCHINSON. Mr. President, I yield the floor and 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. THOMAS. 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 President, I ask unanimous consent that the order for the quorum call be rescinded.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. THOMAS. Mr. President, I ask unanimous consent to speak for 5 minutes as in morning business.

The PRESIDING OFFICER. The Senator is recognized for that purpose.

Mr. THOMAS. Thank you very much.

JACKSON HOLE AIRPORT

Mr. THOMAS. Mr. President, I rise today to talk a little bit about a parochial issue that is peculiar to Wyoming, but it is one that is troublesome. It has to do with the Jackson Hole Airport. I am rising to express my frustration regarding the Federal Aviation Administration (FAA) and its lack of action with respect to an environmental assessment (EA) regarding safety issues at the Jackson Hole Airport.

Let me explain why the issue is so important to us in Wyoming. Jackson Hole is the busiest airport in Wyoming. It is the only commercial service airport in the country that is located within a national park, Grand Teton National Park. As a consequence, of course, the FAA and the Park Service are very careful about making safety or other improvements at this facility. And they should be. As chairman of the Senate subcommittee on national parks, I agree that all of the proposals for changes at the Jackson Hole Airport ought to be carefully examined. You won't find a bigger advocate for our national parks in the U.S. Senate than me. However, there are some significant safety issues that must be addressed quickly.

Between 1984 and 1992, the airport had more "runway excursions," which is a nice way of saying they ran off the end of the runway, than any other airport in the country. This includes a broad range of aircraft, from general aviation and small commuters, to large aircraft such as 757s.

Since 1992, there have been seven additional runway "incidents" that have occurred.

In response to these problems, the Jackson Hole Airport board began an environmental assessment in 1992. All the interested parties, including the Park Service and the FAA were at the table. In fact, in 1993, I wrote Transportation Secretary Pena asking for inter-agency cooperation on this important issue, including the National Park Service, the Interior Department, the FAA, and the Department of Transportation. I wrote that letter in order to avoid the kind of situation that we have now.

In April of 1997, the airport board finally completed the assessment, after 5 years, and submitted it to the FAA. The results of the environmental assessment appeared to be very reasonable.

It would bring the runways into compliance with current FAA runway standards. That makes sense.

It would improve safety without increasing the length of the runways, which is very important. There is opposition by some to making the runways longer because they are in the park. And there is some opposition to making them longer because that could ac-

commodate bigger airplanes, and some people are not anxious to see that happen.

It would not result in any significant noise increase. In fact, I am told that the newer airplanes are less intrusive with noise perhaps than the older ones.

If, in fact, these statements are correct—and they appear to be—then why is the proposal being delayed? The FAA has been unresponsive and uncooperative with my office on this matter.

In December of 1997, 8 months after the completion of the study, the FAA still had not acted on the environment assessment. I wrote the agency asking it to expedite its consideration of this matter and I ask unanimous consent to have it printed in the RECORD.

There being no objection, the letter is ordered to be printed in the RECORD, as follows:

DECEMBER 4, 1997.

JANE F. GARVEY,
Administrator, Federal Aviation Administration,
Washington, DC.

DEAR ADMINISTRATOR GARVEY: We write to request that you expedite action on the Final Environmental Assessment (EA) submitted by the Jackson Hole Airport Board in April of this year. Prompt action by the Federal Aviation Administration (FAA) is vital to maintaining safe air travel to and from Jackson Hole Airport.

As you may know, the Jackson Hole Airport enplanes more passengers than any other in our State and provides an essential transportation link to the northwest area of Wyoming. In addition, between 1984 and 1992, the Jackson Hole Airport had more "runway excursions" than any other air carrier airport in the United States. Both you and Secretary of Transportation Slater have emphatically stated that safety is the top priority of this administration. We agree that the traveling public's safety is vital and consequently ask that you expedite the consideration of this plan.

In the fall of 1993, the Wyoming Congressional Delegation requested inter-agency cooperation in the preparation of an Environmental Assessment of Master Plan Alternatives to enhance the safety and efficiency of the Jackson Hole Airport. The Delegation was assured by then Secretary of Transportation Federico Peña that the FAA would work toward the development of a responsible and "timely" airport plan. We are asking you to keep that commitment, particularly because seven months have passed since the Final EA was sent to the FAA for review.

The EA describes a preferred alternative designed to contain these runway excursions on pavement without actually extending the runway or expanding Airport boundaries. Unless action is taken quickly, runway safety improvements in the preferred alternative will be delayed until 1999. In fact, since the environmental assessment process began in 1992, seven additional runway accidents have occurred.

The concern the delegation expressed over four years ago remains: that timely action to be taken so that runway safety improvements at the Jackson Hole Airport will not be unduly delayed. If the FAA's record of decision on the Final EA will not be issued by January 1, 1998, we request that you inform us as to the reasons for the delay and when a decision should be expected.

Sincerely,

CRAIG THOMAS,
U.S. Senator.
MICHAEL ENZI,

U.S. Senator.
BARBARA CUBIN,
Member of Congress.

Mr. THOMAS. I still have not received an answer to my letter from the FAA. The letter was sent in early December of 1997. All the letter asked was for a date by which we could expect a decision. I didn't ask for a decision, I didn't urge a certain outcome, just the date.

I called the FAA Administrator several weeks ago and though she said she would check into it I have heard nothing from her or her staff. For an agency that claims safety as its No. 1 priority, these delays are hard to understand.

This assessment is not an effort to expand the airport. There won't be longer runways, bigger airplanes or more flights. It is about safety, safety for everyone flying in and out of this airport. Time is of the essence—there is a short construction period, as you might imagine, in Jackson Hole, WY. The FAA needs to come to a decision quickly or these safety improvements will be delayed for yet another year.

Mr. President, I guess I have to admit that I am simply expressing my frustration with this situation. The FAA's primary responsibility is safety. The Jackson Hole Airport presents an opportunity to deal with an important safety issue and we've received no response from the FAA. I, therefore, intend to be rather critical of the FAA until it decides to act and comes to a conclusion. This process has gone long enough. The FAA needs to move forward now.

I typically am not anxious to come to the floor of the Senate and grumble about a federal agency, but I think this is something that needs to be grumbled about, and therefore I am here.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

INDEPENDENT COUNSEL

Mr. TORRICELLI. Mr. President, I ask unanimous consent to have printed in the RECORD a letter I have written on this day to Attorney General Janet Reno.

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

FEBRUARY 11, 1998.

Hon. JANET RENO,
Attorney General of the United States, U.S. Department of Justice, Washington, DC.

DEAR MADAM ATTORNEY GENERAL: As a member of the Senate Judiciary Committee, which is charged with conducting oversight of the Department of Justice and the Office of the Independent Counsel ("OIC"), I believe public confidence in our system of justice must be maintained. I therefore respectfully request that you conduct a formal inquiry of Independent Counsel Kenneth Starr to determine whether he should be removed or disciplined for repeated failures to report and avoid conflicts of interest pursuant to the powers vested in the Attorney General by the Ethics in Government Act ("The Act"), 28 U.S.C. §591, et seq.

Recent events involving the Independent Counsel's probe are further evidence of Mr. Starr's entanglements that cast a cloud over his ability to conduct an investigation objectively. Over the course of his entire investigation, Mr. Starr, in his continuing work as a partner at the law firm of Kirkland & Ellis and as Independent Counsel, has embraced (and been embraced by) persons and interests that seek to undermine the President as part of their political agenda. He has continually turned a blind eye to his own conflicts of interest at his law firm, to the conflicts engendered by the actions of his clients, and to benefactors that seek to discredit the President for partisan political gain. A person of Mr. Starr's numerous conflicts of interest cannot carry out the evenhanded and fair-minded, independent investigation contemplated by the Act. Moreover, the evidence that has surfaced thus far regarding the expansion of Mr. Starr's jurisdiction into these matters raises serious concerns about the OIC's collusion with the Paula Jones legal team in an effort to unfairly and illegally trap the President.

This possible misconduct demands an immediate investigation by the Department to determine if Mr. Starr remains sufficiently "independent" to continue to serve in his current position.

I. THE ETHICS IN GOVERNMENT ACT REQUIRES THE ATTORNEY GENERAL TO INVESTIGATE ALLEGED MISCONDUCT OF THE INDEPENDENT COUNSEL

The Independent Counsel statute provides the Attorney General with jurisdiction to investigate alleged misconduct, conflict of interest and other improprieties that would render an Independent Counsel unfit to remain in office. Specifically, under the statute, the Attorney General may remove an Independent Counsel "for good cause, physical disability, or other condition that substantially impairs the performance of such independent counsel's duties." 28 U.S.C. §596. The Supreme Court has suggested that a finding of "misconduct" would most assuredly constitute "good cause" under Section 596, and that "good cause" may impose no greater threshold than that required to remove officers of "independent agencies." *Morrison v. Olson*, 487 U.S. 654, 692, n. 32 (1988).

The Attorney General's removal authority and the concomitant authority to investigate the independent counsel to determine if there are grounds for removal are essential to the continuing constitutional vitality of the Act. Indeed, the Supreme Court's holding that the Act did not violate separation of powers principles rested largely on the power reserved to the Attorney General to remove the independent counsel for "good cause." Specifically, the court found that the Attorney General's removal power rendered the independent counsel an "inferior officer," as required by the Constitution, 487 U.S. at 671, and that such authority ensured that undue powers had not been transferred to the judicial branch under the Act. 487 U.S. at 656. Thus, *Morrison* teaches that not only is the Attorney General authorized to determine whether there are reasons to remove the independent counsel, but that the Attorney General is constitutionally obliged to do so.

In addition, the Act expressly obligates the Independent Counsel to follow, to the fullest extent possible, the standards of conduct prescribed by the Department of Justice. See 28 U.S.C. §594(f) (An Independent Counsel "shall, except to the extent that to do so would be inconsistent with the purposes of this chapter, comply with the written and other established policies of the Department of Justice respecting enforcement of the criminal laws"). Accordingly, independent of

your removal authority, the Department's Office of Professional Responsibility ("OPR") has jurisdiction to investigate allegations of misconduct by the Independent Counsel and his staff or potential conflicts of interest that would disqualify him from serving as independent counsel. See Department of Justice Manual ("DOJ Manual"), Section 1-2112 (Supp. 1990) (Office of Professional Responsibility "oversees investigation of allegations of misconduct by Department employees"). Against the backdrop of this clear constitutional and statutory mandate, I request that you initiate a formal inquiry into the following matters.

II. CONFLICTS OF INTEREST: MR. STARR HAS CONSISTENTLY IGNORED THE CONFLICTS RELATED TO HIS WORK, HIS CLIENTS, AND HIS BENEFACTORS

Mr. Starr's decision not to devote his full attention to his obligations as Independent Counsel in a matter involving the President of the United States has made inevitable the ensuing appearances of impropriety and actual conflicts of interest. His own ethics consultant, Samuel Dash, formerly Chief Counsel to the Senate Watergate Committee, noted that Starr's decision to continue representing private clients while investigating the President has "an odor to it." "How Independent is the Counsel," *The New Yorker*, April 22, 1996. The seriousness of these conflicts (and the odor) is evident by the direct involvement that his clients and others to whom he is financially dependent have assumed in Mr. Starr's investigation.

The Act makes clear that during an Independent Counsel's Tenure, neither the counsel, nor any person in a law firm that the counsel is associated with "may represent in any matter any person involved in any investigation or prosecution under this chapter." 28 U.S.C. §594(j)(1)(i) and (ii). Mr. Starr, however, has violated both the spirit and letter of the statute through his own work and work of his law firm, as well as the actions of his clients and future benefactors.

A. The Expansion of the Investigation Into Matters In The Paula Jones Case Places Mr. Starr In Violation Of The Act's Conflict of Interest Provisions

Mr. Starr, as a partner at the law firm of Kirkland & Ellis and just prior to his appointment as Independent Counsel, actually provided legal advice in connection with the Paula Jones litigation. "Mr. Starr's Conflicts," *New York Times*, March 31, 1996. While the fact that he has been involved with that litigation prior to becoming Independent Counsel certainly gave his appointment the appearance of impropriety in violation of the spirit of the Act, now that his investigation has fully inserted itself into the Paula Jones matter, concerns about his former representation certainly are magnified and call into question his role as an "independent" counsel in Paula Jones-related matters.

Of far greater gravity are the press reports and other information suggesting past and present representation by Kirkland & Ellis of other individuals connected to the Paula Jones civil litigation. See "More Subpoenas and Angry Talk in Starr's Probe," *Chicago Tribune*, January 31, 1998; "Starr Furor Lands at Firm's Door," *Legal Times*, February 9, 1998. Mr. Starr's potential breach of his duty to inform you of any association between his firm and persons involved in the Paula Jones matter, as well as the possible breach of the Act's statutory conflict of interest standards, should be the subject of investigation. Evidence that is discovered as the result of the current subpoena directed to Kirkland & Ellis for Paula Jones-related documents will undoubtedly shed light on whether Mr. Starr is in violation of the conflict of interest standards under the Act.