

access to quality clinical trials. These trials are often the only hope for patients with incurable cancer or other diseases where conventional treatments are ineffective. They are the best hope for learning to cure these dread diseases.

Insurance used to routinely pay the doctor and hospital costs associated with clinical trials, but managed care plans are refusing to allow patients to participate. Our bill forces the insurance companies to respond to these needs, but the Republican bill does not. And they refuse to debate this issue. Here it is on the chart, "Access to Clinical Trials." We provide this protection, and they do not.

Yet, this is very important for women who are battling breast cancer. It is important for children—like my own son, Teddy, who was able to get into a clinical trial when he had osteosarcoma at age 12, and survive that dread disease. He is alive today because he was in a clinical trial.

Mr. President, as I have pointed out before, these are the guarantees that are in our legislation. Under our proposal, the doctor, the medical professional, will make the decisions on medical treatment for the patient—be that you or your spouse or your child or your grandchild. Medical decisions will not be made by an insurance company accountant. That is what is at the heart of the differences between the two pieces of legislation.

We welcome an opportunity to just say we will take 10 of the issues on this list, and vote on those measures and vote on the legislation, while permitting our Republican friends to have a similar number of amendments. But let us at least get about it in these final days. It is not too late. It must not be too late, or we would not see the kinds of activity to deny or delay action on this legislation by our Republican friends each day.

Just in conclusion, earlier in the day—although this was not advanced, it was circulated by the majority—there was a unanimous consent that was going to be proposed on the Internet tax legislation. I will include the whole provision in the RECORD.

This was circulated to see whether there would be any objection on the Democratic side. It basically allowed all types of amendments—unlimited first and second degree amendments or amendments that are not relevant to the Internet tax issues in the underlying bill—but, and this is important, no health care amendments. Here is the text that would have been spoken by the Majority leader, "I further ask that during the Senate's consideration of S. 442 or the House companion, no amendments relative to health care be in order." There you have it: One piece of legislation, with possibilities for all other legislation, except one—health care, the Patients' Bill of Rights, guaranteed protections for more than 160

million people. Under this proposal from the Republican leadership, we are permitting other kinds of amendments, but we are going to say no amendments relative to health care be in order.

Thankfully, our Democratic leader rejected this, so it was not offered. But these are the tactics we are facing. We are as committed as ever to ensuring that we will have an opportunity to debate this issue—even if not on this particular measure. So we are going to continue to pursue it.

I thank the Chair and I yield the floor.

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

The Senate continued with the consideration of the bill.

Mr. McCAIN. I yield to Senator ROTH to offer an amendment.

The PRESIDING OFFICER. The Senator from Delaware.

AMENDMENT NO. 3621

(Purpose: To extend the Airport and Airway Trust Fund expenditure authority)

Mr. ROTH. Mr. President, I send an amendment to the desk on behalf of Senator MOYNIHAN and myself.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Delaware [Mr. ROTH], for himself and Mr. MOYNIHAN, proposes an amendment numbered 3621.

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

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

The amendment is as follows:

At the end of the bill add the following:

TITLE IV—EXTENSION OF AIRPORT AND AIRWAY TRUST FUND EXPENDITURE AUTHORITY

SEC. 801. EXTENSION OF EXPENDITURE AUTHORITY.

(a) IN GENERAL.—Paragraph (1) of section 9502(d) of the Internal Revenue Code of 1986 (relating to expenditures from Airport and Airway Trust Fund) is amended—

(1) by striking "October 1, 1998" and inserting "October 1, 2000"; and

(2) by inserting before the semicolon at the end of subparagraph (A) the following "or the Wendell H. Ford National Air Transportation System Improvement Act of 1998".

(b) LIMITATION ON EXPENDITURE AUTHORITY.—Section 9502 of such Code is amended by adding at the end the following new subsection:

"(f) LIMITATION ON TRANSFERS TO TRUST FUND.—

"(1) IN GENERAL.—Except as provided in paragraph (2), no amount may be appropriated or credited to the Airport and Airway Trust Fund on and after the date of any expenditure from the Airport and Airway Trust Fund which is not permitted by this section. The determination of whether an expenditure is so permitted shall be made without regard to—

"(A) any provision of law which is not contained or referenced in this title or in a revenue Act; and

"(B) whether such provision of law is a subsequently enacted provision or directly or indirectly seeks to waive the application of this subsection.

"(2) EXCEPTION FOR PRIOR OBLIGATIONS.—Paragraph (1) shall not apply to any expenditure to liquidate any contract entered into (or for any amount otherwise obligated) before October 1, 2000, in accordance with the provisions of this section."

Mr. ROTH. Mr. President, this amendment contains the necessary conforming changes to the Tax Code required by this reauthorization bill. This amendment does not affect Federal revenues. Therefore, this bill remains a nonrevenue bill. This amendment will allow expenditures from the Airport and Airway Trust Fund to occur as authorized by the underlying legislation relating to airport construction, maintenance and technology.

It will also help ensure our air traffic control system continues to provide safe and efficient services.

It is my understanding that this amendment is acceptable to both sides of the political aisle. At the appropriate moment, I will urge its adoption.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, I thank the distinguished chairman of the Finance Committee. As always, he has been extremely cooperative and helpful as we have this kind of legislation out of the Commerce Committee, which sometimes has tax implications. I am very grateful for the continued cooperation and effort to not encroach on the jurisdiction of the Finance Committee and also to make sure that their views and their authority are well recognized.

The crucial programs in this legislation are directly dependent upon the ability of the FAA to spend moneys out of the aviation trust fund, and the trust fund itself is supported by revenues from the aviation excise taxes which are paid by all air travelers.

I thank Senator ROTH for his cooperation in our effort to keep necessary funds flowing to aviation programs. His amendment will help keep the FAA on sound financial footing.

He and his staff have been very helpful in our efforts on this bill. I want to clarify with the chairman that this amendment merely authorizes expenditures from the trust fund for 2 years and prevents expenditures from the trust fund without an authorization in place?

Mr. ROTH. Mr. President, I say to my distinguished colleague, that is correct; that is the intent of the amendment.

Mr. McCAIN. Mr. President, I am not aware of any objection. In fact, I support the amendment. I will urge adoption of the amendment after the Senator from Kentucky speaks.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. I thank the Chair. There is no objection to the distinguished Senator's amendment on this side.

Mr. ROTH. I urge adoption of the amendment.

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

The amendment (No. 3621) was agreed to.

Mr. McCAIN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

PRIVILEGE OF THE FLOOR

Mr. FORD. Mr. President, I ask unanimous consent that Dan Alpert and Walter Dunn, fellows in the office of Senator BINGAMAN, be granted the privilege of the floor during consideration of S. 2279.

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

Mr. INHOFE addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

AMENDMENT NO. 3620

(Purpose: To provide for the immediate application of certain orders relating to the amendment, modification, suspension, or revocation of certificates under chapter 447 of title 49, United States Code)

Mr. INHOFE. Mr. President, I have an amendment at the desk, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Oklahoma [Mr. INHOFE] proposes an amendment numbered 3620.

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

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

The amendment is as follows:

At the appropriate place, insert the following:

SEC. ____ . AMENDMENTS, MODIFICATIONS, SUSPENSIONS, AND REVOCATIONS OF CERTIFICATES.

Section 44709 of title 49, United States Code, is amended—

(1) in subsection (e)—

(A) by striking "When" and inserting "(1) Except as provided in paragraph (2), if"; and

(B) by striking "However, if" and all that follows through the end of the subsection and inserting the following:

"(2) If the Administrator determines, in the order, that an emergency exists and safety in air commerce or air transportation requires the order to be effective immediately—

"(A) subject to subparagraph (B), the order shall be in effect unless the Administrator is not able to prove to the Board, upon an inquiry of the Board, the existence of an emergency that requires the immediate application of the order in the interest of safety in air commerce and air transportation; and

"(B) the Board shall—

"(i) not later than 5 days after the filing of an appeal under paragraph (1), make a disposition concerning the issues of the appeal

that are related to the existence of an emergency referred to in subparagraph (A); and

"(ii) not later than 60 days after the filing of an appeal under paragraph (1), make a final disposition of the appeal.

"(3) If the Administrator determines, in the order, the existence of an emergency described in paragraph (2)(A), the appellant may request a hearing by the Board on the issues of the appeal that are related to the existence of the emergency. Such request shall be made not later than 48 hours after the issuance of the order. If an appellant requests a hearing under this paragraph, the Board shall hold the hearing not later than 48 hours after receiving that request."; and

(2) in subsection (f), by inserting "by further order" after "the Administrator decides".

Mr. INHOFE. Mr. President, this amendment is one that should not be controversial. I can recall as recently as the Oshkosh meeting this last August where they voted—and we are talking about 250,000 people who were involved—to say this is the No. 1 issue for general aviation in America this entire year and perhaps for several years.

It has to do with a process that is very similar to something we went through a few years ago. When the FAA exercises its power to invoke an emergency revocation of a license, they can do so for an indefinite period of time and that person will lose that license. In many cases, it may be this person's only way of making a living.

We have worked for several years to come up with some type of a compromise that will allow an individual to recover his license in the event that it is shown there is nothing dangerous in the way that individual had been flying. It is very unfortunate that in any bureaucracy, there are a few people who will occasionally do something that is not justified.

I share with you, Mr. President, a case of an individual named Ted Stewart who had been employed by American Airlines as a pilot for more than 12 years and presently serves as a Boeing 767 captain. No complaints had ever been registered against him or his flying.

In January of 1995, the FAA suspended Mr. Stewart's examining authority. And the reason? Possibly improper issuing of ratings. He complied with the FAA request that he provide log books and/or other reliable records for inspections. On May 16, 1995, an emergency revocation was issued, and he lost his airman certificates.

June 19, 1995, the National Transportation Safety Board Administrative Law Judge Mullins ruled in Mr. Stewart's favor on all counts. In July of 1995, the full NTSB upheld Judge Mullins' initial decision. All pilot certificates were returned. I point out, this is almost 2 months after the revocation. In January of 1996, he was awarded approximately 60 percent of the money spent to defend himself. The FAA appealed the ruling and it is still pending before the full NTSB.

What I am getting at is, we have case after case where individuals have lost

their ability to make their living for their families when there was not any type of an emergency, there was not any type of a hazard in their performance in terms of their acting as a pilot.

What we are trying to do is similar to what we did successfully a few years ago under the civil penalties provision, and that is, insert into the process an unbiased source that will be able to participate in the process. In the case of civil penalties, we had the NTSB to hear the cases after they have been ruled on by the FAA. This has been working very well since that time.

My amendment, as far as it addresses the emergency revocation, addresses the problem prudently by providing an airman—that is the pilot—48 hours after receiving an emergency revocation order the opportunity to request a hearing before the NTSB on the emergency nature of the revocation. This is not on the offense, this is on the emergency nature as to whether or not this would be an emergency. The NTSB then has 48 hours to hear the arguments. Within 5 days of the initial request, the NTSB must decide if a true emergency exists. During this time, the emergency revocation remains in effect.

In other words, the certificate holder loses use of his certificate for a maximum of 7 days. However, should the NTSB decide an emergency does not exist, then the certificate will be returned to the certificate holder, and he can continue to use it while the FAA pursues their revocation case against him.

Keep in mind, no emergency exists, nothing is done to impose a hazard on himself or the public.

If the NTSB decides that an emergency does exist, then emergency revocation remains in effect and the certificate holder cannot use his certificate while the case is adjudicated. That would revert back to the way the law is today. That individual would not be able to fly. So all we are talking about is whether or not there is an emergency nature in this case.

Please do not misunderstand, in no way do I want to suggest that the FAA should not have emergency revocation powers. I believe it is critical to safety that the FAA can ground unsafe airman or other certificate holders. However, I also believe that the FAA must be judicious in its use of the extraordinary power.

The FAA will argue that because emergency certificate actions are only a small percentage of overall certificate actions, there is no reason for this concern. However, review of recent emergency cases clearly demonstrates a pattern by which the FAA uses their emergency powers far more frequently than the circumstances warrant.

For instance, of the emergency revocation orders issued during fiscal year 1990 through 1997, 50 percent occurred 4 months to 2 years after the violation occurred. In only 4 percent of the cases was the emergency revocation issued

within 10 days or less of the actual violation. In fact, the median time lapse between the violation and the emergency order was a little over 4 months. That is 132 days, Mr. President. I suggest to you, how can that be considered an emergency if nothing happened until 132 days after the alleged violation?

I think clearly at issue is what constitutes an emergency. Simply defined, an emergency is "an unexpected situation or sudden occurrence of a serious and urgent nature that demands immediate action." Yet, as discussed above, the "urgent nature" of the revocation which "demands immediate action" has more often than not occurred several months previously.

There are far too many cases where the FAA unfairly uses this necessary power to prematurely revoke certificates when the circumstances do not support such drastic action.

Mr. President, I have other cases that I could drag out here and talk about, such as the case of Bob Hoover. I have had the privilege of flying in airshows with Bob Hoover for over 30 years. Bob Hoover—probably if you were to ask anyone in the aviation community who the best pilot in America is, they would probably say Bob Hoover. Yet he was the victim of the emergency revocation. We had to go to bat for him, and we had literally thousands of letters from all over America coming to the aid of Bob Hoover because everybody knew there is nothing wrong and nothing of an emergency nature to the revocation of his ability to fly.

So, Mr. President, I feel that this being the No. 1 concern and issue of general aviation today—it is a sense of fairness issue, something that has worked very well in the case of civil penalties—it is one that I feel should be changed in the FAA regulations.

Mr. President, I yield the floor.

Mr. GRAMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. GRAMS. Mr. President, I ask unanimous consent I be allowed to speak as in morning business for up to 5 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. FORD. Mr. President, I do not mean to end this, but we are getting to the point where we have amendments up. And apparently no one wants to vote tonight, but we would like to get our amendments up. And Senator AKAKA has remarks as it relates to the legislation itself. I do not want to prevent—

Mr. GRAMS. This will be very brief.

Mr. FORD. Fine.

Mr. GRAMS. I thank the Senator from Hawaii. I did talk to him and ask if it was all right.

Mr. FORD. We are trying to move this legislation forward. And I did not want to cut the Senator from Oklahoma off either.

The PRESIDING OFFICER. Without objection, the Senator from Minnesota is recognized as in morning business.

Mr. GRAMS. Thank you, and I again thank the Senator from Hawaii for allowing me to make a brief statement.

TRIBUTE TO MURIEL HUMPHREY BROWN

Mr. GRAMS. Mr. President, I rise today to pay tribute to Muriel Humphrey Brown, who was the widow of the late Senator and Vice President Hubert Humphrey and known to many throughout my state as Minnesota's "First Lady."

Mrs. Humphrey Brown passed away on Sunday at the age of 86. Throughout her life, she remained steadfast in her dedication to family and her interest in politics. In her last public appearance, just 5 days before her death, she was on hand to congratulate her son, Skip Humphrey, for winning the Minnesota DFL gubernatorial primary.

Many of my colleagues knew her, respected her, and join me in offering our heartfelt condolences to her husband, Max Brown, her sons Hubert, Doug and Bob, her daughter Nancy, and the entire Humphrey family.

Muriel Humphrey Brown was born on February 20, 1912, in Huron, SD. After marrying Hubert Humphrey, she became a devoted mother and enthusiastically took on the role of a political wife.

She played an active part in her husband's numerous campaigns. After Hubert's death in 1978, Muriel was appointed to his Senate seat, the same Senate seat that I am proud to hold today. By finishing out her late-husband's term, Muriel Humphrey Brown became Minnesota's first and only female U.S. Senator and just the 12th woman to serve in the U.S. Senate. In fact, she was the only woman serving in the Senate at that time.

In carrying out her husband's Senate term, Muriel Humphrey Brown was an inspiration to women throughout Minnesota as she accepted the call to public service even in her time of great personal loss. Rather than being known simply as the wife of the most popular politician in Minnesota, Muriel left her own mark on those issues of public policy about which she felt so strongly.

Her calm and gentle manner did not mute her passionate voice on behalf of social programs, labor issues, and the mentally disabled. She once described her term in the Senate as, "the most challenging thing I have ever done in my whole life." In 1979, she married Max Brown and lived the rest of her life out of the political spotlight. Her devotion to family and public service is truly an inspiration to all Minnesotans, and I am proud to say that her legacy will remain. It is a special honor for me to hold the Senate seat she once held, in the Chamber where she served with such grace, dignity, and honor.

Thank you very much, Mr. President. I yield the floor.

The PRESIDING OFFICER. The Senator from Hawaii.

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

The Senate continued with the consideration of the bill.

Mr. AKAKA. Mr. President, I support S. 2279, the Wendell H. Ford National Air Transportation System Improvement Act of 1998. This measure will enhance the safety and efficiency of our air transportation system, upon which the island state of Hawaii is uniquely dependent. I am pleased that this weighty legislation is named for the departing senior senator from Kentucky, whose contributions to aviation are legion. I am especially supportive of Title VII of the bill which addresses the issue of air tour operations at national parks.

Mr. President, Title VII of S. 2279 establishes a comprehensive regulatory framework for controlling air tour traffic in and near units of the National Park System. The legislation requires the Federal Aviation Administration, in cooperation with the National Park Service and with public input from stakeholders, to develop an air tour management plan (ATMP) for parks currently or potentially affected by air tour flights.

Under the ATMP process, routes, altitudes, time restrictions, limitations on the number of flights, and other operating parameters could be prescribed in order to protect sensitive park resources as well as to enhance the safety of air tour operations. An ATMP could prohibit air tours at a park entirely, regulate air tours within half a mile outside the boundaries of a park, regulate air tour operations that impact tribal lands, and offer incentives for the adoption of quieter air technology. An ATMP would include an environmental determination.

S. 2279 also creates an advisory group comprising representatives of the FAA, Park Service, the aviation industry, the environmental community, and tribes to provide advice, information, and recommendations on overflight issues.

As embodied in the ATMP process, this bill treats overflights issues on a park-by-park basis. Rather than a one-size-fits-all approach, the legislation establishes a fair and rational mechanism through which environmental and aviation needs can be addressed in the context of the unique circumstances that exist at individual national parks.

I am pleased that this procedural approach, in addition to requirements for meaningful public consultation and a mechanism for promoting dialogue among diverse stakeholders, mirrors key elements of legislation—the National Parks Airspace Management Act, cosponsored by my colleagues Senator INOUE and Senator FRIST—that I have promoted in the last three Congresses.

Mr. President, adoption of this bill is essential if we are to address effectively the detrimental impacts of air tour activities on the National Park