

FEDERAL VACANCIES REFORM
ACT OF 1988—MOTION TO PROCEED

CLOTURE MOTION

The PRESIDING OFFICER. Under rule XXII, the clerk will now report the motion to invoke cloture on the motion to proceed to S. 2176.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provision of Rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to S. 2176, the Vacancies Act:

Trent Lott, Strom Thurmond, Charles Grassley, Thad Cochran, Wayne Allard, Ben Nighthorse Campbell, Don Nickles, Orrin G. Hatch, Pat Roberts, Tim Hutchinson, Richard Shelby, Conrad Burns, Jim Inhofe, Connie Mack, Fred Thompson, Spencer Abraham, and Robert C. Byrd.

CALL OF THE ROLL

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum under the rule is waived.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the motion to proceed to S. 2176, the vacancy bill, shall be brought to a close?

The yeas and nays are required under the rule. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Ohio (Mr. GLENN) and the Senator from Illinois (Ms. MOSELEY-BRAUN), are absent on official business.

I also announce that the Senator from Minnesota (Mr. WELLSTONE) is attending a funeral.

I further announce that, if present and voting, the Senator from Minnesota (Mr. WELLSTONE) would vote "aye."

The yeas and nays resulted—yeas 96, nays 1, as follows:

[Rollcall Vote No. 285 Leg.]

YEAS—96

Abraham	Faircloth	Lieberman
Akaka	Feingold	Lott
Allard	Feinstein	Lugar
Ashcroft	Ford	Mack
Baucus	Frist	McCain
Bennett	Gorton	McConnell
Biden	Graham	Mikulski
Bingaman	Gramm	Moynihan
Bond	Grams	Murkowski
Boxer	Grassley	Murray
Breaux	Gregg	Nickles
Brownback	Hagel	Reed
Bryan	Harkin	Reid
Bumpers	Hatch	Robb
Burns	Helms	Roberts
Byrd	Hollings	Rockefeller
Campbell	Hutchinson	Roth
Chafee	Hutchison	Santorum
Cleland	Inhofe	Sarbanes
Coats	Inouye	Sessions
Cochran	Jeffords	Shelby
Collins	Johnson	Smith (NH)
Conrad	Kempthorne	Smith (OR)
Coverdell	Kennedy	Snowe
Craig	Kerrey	Specter
D'Amato	Kerry	Stevens
Daschle	Kohl	Thomas
DeWine	Kyl	Thompson
Dodd	Landrieu	Thurmond
Domenici	Lautenberg	Torricelli
Dorgan	Leahy	Warner
Enzi	Levin	Wyden

NAYS—1

Durbin

NOT VOTING—3

Glenn

Moseley-Braun

Wellstone

The PRESIDING OFFICER (Mr. SANTORUM). On this vote, the yeas are 96, the nays are 1. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader.

UNANIMOUS-CONSENT AGREEMENT

Mr. LOTT. I ask unanimous consent that notwithstanding rule XXII, the Senate immediately proceed to the order with respect to the Inhofe amendment.

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

Mr. LOTT. For the information, then, of all Senators, another vote will occur in approximately 10 minutes relative to the Inhofe amendment which is pending to the FAA reauthorization bill, and after that vote we will announce what the process will be thereafter.

WENDELL H. FORD NATIONAL AIR
TRANSPORTATION SYSTEM IM-
PROVEMENT ACT OF 1998

The PRESIDING OFFICER. The Senate will proceed to S. 2279 which the clerk will report.

The legislative clerk read as follows:

A bill (S. 2279) to amend title 49, United States Code, to authorize programs of the Federal Aviation Administration for fiscal years 1999, 2000, 2001 and 2002, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Inhofe amendment No. 3620, 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.

AMENDMENT NO. 3620

The PRESIDING OFFICER. The Senate will come to order.

There are 10 minutes equally divided on the Inhofe amendment. Who yields time?

Mr. MCCAIN. Mr. President, I ask unanimous consent that because of his eloquence, the Senator from Oklahoma be allowed 7 minutes and I will take 3 minutes.

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

The Senator from Oklahoma.

Mr. INHOFE. Mr. President, there is a process that is used by the FAA which is known as the emergency revocation process. This process will allow an inspector in the event of an alleged violation by a licensed pilot to take away the pilot's certificate. He would take away the certificate under the emergency revocation clause declaring that an emergency exists.

The problem with this is that many times when you have an inspector do

this, or an examiner take away a certificate, there is not even an emergency nature to the revocation. Consequently, we have many, many cases where the individuals have been abused.

I would like to suggest that Ted Stewart, who is an American Airlines pilot, has been a pilot for over 12 years and presently flying Boeing 767s. In May of 1995, there was an emergency revocation. He was not guilty of anything. There was not an emergency attached to this. There was never any hazard to anyone's health or safety.

However, it was 2 months until he was able to get his certificate back. Then an examiner went back to him in June of 1996 and again revoked his certificate under the emergency revocation. Consequently, for another 2 months he was unable to earn a living. Fortunately, he worked for American Airlines; they were good enough to keep his paychecks coming, but in many cases that is not the case.

I happen to be a very close friend of a man named Bob Hoover. I think most of you can remember who Bob Hoover is. He is considered to be the best performer in the circuit of airshows. In fact, I have flown airshows with him. In 1992—and I was there at the time—an inspector came in, an examiner for the FAA, and said to him, We think you have a problem. We think perhaps there is a mental problem or something—they didn't really define it—and they revoked his certificate. It wasn't for another 4 years he was able to get his certificate back. In the meantime, he was flying his airshows but outside the United States.

Now, very simply, what my amendment does is set up a process whereby if you lose your certificate, you have 48 hours to take it to the NTSB and let the NTSB make a determination as to whether or not there is any kind of an emergency nature to the revocation. After they have looked this over and decided there is no emergency involved to the nature of the revocation, then at the end of 7 days the pilot will get his certificate back. If there is, then he would not get it back. They can go ahead then and go through the normal adjudication of the violation.

This is something that has been going on for quite some time. We have been concerned about reforming this process. This is a compromise, because this makes it very clear if there is any hazard out there, if there is any risk to anyone's safety, the flying public or the pilot himself, the pilot is not going to be able to fly. It is as simple as that.

A lot of people say that there are only 300 emergency revocations a year. Therefore, it is not really a problem; it doesn't really affect that many people. I suggest to you that if you take 300 people, there might be 20 or 30 of those who make their living flying airplanes for American Airlines or one of the other airlines, in which case that takes them out of their occupation.

The other problem we have is there are 650,000 pilots right now licensed in

the United States and they all live in mortal fear that something like this would happen to them.

At this point let me yield 1 minute to Senator FRIST.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. FRIST. Mr. President, I rise in support of the Inhofe amendment. Clearly, the FAA will be against this amendment because they will not voluntarily relinquish anything in terms of regulatory authority. I believe this amendment is reasonable. It provides, in essence, due process for pilots who do have their privileges revoked, with attention given to safety. It really assures accountability within the FAA.

As a pilot who has been witness to the potential abuses—and the Senator from Oklahoma has demonstrated several well-documented examples of how the FAA has really unfairly used a necessary power to prematurely revoke certificates—this amendment will address the issue while assuring accountability.

I rise in support of the amendment, a more reasonable approach which assures accountability and assures due process.

Mr. INHOFE. I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I, of course, respect very much the views expressed by Senators FRIST and INHOFE, both of whom are pilots. The FAA has objected to this amendment. I believe it goes too far. I understand Senator INHOFE's concerns. They were voiced a couple of years ago on a similar measure when we were doing another bill, the aviation bill. The fact is, we need to address this issue.

I believe this goes too far. I look forward to working with Senator INHOFE and Senator FRIST on it, but I am very hesitant to take a measure which could, at the end of the day, possibly endanger safety. That is why I have to oppose this amendment at this time.

I yield 30 seconds to the Senator from Kentucky.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, I have to oppose this amendment, also. The FAA must have the ability to act when it believes safety is at risk. The FAA is often criticized for not acting quickly enough on safety matters. Here they revoke a certificate for safety purposes and we want to make it harder for them to act. Right now the court of appeals has upheld the FAA actions in every case. They do not second guess the agency charged with the regulation of safety, so let's be sure we give the FAA the authority for safety in the air.

The PRESIDING OFFICER. The time of the Senator has expired. The Senator from Oklahoma.

Mr. INHOFE. Mr. President just a few years ago we went through the same thing with the civil penalties of the FAA Act, so there would be some-

one other than the FAA involved. Prior to that time, the FAA was the judge, the jury, and the appellate court. They made all the decisions and they were protecting their own, because every bureaucracy does this—EPA, IRS, FDA and all the rest of them.

We changed the regulation so the NTSB, then, would be the appellate court for civil penalties, and it has worked very well. The junior Senator from Texas served on the NTSB, and I yield her whatever time she needs.

The PRESIDING OFFICER. The Senator is recognized for 1 minute 20 seconds.

Mrs. HUTCHISON. Mr. President, I do support the Inhofe amendment. Having served on the National Transportation Safety Board, I can tell you that the NTSB normally does not overturn the FAA revocation of pilots' licenses. But they do, after they go through the process and look at all of the evidence. I think it is quite fair to say if someone is going to be disadvantaged by having a license revoked, that the NTSB could very easily, and quickly, look at the type of evidence that they are going to hear and, without making a final adjudication, determine that this person would or would not be eligible to fly during the pendency of the proceedings.

I think it would introduce a new level in the process. It would be the emergency level. I think the NTSB can handle this. I think they are competent to do it, and I think their record shows that they have done it in the past.

I do support the amendment.

Mr. INHOFE. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 14 seconds.

Mr. INHOFE. I will conclude by saying this in no way impairs the flying safety of the flying public or the pilots. The fact that the average time between the alleged violation and the revocation is 132 days pretty much tells you it is not really an emergency problem in most of these cases. I urge you to join the 625,000 pilots and myself in supporting the Inhofe amendment.

The PRESIDING OFFICER. The time of the Senator has expired.

The Senator from Arizona has 1 minute 30 seconds.

Mr. MCCAIN. Mr. President, I thank the Senator from Oklahoma. If he does not prevail on this amendment, which I oppose, I want to pledge to him that I will work with him. There have been abuses. He pointed out the case of Mr. Hoover, who was respected and admired by all of us, who was mistreated by the bureaucracy. Unfortunately, there are always cases where these things happen. But I think we have always to keep safety as the paramount concern, and I believe this amendment possibly—I am not saying absolutely—but possibly could endanger the FAA's ability to carry out their primary responsibilities.

I thank the Senator from Oklahoma for his deep involvement in this and

other aviation issues. I look forward to working with him in addressing what is clearly a problem.

I yield back the remainder of my time.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Ohio (Mr. GLENN) and the Senator from Illinois (Ms. MOSELEY-BRAUN) are necessarily absent.

I also announce that the Senator from Minnesota (Mr. WELLSTONE) is absent attending a funeral.

I further announce that, if present and voting, the Senator from Minnesota (Mr. WELLSTONE) would vote "no."

The result was announced—yeas 46, nays 51, as follows:

[Rollcall Vote No. 286 Leg.]

YEAS—46

Abraham	Enzi	Murkowski
Allard	Faircloth	Nickles
Ashcroft	Frist	Roberts
Bennett	Grams	Santorum
Bond	Grassley	Sessions
Breaux	Hatch	Shelby
Brownback	Helms	Smith (NH)
Burns	Hutchinson	Smith (OR)
Campbell	Hutchison	Snowe
Chafee	Inhofe	Specter
Coats	Jeffords	Stevens
Cochran	Kempthorne	Thomas
Collins	Kyl	Thurmond
Coverdell	Lott	Warner
Craig	Lugar	
Domenici	McConnell	

NAYS—51

Akaka	Feinstein	Leahy
Baucus	Ford	Levin
Biden	Gorton	Lieberman
Bingaman	Graham	Mack
Boxer	Gramm	McCain
Bryan	Gregg	Mikulski
Bumpers	Hagel	Moynihan
Byrd	Harkin	Murray
Cleland	Hollings	Reed
Conrad	Inouye	Reid
D'Amato	Johnson	Robb
Daschle	Kennedy	Rockefeller
DeWine	Kerrey	Roth
Dodd	Kerry	Sarbanes
Dorgan	Kohl	Thompson
Durbin	Landrieu	Torricelli
Feingold	Lautenberg	Wyden

NOT VOTING—3

Glenn	Moseley-Braun	Wellstone
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The amendment (No. 3620) was rejected.

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

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

The motion to lay on the table was agreed to.

Mr. MCCAIN. Mr. President, I thank Senator INHOFE. I intend to work with him. We are going to take this bill to conference. He has a legitimate concern here and the closeness of the vote indicated that. I will work with him on this. He has clearly identified this as a serious problem, and I thank him for the spirited debate and the ventilation of a very important issue.