

"(ii) is the performance of a function or duty of such vacant office; or

"(B)(i) is taken by a person who is not filling a vacant office; and

"(ii) is the performance of a function or duty of such vacant office.

"(2) An action that has no force or effect under paragraph (1) may not be ratified.

"(d) This section shall not apply to—

"(1) the General Counsel of the National Labor Relations Board;

"(2) the General Counsel of the Federal Labor Relations Authority; or

"(3) any Inspector General appointed by the President, by and with the advice and consent of the Senate.

"§ 3349. Reporting of vacancies

"(a) The head of each Executive agency (including the Executive Office of the President, and other than the General Accounting Office) shall submit to the Comptroller General of the United States and to each House of Congress—

"(1) notification of a vacancy and the date such vacancy occurred immediately upon the occurrence of the vacancy;

"(2) the name of any person serving in an acting capacity and the date such service began immediately upon the designation;

"(3) the name of any person nominated to the Senate to fill the vacancy and the date such nomination is submitted immediately upon the submission of the nomination; and

"(4) the date of a rejection, withdrawal, or return of any nomination immediately upon such rejection, withdrawal, or return.

"(b) If the Comptroller General of the United States makes a determination that an officer is serving longer than the 150-day period including the applicable exceptions to such period under section 3346, the Comptroller General shall report such determination to—

"(1) the Committee on Governmental Affairs of the Senate;

"(2) the Committee on Government Reform and Oversight of the House of Representatives;

"(3) the Committees on Appropriations of the Senate and House of Representatives;

"(4) the appropriate committees of jurisdiction of the Senate and House of Representatives;

"(5) the President; and

"(6) the Office of Personnel Management.

"§ 3349a. Presidential inaugural transitions

"(a) In this section, the term 'transitional inauguration day' means the date on which any person swears or affirms the oath of office as President, if such person is not the President on the date preceding the date of swearing or affirming such oath of office.

"(b) With respect to any vacancy that exists during the 60-day period beginning on a transitional inauguration day, the 150-day period under section 3346 or 3348 shall be deemed to—

"(1) begin on the later of—

"(A) the date following such transitional inauguration day; or

"(B) the date the vacancy occurs; and

"(2) be a period of 180 days.]

"(b) With respect to any vacancy that exists during the 60-day period beginning on a transitional inauguration day, the 150-day period under section 3346 or 3348 shall be deemed to begin on the later of the date occurring—

"(1) 90 days after such transitional inauguration day; or

"(2) 90 days after the date on which the vacancy occurs.

"§ 3349b. Holdover provisions relating to certain independent establishments

"With respect to any independent establishment for which a single officer is the head of the establishment, sections 3345

through 3349a shall not be construed to affect any statute that authorizes a person to continue to serve in any office—

"(1) after the expiration of the term for which such person is appointed; and

"(2) until a successor is appointed or a specified period of time has expired.

"§ 3349c. Exclusion of certain officers

"Sections 3345 through 3349b shall not apply to—

"(1) any member who is appointed by the President, by and with the advice and consent of the Senate to any board, commission, or similar entity that—

"(A) is composed of multiple members; and

"(B) governs an independent establishment or Government corporation; or

"(2) any commissioner of the Federal Energy Regulatory Commission."

(b) TECHNICAL AND CONFORMING AMENDMENT.—

(1) TABLE OF SECTIONS.—The table of sections for chapter 33 of title 5, United States Code, is amended by striking the matter relating to subchapter III and inserting the following:

"SUBCHAPTER III—DETAILS, VACANCIES, AND APPOINTMENTS

"3341. Details; within Executive or military departments.

"[3342. Repealed.]

"3343. Details; to international organizations.

"3344. Details; administrative law judges.

"3345. Acting officer.

"3346. Time limitation.

"3347. Application.

"3348. Vacant office.

"3349. Reporting of vacancies.

"3349a. Presidential inaugural transitions.

"3349b. Holdover provisions relating to certain independent establishments.

"3349c. Exclusion of certain officers."

(2) SUBCHAPTER HEADING.—The subchapter heading for subchapter III of chapter 33 of title 5, United States Code, is amended to read as follows:

"SUBCHAPTER III—DETAILS, VACANCIES, AND APPOINTMENTS".

SEC. 3. EFFECTIVE DATE AND APPLICATION.

(a) EFFECTIVE DATE.—This Act and the amendments made by this Act shall take effect on the date of enactment of this Act.

(b) APPLICATION.—This Act shall apply to any office that—

(1) becomes vacant after the date of enactment of this Act; or

(2) is vacant on such date, except sections 3345 through 3349 of title 5, United States Code (as amended by this Act), shall apply as though such office first became vacant on such date.

CLOTURE MOTION

Mr. LOTT. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

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 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.

Mr. LOTT. Mr. President, for the information of all Senators, this cloture vote will occur Monday, September 28. I now ask unanimous consent that, notwithstanding rule XXII, the cloture vote occur at 5:30 p.m. on Monday and the mandatory quorum under rule XXII be waived. I further ask that at 3:30 p.m. on Monday, the Senate resume the bill for debate only, with no action occurring, and that there be 2 hours of debate equally divided between the two leaders, or their designees.

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

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

Mr. LOTT. Mr. President, I now ask unanimous consent that the Senate resume consideration of the FAA reauthorization bill.

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

The clerk will report the bill.

The legislative clerk read as follows:

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

The Senate continued with the consideration of the bill.

Mr. LOTT. Mr. President, I ask unanimous consent that no call for the regular order be in order prior to the conclusion of the FAA reauthorization bill.

Mr. MCCAIN. Mr. President, reserving the right to object. I ask the leader, does the leader intend to attempt for us to move forward with the Internet Tax Freedom Act as well?

Mr. LOTT. Certainly, I do. We have tried to get that cleared a couple times and there have been objections. I know there is a lot of interest in it. I am receiving calls, and I know there is support for it on both sides of the aisle. So we will continue to try to work that out, and we will try to get an agreement to go forward on it later today.

Mr. MCCAIN. I will not object.

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

Mr. LOTT. Mr. President, I yield the floor.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, we are back on the FAA authorization bill. We have a number of amendments that will require debate and votes. We also are working to resolve a number of them. I want to say to my colleagues that I don't know what the leaders on both sides intend to do this evening, but the Senator from Kentucky and I intend to try to get rid of all amendments by this evening. If we are unable to have Members come over here to propose amendments, then, obviously, we have no choice but to move forward

on the legislation. We have a number of amendments: A Dorgan amendment, a Mikulski-Sarbanes amendment, a Torricelli amendment, a Robb amendment, a Domenici amendment, and others that are on the unanimous-consent agreement. I hope that those Senators will come over and offer the amendments and stand ready to debate them and vote on them.

I yield the floor.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, I join my colleague in asking the Senators to help us move this bill along. We worked late into the night last evening in order to try to accommodate as many Senators as we could. There were some changes in language to where the amendments could be agreeable. Those amendments will be offered because both sides have agreed. We are down to maybe five or six amendments that will need votes. I don't know of any other vote that would be necessary.

Under the unanimous consent agreement of last evening, we said that these were first-degree amendments and that there might be second-degree amendments. We hope not. I want to encourage those on my side, if they have amendments that they want to debate and discuss, we are ready to take the time to do it now.

It gets a little frustrating here at the end of a session when everybody wants something done and nobody is here to help us get things done. It is the "nature of the brute," as I have heard quite often. But we will be in a crunch, we will be here Saturdays and Sunday afternoon if we are going to get out by October 9, or we will be labeled as a "do-nothing Congress." I don't like that label, and I don't like to work on Saturdays or Sundays. I don't think my colleagues do either.

If they would just come and offer their amendments and give us a time agreement, we can stack votes. We can do a lot of things to accommodate our Members.

I hope they will listen to the admonishment of my friend from Arizona that we want to finish this bill today, if at all possible. We intend to do that. If colleagues are not cooperative, then third reading is always possible.

I thank the Chair, and I yield the floor.

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I ask unanimous consent to speak as if in morning business.

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

Mr. FORD. Mr. President, how long will the Senator be?

Mr. FEINGOLD. Up to 20 minutes.

Mr. FORD. The reason I ask—I apologize for interrupting—is for others who want to come to the floor, and we can give them a time at which they can get here. So it would be roughly 10 minutes after 11.

I thank the Senator.

Mr. FEINGOLD. Mr. President, I thank the Senator from Kentucky.

THE 1998 TAX MEASURE

Mr. FEINGOLD. Mr. President, I rise to offer a few comments on the budget picture and the tax measure that appears likely to move through Congress in these few days remaining in the session.

Over the last several days, a number of my colleagues have come to the floor to voice concerns about the increasing use of the emergency spending provisions in our budget rule as a device to circumvent the tough limits we have imposed on our budget requiring that all new spending be paid for.

Those Members are properly alarmed because those spending provisions, which by any reasonable measure were predictable and expected, have now been designated as emergency appropriations precisely to avoid the need for offsetting spending cuts.

Mr. President, I want you to know that I share the concerns of those Members.

The spending limits to which we agreed in the bipartisan budget agreement last year are indeed tough. They were intended to be tough. But if we are to make progress toward a truly balanced budget, those limits have to be respected—not just last year's but also this year and into the future.

Along those same lines, I have some very serious concerns about the proposed tax bill that is working its way through Congress. To many it will not come as a surprise that I have serious concerns about this measure.

In 1994, I was the first Member of either House to fault both parties for the irresponsible tax policies they were advocating while our Nation still faced a very serious budget deficit. Then, as now, I firmly believed that balancing the budget has to be our highest economic priority, and that the irresponsible tax legislation being offered at that time made that task much harder. I think that subsequent events have proved that point.

The 104th Congress pursued the so-called Contract With America budget, a proposal that featured massive cuts in Medicare and Medicaid to help fund an irresponsible tax cut. That proposal in effect tried to serve two masters at the same time—a reduced deficit, and a massive tax cut.

The result was a measure that was unsustainable economically and politically, and the political gridlock that followed in the wake of that budget produced a Government shutdown, and little, if any, new progress toward balancing the Federal budget.

So the result was that the 104th Congress missed an important opportunity to finish the job that we started in the 103d Congress with the successful enactment of the historic deficit reduction package passed in August of 1993. It was the 1993 deficit reduction pack-

age that helped finally turn the budget around. It also helped turn Congress around by focusing attention on the need for continuing deficit reduction.

Unfortunately, the 104th Congress failed to advance the work of the 103d Congress. It sadly lost the focus of deficit reduction and the politically driven tax cut proposal undercut the potential for a sustainable deficit reduction package.

Then, at the beginning of the 105th Congress, we began to regain part of our focus on reducing the deficit. The political gridlock that characterized most of the previous Congress was really a slap in the face to many, and the following Congress—this Congress—there was a historic bipartisan effort to get back on track.

As a Member of the Senate Budget Committee, I was proud to be part of that bipartisan effort.

Once again, let me pay special notice to our distinguished chairman, the Senator from New Mexico, and our ranking member, the Senator from New Jersey, for their leadership in helping to craft a bipartisan spending-cut bill that we passed in 1997.

Mr. President, taken together, the 1993 deficit package, and to a lesser but still important extent the 1997 budget-cutting bill, have put this Nation on the road—"on the road"; we are not there yet, but on the road—to a truly balanced budget. We are not there yet, but the goal is in sight.

As I noted, I was proud to support the budget-cutting bill last year. I voted for the tough spending cuts that included. However, I did not support the separate irresponsible tax-cut bill that was also part of those discussions.

A large part of the reason we have not reached our goal of a balanced budget is last year's tax-cut legislation. In fact, that tax cut should not have been enacted for a great many reasons. But first and foremost, Mr. President, it shouldn't have been enacted because it was premature. In effect, it created over a 10-year period a \$292 billion net tax cut—a net tax cut of \$292 billion—while we were still facing significant budget deficits.

Mr. President, the bottom line is that because our budget is still in deficit, the tax cut was effectively funded with Social Security revenues. Make no mistake about it. That \$292 billion comes out of the Social Security trust fund, because it is the only pot that is left when you have a deficit.

Mr. President, this terrible problem in last year's tax bill is the very same problem that plagued this year's tax proposal.

There are other problems, as well, with last year's tax bill. Not only was it premature, but the bill's costs were heavily backloaded, putting even a greater burden on our children and grandchildren, and even adding more complexity, if you can believe it—even more complexity—to a Tax Code already thick with it.

And by committing revenues to a variety of specific interests, it further