EC–6646. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E Airspace; Slayton, MN'' (Docket 98–AGL–35) received on August 20, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6647. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of VOR Federal Airway; WA'' (Docket 97–ANM–23) received on August 20, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6648. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment to Class E Airspace; Kearney, NE'' (Docket 98–ACE–34) received on August 20, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6649. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment to Class E Airspace; Beatrice, NE'' (Docket 98–ACE–32) received on August 20, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6650. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment to Class E Airspace; Ottumwa, IA'' (Docket 98–ACE–27) received on August 20, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6651. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establish Class E Airspace; Davenport, IA'' (Docket 97–ACE–21) received on August 20, 1998; to the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. THOMPSON, from the Committee on Governmental Affairs, with amendments:

S. 389. A bill to improve congressional deliberation on proposed Federal private sector mandates, and for other purposes (Rept. No. 105–299).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. GRAMS:

S. 2431. A bill to provide support for the human rights and treatment of international victims of torture; to the Committee on Foreign Relations.

By Mr. JEFFORDS (for himself, Mr. HARKIN, Mr. BOND, Mr. KERREY, Mr. MCCONNELL, Ms. COLLINS, Mr. KENNEDY, Mr. REED, and Mr. FRIST):

S. 2432. A bill to support programs of grants to States to address the assistive technology needs of individuals with disabilities, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. D'AMATO:

S. 2433. A bill to protect consumers and financial institutions by preventing personal financial information from being obtained from financial institutions under false pretenses; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. GRASSLEY (for himself and Mr. FEINGOLD):

S. 2434. A bill to amend chapter 1 of title 9, United States Code, to provide for greater fairness in the arbitration process relating to motor vehicle franchise contracts; to the Committee on the Judiciary.

By Mr. ALLARD:

S. 2435. A bill to permit the denial of airport access to certain air carriers; to the Committee on Commerce, Science, and Transportation.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. FRIST (for himself, Mr. LOTT, and Mr. THOMPSON):

S. Res. 270. A resolution to express the sense of the Senate concerning actions that the President of the United States should take to resolve the dispute between the Air Line Pilots Association and Northwest Airlines; to the Committee on Labor and Human Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. JEFFORDS (for himself, Mr. HARKIN, Mr. BOND, Mr. KERRY, Mr. MCCONNELL, Ms. COLLINS, Mr. KENNEDY, Mr. REED, and Mr. FRIST):

S. 2432. A bill to support programs of grants to States to address the assistive technology needs of individuals with disabilities, and for other purposes; to the Committee on Labor and Human Resources.

ASSISTIVE TECHNOLOGY ACT OF 1998

● Mr. JEFFORDS. Mr. President, ten years ago Congress passed the Technology-Related Assistance for Individuals with Disabilities Act, referred to as the ''Tech Act''. My friend, Senator HARKIN, was the principal sponsor in the Senate. I was the principal sponsor in the House. Both Houses of Congress worked together and passed the same legislation on the same day. Once again, Senator HARKIN and I, with our colleague Senator BOND, joined forces to draft the Assistive Technology Act of 1998 (ATA), which we are introducing today with the co-sponsorship of Senators KENNEDY, FRIST, COLLINS, MCCONNELL, REED, and KERRY. Once again, we are working toward expeditious consideration of legislation that promotes access to assistive technology for individuals with disabilities. With the assistance of our colleagues in the Senate and the other body, I am confident that the ATA will become law. The ATA authorizes funding for assistive technology activities for fiscal years 1999 through 2004.

The ATA builds on the success of its predecessor, the Tech Act. The Tech Act sunsets September 30, 1998. This will result in the termination of federal assistance to nine states for promoting access to assistive technology for individuals with disabilities, and place the remainder of the states in jeopardy of diminished or no funding during or after fiscal year 1999.

Through the ATA the Senate has the opportunity to reaffirm the federal role of promoting access to assistive technology devices and services for individuals with disabilities. The bill allows States flexibility in responding to the assistive technology needs of their citizens with disabilities, and does not disrupt the ongoing work of the 50 State assistive technology programs funded under the Tech Act.

These programs make a difference. Access to assistive technology for an individual with a disability means independence, ability to work or attend school, and the opportunity to participate in community life. Lack of access to assistive technology means dependence and isolation.

In my State of Vermont, Lynne Cleveland is the project director for our Tech Project. Lynne testified before the Labor and Human Resources Committee on April 29, 1998 on the impact of the Vermont Tech Project on the lives of Vermonters with disabilities. For example, one of the many things the Vermont Tech Project supports is a rehabilitation engineering technician program, the only one in the nation, at Vermont Technical College. Graduates of the program work for schools, non-profit agencies, state agencies, and vendors helping others make appropriate, cost-effective decisions regarding assistive technology for individuals with disabilities and educating others about the need for and value of the individual with a disability having a central role in such decisions.

The Vermont Tech Project touches and changes the lives of individual Vermonters of all ages and walks of life. For Bill, a man in his mid-thirties who suffered a stroke, the Tech Project helped secure assistive technology that enabled him to obtain employment designing web pages. Equally important to Bill is that assistive technology enables him to talk again with his children. For Ray, who lost his vision in mid-life, acquiring assistive technology has allowed him to continue as a snowplow dispatcher for the State of Vermont. For Ty, a teenager born with a visual impairment, access to assistive technology means she can pursue her goal of becoming a lawyer. For Annie, a first grader with Downs Syndrome, having assistive technology means that she can use the computer in a regular education classroom, learning and playing games with her classmates. For Lillian, a senior citizen, access to and training on a closed circuit television, enables her to stay in her home rather than living in a nursing home. The Vermont Tech Project has touched each of these individuals by working with others to change policies, improve coordination, pool resources, and educate people about the benefits of assistive technology.

Across the U.S., state assistive technology programs have brought about a wide range of improvements in the last decade. State assistive technology programs have contributed to changes in state laws, improved coordination among state agencies and between the public and private sector, all of which have expanded access to assistive technology. These programs have increased public awareness of the value of assistive technology, have educated individuals with disabilities about how to select and purchase appropriate assistive technology, and expanded the number of individuals in schools, the workplace, and other settings of community life that can provide assistance in selecting, securing, and using assistive technology.

The ATA allows this important work to continue. Title I of the bill supports states in sustaining and strengthening their capacity to address the assistive technology needs of individuals with disabilities; title II brings focus to the federal investment in technology that could benefit individuals with disabilities; and title III supports micro-loan programs to provide assistance to individuals who desire to purchase assistive technology devices or assistive technology services. The legislation also draws attention to and promotes consideration of the principles of universal design in the design of future technology and using the power of the INTERNET to bring best practices related to assistive technology to anyone's keyboard.

In title I the ATA streamlines and clarifies the expectations, including expectations related to accountability, associated with continuing federal support for state assistive technology programs. It targets specific, proven activities, as priorities, referred to as ''mandatory activities''. All state grantees must set measurable goals in connection to their use of ATA funds, and both the goals and the approach to measuring the goals must be based on input from a state's citizens with disabilities.

If a state has received fewer than 10 years of federal funding under the Tech Act for its assistive technology program, title I of the ATA allows a state, which submits a supplement (a continuity grant) to its current Tech Act grant for federal funds, to use ATA funds for mandatory activities: a public awareness program, interagency coordination, technical assistance and training, and outreach. Such a state also may use ATA funds for optional grant activities: alternative state-financed systems for assistive technology devices and assistive technology services, technology demonstrations, distribution of information about how to finance assistive technology devices and assistive technology services, and operation of a technology-related information system, or participation in interstate activities or public-private partnerships pertaining to assistive technology.

If a state has had 10 years of funding for its assistive technology program through the Tech Act, the state may submit an application for a noncompetitive challenge grant under the ATA. Grant funds must be spent on specific activities—interagency coordination, an assistive technology information system, a public awareness program, technical assistance and training, and outreach activities.

In fiscal years 2000 through 2004, if funding for title I exceeds a certain level, states operating under challenge grants may apply for additional ATA funding, provided through competitive millennium grants. These grants are to focus on specific state or local level capacity building activities related to access to technology for individuals with disabilities.

Title I of the ATA also authorizes funding for protection and advocacy systems in each state to assist individuals with disabilities to access assistive technology devices and assistive technology services, and funding for a technical assistance program, including the National Public Internet Site, and specifies administrative procedures with regard to monitoring of entities funded under title I of the ATA.

Title II of the ATA authorizes national activities, including increased coordination and communication among federal agencies with regard to addressing the assistive technology needs of individuals with disabilities. Title III of the Act authorizes a broad range of alternative financing mechanisms to assist individuals with the purchasing of assistive technology through micro-loans.

Providing access to assistive technology for individuals with disabilities was a simple promise in 1988. Today it is much, much more. The ATA represents the bridge to the next century for individuals with disabilities. Across that bridge lies increased independence, realized potential, new partnerships, unimagined challenges, and unlimited opportunities.●

● Mr. HARKIN. Mr. President, I support the Assistive Technology Act of 1998. This Act will enable States and the Federal Government to build on their work under the Technology-Related Assistance for Individuals with Disabilities Act of 1988, or Tech Act, which sunsets this year, and to establish new directions in assistive technology policy for the 21st Century.

In 1988, I was proud to be the chief Senate sponsor of the Tech Act, and was very fortunate to work with then-Representative JEFFORDS, who was the chief House sponsor. In developing this new Act, I have been fortunate to work with Senator JEFFORDS again, and also with Senator BOND, whose commitment and leadership have been invaluable.

The issue of assistive technology is deeply important to me. My brother Frank is deaf. Assistive technology is part of our relationship. Frank and I talk all the time, using a TDD; we watch television together using a closed-caption decoder. My nephew Kelly was injured in the Navy and is a quadriplegic. But he lives independently, in large part because of assistive technology. For example, Kelly is able to drive his van by using a wheelchair lift and hand controls.

But assistive technology doesn't just work for people with disabilities. We hear all the time that defense research often has everyday applications. The same is true of assistive technology research. I saw a television commercial recently, advertising voice-activated software for business executives. Well, that technology was originally development for people whose disability kept them from using a keyboard. And if you've ever watched the closed-captioned news in a noisy restaurant or so you didn't wake up your husband or wife, you've used assistive technology. The more assistive technology we develop, the more all of us will benefit from it.

Under the Assistive Technology Act of 1998, States will be able to continue the consumer-responsive programs of technology-related assistance for people with disabilities they have developed over the past ten years.

The Act will help States establish and strengthen systems to inform people with disabilities what their assistive technology options are, so they can take advantage of them. It will enable States to help schools and employers accommodate assistive technology users, so they can live independently, and get an education and a job. And the Act will create a one-stop Internet site where consumers, family members, assistive technology professionals, and anyone else who's interested can access all the information there is about assistive technology.

The Act also recognizes that the Federal government must work more efficiently, and with the private sector, if we are going to make assistive technology more accessible. It requires federal agencies and offices that conduct assistive technology research to work more closely together, to take advantage of each other's abilities and information and to better utilize federal resources. It enables the Federal government to increase its research, and to make grants to outside researchers, for assistive technology and universal design. It offers help to small businesses to research, develop, and bring assistive technology to the market. And the Act enables the Federal government to work with the information technology industry, to increase the industry's voluntary participation in efforts to make information technology more accessible to people with disabilities.

Finally, the Act will help States establish, or expand, loan programs for people with disabilities or their representatives to access to meet their assistive technology needs.

I have often said that disability is a natural part of the human experience, that in no way diminishes the right of individuals to live independently,

enjoy self-determination, pursue meaningful careers and enjoy full inclusion in the economic, political, social, cultural, and educational mainstream of American society. Assistive technology enables people with disabilities to exercise that right.

There have been amazing changes in technology since we wrote the Tech Act, ten years ago. Technology can do more for more people than ever before—and that trend is going to continue. But that also means the consequences are greater than ever if we don't make assistive technology, information technology, and our society generally, more accessible, because the more technology can do, the further people with disabilities will fall behind if they can't use it.

Mr. President, this Act enjoys broad support in the disability community and the assistive technology community, and is endorsed by the National Governors Association. I hope my colleagues will join Senators JEFFORDS, BOND, and me, and our other cosponsors, in supporting this worthwhile Act.●

● Mr. BOND. Mr. President, today with my colleagues Senator JEFFORDS and Senator HARKIN I introduce the Assistive Technology Act of 1998. This important piece of legislation will provide technical assistance to the more than 50 million citizens in the United States with disabilities.

The Tech Act, passed in 1988, has proven time and again its invaluable assistance in helping persons with disabilities acquire assistive technology that improves their functional capability and quality of life. This technical assistance allows students to learn better in school, adults to acquire jobs, and seniors to live more independently. I have seen the success of the State Tech Act projects first hand in my home State of Missouri. It is estimated that 750,000 Missourians of all ages live with a disabling condition. Ms. Diane Golden, of the Missouri Assistive Technology Project, informed me that Missouri's state office handled 4,000 direct cases this past year, not including thousands of calls regarding information and referrals.

Mr. President, Missourians know the impact of the State Tech Act Projects.

Wanda, an elder Kansas City woman lost most of her hearing late in life. For three years, she lived without the ability to talk with friends or to call her doctor in an emergency. Wanda's inability to use the telephone, in addition to other age related issues, was threatening her ability to continue living in her own home.

Missouri Tech Act Project staff worked with Wanda to identify an adaptive telephone that would allow her to continue to live independently. The cost of the device was prohibitive for this woman and no public funding source was available. Nevertheless, Project staff located a private funding source for the adaptive telephone and as a result Wanda has been able to continue to live independently.

Realizing that thousands of individuals throughout the state were facing the same need for adaptive telephone equipment, the Project developed a statewide telecommunication equipment distribution program that provides Missourians, with all types of disabilities, adaptive telephone equipment. The program has been operational for a year and has provided more than one million dollars of adaptive telephone equipment to thousands of Missourians.

Another Missourian, Mary, an 8-year-old young girl, who is non-vocal, needed an augmentative communication device that would allow her to communicate at home and school. Medicaid had approved purchasing the device just before its conversion from a fee-based system to a managed care system. The new managed care plan was unfamiliar with augmentative communication devices and the family was having no success in securing the device. Project staff worked with the managed care provider to explain the importance and cost-effectiveness of augmentative communication devices and as a result, secured funding for Mary's device.

Understanding that most, if not all, of the managed care plans under contract with Medicaid would be unfamiliar with augmentative communication devices and other types of assistive technology, Project staff worked with the Missouri Medicaid plans to educate them about the importance, cost-effectiveness, and coverage of assistive technology. As a result, numerous plans routinely approve assistive technology. As a result, numerous plans routinely approve assistive technology devices and many call the Project for assistance when they receive requests for assistive devices of which they are unfamiliar.

These examples are just a small sampling of the successes of the Missouri Technology Assistance Project. Some other accomplishments of the Project include development of an educational technology access informational packet that the Department of Education distributed to more than 17,000 schools nationally; passage of a sales tax exemption for the purchase of assistive technology in Missouri; establishment of a short-term equipment loan program; development and distribution of a Consumer Guide to Missouri Assistive Device Lemon Laws; and establishment of a web page with postings of equipment for their recycling program.

Missouri's success is one example of the many accomplishments of other State Tech Act Projects since the inception of the Tech Act in 1988. The Assistive Technology Act of 1988 will guarantee that states continue to serve the disabled community, their families, friends, teachers, and employers.

The bill we are introducing also provides improvements to the current State Tech Act Projects. Some notable improvements include better coordination and information sharing; Microloan programs to help assistive technology end users in obtaining assistive devices; incentive grants to assure better accountability of all programs; and increased small business investment in assistive and universally designed technology research and development. These improvements and new initiatives strengthen the work currently done by the State Tech Act Projects, encourage improvements to current programs and are forward looking in the acquisition, development, and service delivery of assistive technology.

State Tech Act Projects provide vital technology related services to individuals with disabilities. The initiatives of these important programs ensure the availability of technology to people with disabilities that make living independently a reality. The Assistive Technology Act of 1998 strengthens and maintains a program that works for a constituency that would otherwise be denied the exciting opportunities that technology affords.

Mr. President I urge my colleagues in the Senate and the House to pass this legislation expediently so that technological assistance can continue to be available for our nation's disabled.

Let me conclude by thanking my distinguished colleagues Senator JEFFORDS and Senator HARKIN and their staff for their hard work on this important piece of legislation. Mr. President, on behalf of Senators JEFFORDS and HARKIN and myself, I ask unanimous consent to print in the RECORD, a letter of support for the Assistive Technology Act of 1998 from the United Cerebral Palsy Association.

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

UNITED CEREBRAL PALSY ASSOCIATIONS,
Washington, DC, September 2, 1998.

DEAR SENATORS JEFFORDS, BOND, AND HARKIN: On behalf of Untied Cerebral Palsy Association (UCPA) and our 151 affiliates, we strongly endorse the Assistive Technology Act of 1998. We applaud your interest in overcoming barriers to, funding for, and access to assistive technology devices and services for individuals with disabilities of all ages. This access provides the gateway to not only education and employment but also other activities of daily living for the approximately 54 million individuals with disabilities in this country.

Through our national technical assistance efforts, UCPA has been able to assist thousands of people by providing information, training and technical assistance to individuals with disabilities, family members, and those who work with individuals with disabilities. However, a great number of individuals do not have access to assistive technology that would improve their quality of life. This legislation will further the goal of universal access.

Thank you for the opportunity to comment on this legislation.

Sincerely,

PETER KEISER,
Chair, Community Services Committee.●

By Mr. D'AMATO:

S. 2433. A bill to protect consumers and financial institutions by preventing personal financial information

from being obtained from financial institutions under false pretenses; to the Committee on Banking, Housing, and Urban Affairs.

FINANCIAL INFORMATION PRIVACY ACT

Mr. D'AMATO. Mr. President, I rise today to introduce important pro-consumer legislation to protect the privacy of confidential financial information for every American. The Financial Information Privacy Act will make it a federal crime to obtain or attempt to obtain private consumer information from our nation's financial institutions through the use of false, fictitious or fraudulent statements.

Mr. President, the exploitation of personal information by unscrupulous ''information brokers'' and individuals attempting to pry into the private financial affairs of others is an issue of vital concern to every American.

A flourishing industry of ''information brokers'' has emerged as detailed in hearings held just last month by the House Banking Committee. These individuals use deceptive practices, such as lying about their identity on the phone, in order to obtain personal customer information for resale. Armed with personal information such as bank account balances, account numbers and transaction activity, this information can be used to build a profile of a consumer which can be bought and sold in the marketplace. Advances in technology have enabled information brokers to inexpensively create enormous databases of individual profiles and use the Internet to market their information worldwide.

Mr. President, these same techniques are used by criminals to obtain information to create fraudulent credit applications that can quickly destroy a victims credit worthiness and require months of effort to clear up. The problem is growing exponentially. One of the leading credit reporting services reports that since 1992, the number of financial fraud cases where individuals have pretended to be another person has risen from 32,000 to more than 500,000 in 1997. I believe the evidence is clear that inadequate financial privacy laws are a significant factor in this rise. Americans demand and rightfully expect the privacy of personal financial information.

While existing laws do provide protection against unfair and deceptive practices, there is no federal law that expressly prohibits acquiring personal customer account information under false pretenses. Banking groups and federal regulatory agencies have all testified that this legislation would be an important tool to protect consumers from the invasive practices of information brokers. Passage of this measure will make it clear that Congress will not tolerate this invasion of privacy and will do whatever is necessary to insure that the private financial information of our citizens remains private.

Mr. President, in closing I want to comment Chairman LEACH for his quick action in the House to move this measure forward. Working together with our House colleagues, we have an opportunity to greatly strengthen the privacy laws that safeguard the personal financial information of every American. I urge my colleagues to vote in favor of this vital legislation.

I ask unanimous consent that the full text of this bill be printed in the RECORD.

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

S. 2433

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINANCIAL INFORMATION PRIVACY.

(a) IN GENERAL.—The Consumer Credit Protection Act (15 U.S.C. 1601 et seq.) is amended by adding at the end the following:

''TITLE X—FINANCIAL INFORMATION PRIVACY PROTECTION

''§ 1001. Short title

''This title may be cited as the 'Financial Information Privacy Act'.

''§ 1002. Definitions

''For purposes of this title, the following definitions shall apply:

''(1) CUSTOMER.—The term 'customer' means, with respect to a financial institution, any person (or authorized representative of a person) to whom the financial institution provides a product or service, including that of acting as a fiduciary.

''(2) CUSTOMER INFORMATION OF A FINANCIAL INSTITUTION.—The term 'customer information of a financial institution' means any information maintained by a financial institution which is derived from the relationship between the financial institution and a customer of the financial institution and is identified with the customer.

''(3) DOCUMENT.—The term 'document' means any information in any form.

''(4) FINANCIAL INSTITUTION.—

''(A) IN GENERAL.—The term 'financial institution' means any institution engaged in the business of providing financial services to customers who maintain a credit, deposit, trust, or other financial account or relationship with the institution.

''(B) CERTAIN FINANCIAL INSTITUTIONS SPECIFICALLY INCLUDED.—The term 'financial institution' includes any depository institution (as defined in section 19(b)(1)(A) of the Federal Reserve Act), any loan or finance company, any credit card issuer or operator of a credit card system, and any consumer reporting agency that compiles and maintains files on consumers on a nationwide basis (as defined in section 603(p)).

''(C) FURTHER DEFINITION BY REGULATION.—The Board of Governors of the Federal Reserve System may prescribe regulations further defining the term 'financial institution', in accordance with subparagraph (A), for purposes of this title.

''§ 1003. Privacy protection for customer information of financial institutions

''(a) PROHIBITION ON OBTAINING CUSTOMER INFORMATION BY FALSE PRETENSES.—It shall be a violation of this title for any person to obtain or attempt to obtain, or cause to be disclosed or attempt to cause to be disclosed to any person, customer information of a financial institution relating to another person—

''(1) by knowingly making a false, fictitious, or fraudulent statement or representation to an officer, employee, or agent of a financial institution with the intent to deceive the officer, employee, or agent into relying on that statement or representation for purposes of releasing the customer information;

''(2) by knowingly making a false, fictitious, or fraudulent statement or representation to a customer of a financial institution with the intent to deceive the customer into relying on that statement or representation for purposes of releasing the customer information or authorizing the release of such information; or

''(3) by knowingly providing any document to an officer, employee, or agent of a financial institution, knowing that the document is forged, counterfeit, lost, or stolen, was fraudulently obtained, or contains a false, fictitious, or fraudulent statement or representation, if the document is provided with the intent to deceive the officer, employee, or agent into relying on that document for purposes of releasing the customer information.

''(b) PROHIBITION ON SOLICITATION OF A PERSON TO OBTAIN CUSTOMER INFORMATION FROM FINANCIAL INSTITUTION UNDER FALSE PRETENSES.—It shall be a violation of this title to request a person to obtain customer information of a financial institution, knowing or consciously avoiding knowing that the person will obtain, or attempt to obtain, the information from the institution in any manner described in subsection (a).

''(c) NONAPPLICABILITY TO LAW ENFORCEMENT AGENCIES.—No provision of this section shall be construed so as to prevent any action by a law enforcement agency, or any officer, employee, or agent of such agency, to obtain customer information of a financial institution in connection with the performance of the official duties of the agency.

''(d) NONAPPLICABILITY TO FINANCIAL INSTITUTIONS IN CERTAIN CASES.—No provision of this section shall be construed so as to prevent any financial institution, or any officer, employee, or agent of a financial institution, from obtaining customer information of such financial institution in the course of—

''(1) testing the security procedures or systems of such institution for maintaining the confidentiality of customer information;

''(2) investigating allegations of misconduct or negligence on the part of any officer, employee, or agent of the financial institution; or

''(3) recovering customer information of the financial institution which was obtained or received by another person in any manner described in subsection (a) or (b).

''(e) NONAPPLICABILITY TO CERTAIN TYPES OF CUSTOMER INFORMATION OF FINANCIAL INSTITUTIONS.—No provision of this section shall be construed so as to prevent any person from obtaining customer information of a financial institution that otherwise is available as a public record filed pursuant to the securities laws (as defined in section 3(a)(47) of the Securities Exchange Act of 1934).

''§ 1004. Administrative enforcement

''(a) ENFORCEMENT BY FEDERAL TRADE COMMISSION.—Except as provided in subsection (b), compliance with this title shall be enforced by the Federal Trade Commission in the same manner and with the same power and authority as the Commission has under

the title VIII, the Fair Debt Collection Practices Act, to enforce compliance with such title.

''(b) ENFORCEMENT BY OTHER AGENCIES IN CERTAIN CASES.—

''(1) IN GENERAL.—Compliance with this title shall be enforced under—

''(A) section 8 of the Federal Deposit Insurance Act, in the case of—

''(i) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

''(ii) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25A of the Federal Reserve Act, by the Board;

''(iii) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System and national nonmember banks) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation; and

''(iv) savings associations the deposits of which are insured by the Federal Deposit Insurance Corporation, by the Director of the Office of Thrift Supervision; and

''(B) the Federal Credit Union Act, by the Administrator of the National Credit Union Administration with respect to any Federal credit union.

''(2) VIOLATIONS OF THIS TITLE TREATED AS VIOLATIONS OF OTHER LAWS.—For the purpose of the exercise by any agency referred to in paragraph (1) of its powers under any Act referred to in that paragraph, a violation of this title shall be deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to in paragraph (1), each of the agencies referred to in that paragraph may exercise, for the purpose of enforcing compliance with this title, any other authority conferred on such agency by law.

''(c) STATE ACTION FOR VIOLATIONS.—

''(1) AUTHORITY OF STATES.—In addition to such other remedies as are provided under State law, if the chief law enforcement officer of a State, or an official or agency designated by a State, has reason to believe that any person has violated or is violating this title, the State—

''(A) may bring an action to enjoin such violation in any appropriate United States district court or in any other court of competent jurisdiction;

''(B) may bring an action on behalf of the residents of the State to recover damages of not more than $1,000 for each violation; and

''(C) in the case of any successful action under subparagraph (A) or (B), shall be awarded the costs of the action and reasonable attorney fees as determined by the court.

''(2) RIGHTS OF FEDERAL REGULATORS.—

''(A) PRIOR NOTICE.—The State shall serve prior written notice of any action under paragraph (1) upon the Federal Trade Commission and, in the case of an action which involves a financial institution described in section 1004(b)(1), the agency referred to in such section with respect to such institution and provide the Federal Trade Commission and any such agency with a copy of its complaint, except in any case in which such prior notice is not feasible, in which case the State shall serve such notice immediately upon instituting such action.

''(B) RIGHT TO INTERVENE.—The Federal Trade Commission or an agency described in subsection (b) shall have the right—

''(i) to intervene in an action under paragraph (1);

''(ii) upon so intervening, to be heard on all matters arising therein;

''(iii) to remove the action to the appropriate United States district court; and

''(iv) to file petitions for appeal.

''(3) INVESTIGATORY POWERS.—For purposes of bringing any action under this subsection, no provision of this subsection shall be construed as preventing the chief law enforcement officer, or an official or agency designated by a State, from exercising the powers conferred on the chief law enforcement officer or such official by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

''(4) LIMITATION ON STATE ACTION WHILE FEDERAL ACTION PENDING.—If the Federal Trade Commission or any agency described in subsection (b) has instituted a civil action for a violation of this title, no State may, during the pendency of such action, bring an action under this section against any defendant named in the complaint of the Federal Trade Commission or such agency for any violation of this title that is alleged in that complaint.

''§ 1005. Civil liability

''Any person, other than a financial institution, who fails to comply with any provision of this title with respect to any financial institution or any customer information of a financial institution shall be liable to such financial institution or the customer to whom such information relates in an amount equal to the sum of the amounts determined under each of the following paragraphs:

''(1) ACTUAL DAMAGES.—The greater of—

''(A) the amount of any actual damage sustained by the financial institution or customer as a result of such failure; or

''(B) any amount received by the person who failed to comply with this title, including an amount equal to the value of any nonmonetary consideration, as a result of the action which constitutes such failure.

''(2) ADDITIONAL DAMAGES.—Such additional amount as the court may allow.

''(3) ATTORNEYS' FEES.—In the case of any successful action to enforce any liability under paragraph (1) or (2), the costs of the action, together with reasonable attorneys' fees.

''§ 1006. Criminal penalty

''(a) IN GENERAL.—Whoever violates, or attempts to violate, section 1003 shall be fined in accordance with title 18, United States Code, or imprisoned for not more than 5 years, or both.

''(b) ENHANCED PENALTY FOR AGGRAVATED CASES.—Whoever violates, or attempts to violate, section 1003 while violating another law of the United States or as part of a pattern of any illegal activity involving more than $100,000 in a 12-month period shall be fined twice the amount provided in subsection (b)(3) or (c)(3) (as the case may be) of section 3571 of title 18, United States Code, imprisoned for not more than 10 years, or both.

''§ 1007. Relation to State laws

''(a) IN GENERAL.—This title shall not be construed as superseding, altering, or affecting the statutes, regulations, orders, or interpretations in effect in any State, except to the extent that such statutes, regulations, orders, or interpretations are inconsistent with the provisions of this title, and then only to the extent of the inconsistency.

''(b) GREATER PROTECTION UNDER STATE LAW.—For purposes of this section, a State statute, regulation, order, or interpretation is not inconsistent with the provisions of this title if the protection such statute, regulation, order, or interpretation affords any person is greater than the protection provided under this title.

''§ 1008. Agency guidance

''In furtherance of the objectives of this title, each Federal banking agency (as defined in section 3(z) of the Federal Deposit Insurance Act) shall issue advisories to depository institutions under the jurisdiction of the agency, in order to assist such depository institutions in deterring and detecting activities proscribed under section 1003.''.

(b) REPORT TO THE CONGRESS.—Before the end of the 18-month period beginning on the date of the enactment of this Act, the Comptroller General, in consultation with the Federal Trade Commission, Federal banking agencies, and appropriate Federal law enforcement agencies, shall submit to the Congress a report on the following:

(1) The efficacy and adequacy of the remedies provided in the amendments made by subsection (a) in addressing attempts to obtain financial information by fraudulent means or by false pretenses.

(2) Any recommendations for additional legislative or regulatory action to address threats to the privacy of financial information created by attempts to obtain information by fraudulent means or false pretenses.

By Mr. GRASSLEY (for himself and Mr. FEINGOLD):

S. 2434. A bill to amend chapter 1 of title 9, United States Code, to provide for greater fairness in the arbitration process relating to a motor vehicle franchise contracts; to the Committee on the Judiciary.

MOTOR VEHICLE FRANCHISE CONTRACT ARBITRATION FAIRNESS ACT OF 1998

Mr. GRASSLEY. Mr. President, today, I am joined by my colleague from Wisconsin, Senator FEINGOLD, in introducing the Motor Vehicle Franchise Contract Arbitration Fairness Act of 1998.

As the Senate's leading advocate of ADR or alternative dispute resolution, I have attempted to facilitate the use of ADR in a number of ways. In the last Congress, we enacted my legislation to make permanent the use of ADR with and among our federal agencies. This year, we are attempting to enact legislation authorizing federal court-annexed ADR.

A small percentage of ADR cases involves the use of binding arbitration. In dealing with arbitration, I have tried to emphasize the use of voluntary, rather than mandatory arbitration. Both parties must agree to voluntary arbitration, whereas mandatory arbitration can be forced upon a party, as in the case of some contractual arrangements. The authorization and use of mandatory arbitration has to be carefully considered since the right to trial may be limited or even forfeited.

One such arrangement can be found in some contracts between automobile or truck dealers and manufacturers. In these contracts, dealers are given a ''take it or leave it'' clause that forces them to agree to binding arbitration. There is no real bargaining. If the dealer wants the contract, he or she has to agree to the mandatory arbitration clause.

A number of states have enacted laws to prevent these types of unfair contracts. But, even though these clauses may violate a number of state laws, the Fourth Circuit overturned a lower court and ruled that these state laws conflict with the Federal Arbitration Act of 1925, and are therefore preempted by the Supremacy Clause of the U.S. Constitution. So much for states' rights.

Historically, Congress has questioned whether arbitration agreements should allow a stronger party to a contract to force a weaker party to forfeit rights to a court as a condition of entering a contract. But, it's been unclear as to what exactly the federal law allows. I believe it's now time to do more than just question these unfair ''agreements''.

The legislation Senator FEINGOLD and I are introducing today would help remedy this current unfortunate situation by allowing only voluntary arbitration clauses between dealers and manufacturers. The bill would continue to recognize arbitration as a valuable alternative to litigation as long as both parties voluntarily agree to it. We want to preserve arbitration as an effective alternative to litigation, but we want to ensure that it's a fair alternative.

I urge my colleagues to join Senator FEINGOLD and myself in trying to address these unfair franchise contracts.

Mr. FEINGOLD. Mr. President, I rise today to introduce, with my distinguished colleague from Iowa, Senator GRASSLEY, the Motor Vehicle Franchise Contract Arbitration Fairness Act of 1998.

While alternative dispute resolution such as arbitration can serve a useful purpose in resolving disputes between parties, I am extremely concerned with the increasing trend of stronger parties to a contract forcing weaker parties to waive their rights and to arbitrate disputes. Earlier this Congress, I introduced S. 63, the Civil Rights Procedures Act, to amend certain civil rights statutes to prevent the involuntary application of arbitration to claims that arise from unlawful employment discrimination and sexual harassment.

It has come to my attention that the automobile and truck manufacturers, which present dealers with ''take it or leave it'' contracts, are increasingly including mandatory, binding arbitration clauses as a condition of entering into or keeping an auto or truck franchise. This practice forces dealers to submit their disputes with manufacturers to involuntary arbitration. As a result, dealers are required to waive access to judicial or administrative forums, substantive contract rights, and statutorily provided protection. In short, this practice clearly violates the dealers fundamental due process rights and runs directly counter to basic principles of fairness.

Historically and currently, franchise agreements for auto and truck dealerships are nonnegotiable with the manufacturer; the dealer accepts the terms offered by the manufacturer or they lose the dealership; plain and simple. Dealers, therefore, have been forced to rely on the states to pass laws designed to minimize the manufacturers' greater bargaining power and to safeguard their rights. The first such state automobile statute was enacted in my home state of Wisconsin in 1937. Since then all states, except Alaska, have enacted substantive law to balance the enormous bargaining power enjoyed by manufacturers over dealers and to safeguard small business dealers from unfair automobile and truck manufacturer practices.

In addition, the majority of states have created their own alternative dispute resolution mechanisms and forums which specialize in auto and truck industry disputes. These administrative forums are inexpensive, efficient, and unbiased. For example, in Wisconsin mandatory mediation is required before the start of an administrative hearing or court action. Arbitration is also optional if both parties agree. These state dispute resolution forums, with years of experience and precedent, are greatly responsible for the small number of manufacturer/dealer lawsuits.

Unfortunately, when mandatory binding arbitration is included in dealer agreements, state laws and forums established to resolve auto dealer and manufacturer disputes are essentially null and void. Under the Federal Arbitration Act (FAA) arbitrators are not required to apply federal or state law. The stronger party—in this case the auto or truck manufacturer—can, therefore, use mandatory arbitration to circumvent the state laws which were specifically enacted to regulate the dealer/manufacturer relationship. Not only is the circumvention of these laws inequitable, it also eliminates the deterrent to prohibited acts that these state laws provide.

Besides losing the protection of state law and the ability to use state forums, there are other numerous reasons why a dealer may not want to agree to binding arbitration. Arbitration lacks some of the important safeguards and due process offered by administrative procedures and the judicial system. For example: (1) arbitration lacks the formal court supervised discovery process oftentimes necessary to learn facts and gain documents; (2) an arbitrator need not follow the rules of evidence; (3) arbitrators generally have no obligation to provide factual or legal discussion of their decision in a written opinion; and (4) arbitration often does not allow for judicial review.

The most troubling problem with this sort of mandatory, binding arbitration may be the absence of judicial review. Take for instance a dispute over a dealership termination. To that dealer—that small business person—this decision is of paramount importance. Even under this scenario, the dealer would not have recourse to substantive judicial review of the arbitrators' ruling. Let me be very clear on this point; in most circumstances a dealer cannot appeal an arbitration award even if the arbitration panel disregarded state law which likely would have produced a different result.

This problem is growing. The use of mandatory binding arbitration is increasing in many industries, but nowhere is it growing more steadily than the auto/truck industry. Currently 11 auto and truck manufacturers require some form of such arbitration in their dealer franchise contracts.

In recognition of this problem, many states enacted laws to prohibit the inclusion of mandatory, binding arbitration clauses in certain agreements. The Supreme Court, however, held in *Southland Corp.* v. *Keating,* 104 S. Ct. 852 (1984), that the FAA by implication preempts these state laws. The Southland Corp. decision has, in effect, nullified many state arbitration laws that were designed to protect weaker parties in unequal bargaining positions from involuntarily acquiescing—often without other meaningful options—to these mandatory, binding arbitration clauses.

The legislative history indicates that Congress never intended that the FAA be a tool that the stronger party to a contract could use to force the weaker party into binding arbitration. Congress certainly did not intend the FAA to be a weapon used to coerce parties into relinquishing important protections and rights that would have been afforded them by the judicial system. Unfortunately, this is precisely the current situation.

Although contract law is generally the province of the states, the Supreme Court's decision in Southland Corp. has in effect made any state action on this issue moot. I, therefore, along with Senator GRASSLEY, am introducing this bill today to ensure that auto and truck dealers are not coerced into waiving their rights. Our bill, the Motor Vehicle Franchise Contract Arbitration Fairness Act of 1998 would simply allow each party to an auto or truck franchise contract to voluntarily agree to arbitration; mandatory, binding arbitration would be prohibited. The bill would not proscribe arbitration, however. On the contrary, our measure would encourage arbitration by making it a fair choice that both parties to such a franchise contract willing and knowingly select. In short, this bill would ensure that the decision to arbitrate is voluntary and that the rights and remedies provided for by our judicial system are not mandatorily waived.

Today if a small business person wants to obtain or keep her or his auto or truck franchise, she or he may only be able to do so by relinquishing her or his statutory rights and foreclosing the opportunity to use the courts or administrative forums. Mr. President, I cannot not say this more strongly—this is unacceptable; this is wrong. I,

therefore, urge my colleagues to join with Senator GRASSLEY and me to put an end to the invidious practice.

By Mr. ALLARD:

S. 2435. A bill to permit the denial of airport access to certain air carriers; to the Committee on Commerce, Science, and Transportation.

AIRPORT PROTECTION FROM FORCED SCHEDULED SERVICE

• Mr. ALLARD. Mr. President, today I am introducing legislation to address a problem facing small reliever airports that do not accept scheduled service operations. Centennial Airport is a small reliever airport near Denver, Colorado, where operations consist primarily of small private chartered and business planes. A unique situation exists at Centennial Airport involving certain charter services and a loophole in the Federal regulations governing scheduled flights.

Centennial Airport is not certificated for scheduled flight service. In fact, the Airport Authority, with strong local backing, has banned scheduled service at Centennial. According to Federal law, the Federal Aviation Administration cannot force any airport to become certificated. The airport is not equipped with a terminal, baggage system, or passenger security. Furthermore, Denver International Airport is less than 25 miles from Centennial, and has the capacity to handle additional scheduled service operations.

A situation arose more than three years ago when a company called Centennial Express Airlines, Inc., began charter service at Centennial, but immediately announced that the airline's service would continue as scheduled service. The Airport Authority sued and the County District Court ordered the flights stopped. In April of this year the Colorado Supreme Court ruled in favor of Centennial Airport Authority's ban. The Court cited the safe operation of the airport as a priority, and upheld the airport's discretion to prohibit scheduled passenger service.

While this decision protected the airport's right to refuse scheduled service, a similar situation recently arose with another company, Colorado Connection Executive Air Services, and the result has been detrimental for Centennial airport.

In 1997, Colorado Connection proposed to start public charter passenger service pursuant to a regular and public schedule. Colorado Connection, which is entirely owned by Air One Charter, tried using a combination of Department of Transportation and Federal Aviation Administration exemptions to offer scheduled service under Federal regulations, because the company that books the flights does not own the aircraft and the schedule is not officially published in the airline guide. The use of two different corporate names allowed Air One Charter to fly the scheduled passenger service under Colorado Connection without subjecting the airline to FAA scheduled service regulations. Air One Charter indicated intent to market 6–12 daily flights to various Colorado cities and to contract baggage services for their flights.

The Centennial Airport Authority unanimously voted to deny airport access to Colorado Connection's scheduled service. The vote took place in April 1998 and a month later the FAA initiated a part 16 investigation. The FAA claims that the Airport Authority's move to deny service is unjustly discriminatory. Last week the FAA issued a decision to pull Federal funding for Centennial Airport if the ban on scheduled service is not lifted. This decision is in direct conflict with the Colorado Supreme Court's ruling on the issue. It is the result of a loophole in a law that was not intended to force small airports to take on the responsibility and burden of supporting scheduled service.

Immediately following the announcement of the FAA's decision, the owner of Centennial Express was reported by the Denver Post to have plans to begin scheduled flights from Centennial Airport.

I am proposing legislation to rectify this situation and uphold the authority of airports like Centennial to ban all scheduled service if they choose to do so. This bill would allow a general aviation airport to deny access to a part 380 public charter operator that operates as a scheduled service, and clarifies that such action would not be in violation of requirements for federal airport aid. This will not require any airport to do anything, and it will not allow an airport to discriminate against one scheduled service operator and not another.

This amendment is nearly identical to language that the House Commerce Committee has included in its FAA Reauthorization Act. It would prohibit the FAA from charging discrimination if an airport chooses to deny access to scheduled service operators. It will only apply to reliever airports that are not certificated under Part 139 to handle scheduled service and airports within 35 miles of a large hub airport.

I am not aware specifically of any other reliever airports existing outside of Colorado that have an interest in this legislation, however, I hope that my colleagues see the importance of protecting the right of small airports and surrounding communities to refuse all scheduled service operations.•

ADDITIONAL COSPONSORS

S. 37

At the request of Mr. FEINGOLD, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 37, a bill to terminate the Uniformed Services University of the Health Sciences.

S. 59

At the request of Mr. FEINGOLD, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 59, a bill to terminate the Extremely Low Frequency Communication System of the Navy.

S. 230

At the request of Mr. THURMOND, the names of the Senator from Wyoming (Mr. THOMAS) and the Senator from Wyoming (Mr. ENZI) were added as cosponsors of S. 230, a bill to amend section 1951 of title 18, United States Code (commonly known as the Hobbs Act), and for other purposes.

S. 466

At the request of Mr. LAUTENBERG, the names of the Senator from Virginia (Mr. ROBB), and the Senator from Maryland (Ms. MIKULSKI) were added as cosponsors of S. 466, a bill to reduce gun trafficking by prohibiting bulk purchases of handguns.

S. 981

At the request of Mr. LEVIN, the name of the Senator from Arkansas (Mr. BUMPERS) was added as a cosponsor of S. 981, a bill to provide for analysis of major rules.

S. 1097

At the request of Mr. MOYNIHAN, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 1097, a bill to reduce acid deposition under the Clean Air Act, and for other purposes.

S. 1482

At the request of Mr. COATS, the name of the Senator from Pennsylvania (Mr. SANTORUM) was added as a cosponsor of S. 1482, a bill to amend section 223 of the Communications Act of 1934 to establish a prohibition on commercial distribution on the World Wide Web of material that is harmful to minors, and for other purposes.

S. 1649

At the request of Mr. FORD, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of S. 1649, a bill to exempt disabled individuals from being required to enroll with a managed care entity under the Medicaid program.

S. 1858

At the request of Mr. JEFFORDS, the names of the Senator from Maryland (Mr. SARBANES) and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of S. 1858, a bill to amend the Social Security Act to provide individuals with disabilities with incentives to become economically self-sufficient.

S. 1970

At the request of Mr. ABRAHAM, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 1970, a bill to require the Secretary of the Interior to establish a program to provide assistance in the conservation of neotropical migratory birds.

S. 2049

At the request of Mr. KERREY, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 2049, a bill to provide for payments to children's hospitals that operate graduate medical education programs.