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Senate

The Senate met at 9:30 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

All-powerful Lord, You have the secret of victorious living. In Your indwelling, impelling power within us, You make the difference between a great and a grim day. We all are alarmed by the number of days spent in self-propelled effort, simply because we didn't begin the day by opening the door of our hearts to You.

We come to You in this new day. We have learned that yesterday's experience of fellowship with You or guidance from You will not be sufficient for today's challenges. You seek entrance into every facet of our lives and our work. The latch is always on the inside. Daily, we have a choice to open the door or leave it shut in Your face.

You have work to do here in the Senate, and You plan to do it through the Senators. Come in, Lord; You are welcome! Reign supreme in this Chamber and in our hearts. In the Name of our Lord and Savior. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader, the distinguished Senator from Alaska, is recognized.

SCHEDULE

Mr. STEVENS. Mr. President, this morning the Senate will immediately resume consideration of the FAA reauthorization bill. It is my understanding that the time for making remarks will follow the vote on the bill. So there will occur a vote on this bill immediately. Following that vote, the Senate will hear remarks concerning the distinguished Senator from Kentucky and, following that, any legislative or executive items cleared for action, including the Internet tax bill if an agreement can be reached today.

As a reminder to all Members, a cloture motion was filed yesterday on the so-called vacancies bill. Therefore, Members have until 1 p.m. today to file first-degree amendments. The cloture vote has been scheduled to occur at 5:30 p.m. on Monday, September 28.

I thank the Senate and call for the regular order.

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

The PRESIDING OFFICER (Mr. ALLARD). Under the previous order, the Senate will now resume consideration of H.R. 4057, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 4057) to amend title 49, United States Code, to reauthorize programs of the Federal Aviation Administration, and for other purposes.

The Senate resumed consideration of the bill.

The PRESIDING OFFICER. Under the previous order, there will now be 20 minutes for debate, equally divided between the majority and minority leaders, prior to the vote on passage.

SECTION 606

Mr. INHOFE. Mr. President, I would like to point out to the Chairman that Section 606 contains a provision that appears to grant priority status to a single carrier at Chicago O'Hare for the return of slots previously withdrawn for international service. If it is the intention of this provision to give one carrier at O'Hare preference in slot allocation, the Senate conferees must act in conference to remove this provision.

This provision appears to hand over roughly 35 slots that the dominant carrier at Chicago previously sought to obtain from the Federal Aviation Administration (FAA) but was twice denied.

This provision would advantage a single carrier, which knew of the priority of slot withdrawal and should have planned its hub operations to take into account the effects. It strengthens a single carrier's position at O'Hare, a situation which the Congress should not legislate.

As this legislation goes to conference, the Senate is relying on the conferees to ensure Congress is even-handed in these matters.

Mr. MCCAIN. I understand the Senator's concerns, which others have raised as well. I appreciate the Senator from Oklahoma expressing these views.

DEATH ON THE HIGH SEAS ACT

Mr. WYDEN. I would like to engage in a colloquy with the gentleman from Arizona, the distinguished Chairman of the Commerce Committee, concerning provisions included in the FAA reauthorization bill to reform the Death on the High Seas Act.

Mr. MCCAIN. I would be happy to engage the gentleman from Oregon in a colloquy.

Mr. WYDEN. I thank the Chairman. As the Chairman knows, one of my constituents, John Sleavin, lost his brother and nephew and niece under tragic circumstances when their pleasure boat was run down on the high seas by a Korean freighter. The accident was especially tragic because after the collision there was no attempt by the Korean freighter to rescue the family or even to notify the authorities about the collision. Mr. Chairman, you were very gracious to me in allowing my constituent to testify before the Commerce Committee on the need to reform the Death on the High Seas Act (DOHSA) to provide just compensation for victims like my constituent. I believe he provided compelling testimony on the need for reforming DOHSA for

maritime accidents. The FAA reauthorization bill reforms DOHSA but only for aviation accidents. I would like to ask the Chairman whether he will commit to work with me to reform DOHSA comprehensively so the reforms cover both aviation and maritime accidents.

Mr. MCCAIN. Yes, I am committed to work with the Senator from Oregon and other Members who have an interest in this issue to explore this issue further and to work to reform DOHSA to appropriately provide victims of maritime accidents the same rights to recover for loss of their loved ones as are provided to victims of aviation accidents.

(At the request of Mr. MCCAIN, the following statement was ordered to be printed in the RECORD.)

PERMIMETER RULE EXEMPTIONS

• Mrs. BOXER. Mr. President, the distinguished senior Senator from California, Senator FEINSTEIN, and I would like to ask the Chairman of the Committee on Commerce, Science and Transportation a question concerning the perimeter rule exemptions that are contained in S. 2279, the Wendell H. Ford National Air Transportation System Improvement Act.

Mr. MCCAIN. I will be delighted to respond to questions from the Senators from California.

Mrs. BOXER. We thank you. We first want to thank the members of the Commerce Committee for working so diligently to produce a comprehensive FAA reauthorization bill, and for giving us the opportunity to address a provision in this bill which affects the people of our state and many of the other western states.

Mrs. FEINSTEIN. The FAA reauthorization bill will provide important and necessary funding to our nation's aviation system. It is crucial that we work to pass this legislation before the end of this session. But, there is one provision in this bill that we must resolve before we can go forward. The exemptions to the Ronald Reagan Washington National Airport Perimeter Rule has come to our attention as a section of this bill which opens the door to an array of concerns. The change in the Perimeter Rule will allow for six new daily round trip flights between Reagan National Airport and airports beyond the 1,250-mile perimeter.

We have some questions as to who will be served if these exemptions are enacted by Congress. We would like to see the highest level of service provided to the most number of passengers. Do you believe that this Perimeter Rule exemption would prevent airlines from competing to provide the greatest amount of service to the most number of passengers?

Mr. MCCAIN. This provision included by the committee is intended to implement a process that will provide numerous domestic cities, including small and medium-sized committees, with improved service. However, the provision allows for competition for routes to larger communities.

Mrs. BOXER. I ask the distinguished chairman to yield to a further question.

Mr. MCCAIN. I will be happy to yield.

Mrs. BOXER. Specifically, would carriers be prevented from competing for routes from National Airport to Los Angeles or San Jose or other California airports under this bill?

Mr. MCCAIN. No. As long as carriers can demonstrate that their routes provide domestic network benefits and increase competition in multiple markets, they may compete for these nonstop routes, including select routes to California airports.•

Ms. SNOWE. Mr. President, I rise to express my support for the Wendell H. Ford National Air Transportation Improvement Act of 1998. As a member of the Commerce Aviation Subcommittee, it has been my privilege to work with Senator FORD on this and other bills to improve the quality and safety of air transportation in this country, and I believe it is a fitting tribute that we name this bill in his honor.

I appreciate the assistance I received from the Senator from Kentucky and from my good friend, the Chairman, Senator MCCAIN, in adding three amendments to this bill which I believe will help improve safety, quality and access.

I will vote for this bill because on the whole, it will benefit our airports and air travelers. But I do want to make it clear that I do not support sections 606 and 607. These sections will be detrimental to commercial air service to Maine and the other markets within the perimeter rule. While I will not be offering an amendment to strike these two sections, I would encourage the conferees to seriously consider the detrimental effects these sections will have on air service.

Section 606 will negatively alter the perimeter rule at Ronald Reagan Washington National Airport in a way that jeopardizes air service to Maine. It is my opinion that expanding the number of slots would clearly result in more negatives than positives.

Due to the current Federal Aviation Administration guidelines on the distance required between aircraft, adding flights at National airport will require air traffic controllers to chose between staying on schedule or sacrificing safety.

If more flights are added through the creation of these new slots in Section 606, the controller will have to place these flights more closely together in order to prevent delays in arrivals and departures. By decreasing the spacing of the flights in and out of Reagan National, it will create an unsafe situation by subjecting the flights to the jet wash, or turbulence, of flights in front of them. Such exposure to the jet wash, especially at take-off creates a terrible safety situation. One which will jeopardize lives of the traveling public.

I am also concerned about the way that section 606 distributes the new slots are distributed. Specifically, the section gives priority consideration to air carriers who have already had slots withdrawn from them. This will result in the majority of new slots to go to one dominate carrier and further increase already overpriced business airfares. Further, this language will overturn a March 1998, Department of Transportation decision concerning the distribution of slots.

I would also like to note my opposition to section 607, which modifies the perimeter rule. It is well established that the perimeter rule maintains a delicate balance between National Airport and Dulles International Airport. Under the perimeter rule, Dulles has flourished as an international gateway, and National has provided regional service to states such as Maine.

I believe that in the long run, violating the perimeter rule will hurt travelers from Maine. Eroding the perimeter rule will bring long-haul flights to National—short haul flights, in turn, will be rerouted to Dulles or eliminated altogether. Ironically, violating the perimeter rule would also hurt those underserved communities the legislation is designed to assist. Modifying the perimeter rule could encourage airlines at National to substitute long-haul flights for existing service to smaller communities within the perimeter.

I believe that the amendment offered by the Senator from Virginia, Mr. ROBB, which I have cosponsored, will mitigate some of the potential impact of modifying the perimeter rule by making it incumbent on the Secretary of Transportation to ensure that these changes will not reduce travel options for communities served by small and medium sized airports within the perimeter and not result in meaningful increases in travel delays.

I also would want to note the Dorgan-Snowe amendment that was adopted and to thank the Chairman and Ranking member for their helping in working through the language. The Dorgan-Snowe amendment would facilitate air service to under-served communities and encourage airline competition through non-discriminatory interconnection requirements by permitting the Secretary of Transportation to require major carriers to enter into agreements with new entrant air carriers which serve rural or underserved markets.

This amendment will give the Secretary of Transportation the authority to require an air carrier that serves an essential airport facility, such as a major hub, and has an exclusive—almost monopolistic—agreement with another airline which serves an underserved market to enter into a joint fare or interline agreement with a new air carrier, trying to enter the underserved market so that the people living in the rural or underserved area will have a competitive alternative and not be beholden to one airline.

This would allow a new airline to fly from a rural or underserved market to a hub airport which is dominated by a

major carrier and permit the traveler to continue to another market on the megacarrier without having to purchase a second ticket or worrying if their bags will be transferred to the megacarrier.

I want to make it perfectly clear. States which are primarily rural or have a large number of underserved markets will benefit from this amendment. Opponents of this amendment argue that this is re-regulation. Nothing is further from the truth. Senator DORGAN and I are establishing a mechanism which will allow new entrant carriers to be able to compete with the mega air carriers. Only if the Secretary believes that underserved markets will benefit and that competition will result, will an interline agreement be sanctioned.

It is interesting to note that when the commercial air carrier industry was deregulated, there were 19 domestic trunk-line and local service carriers. Of those 19, only 5 (American, Continental, Delta, Northwest, and United) airlines are still in existence. At the time of deregulation, eight of the 15 airlines controlled 80% of the market share. Today, the seven largest carriers control more than 90% of the market.

Some say that this is positive result of deregulation, claiming that deregulation was designed to promote a ''survival of the fittest'' type industry and promote profitability. Unfortunately, deregulation has actually hurt the vast majority of communities in the United States and the passengers who travel from small and medium sized markets. According to a Government Accounting Office report, the full benefits of deregulation have yet to be realized because of problems with entering the markets dominated by a major airline.

As a result of deregulation, consumers are actually paying far more for air travel. In fact, a doubling of an airline's market share on a particular route translates into a price increase of almost nine percent. Today, as a result of the lack of competition at small and medium sized markets, it is cheaper to fly from Washington, D.C. to Mexico City on an unrestricted ticket than it is to fly from Washington to Portland, Maine.

Our amendment would require carriers who enter into interline and joint fare agreements with other carriers, like those which have already been proposed and implemented on a limited basis by the megacarriers, to provide these agreements on a non-discriminatory basis to carriers seeking to provide service between an underserved market and a large hub airport in which one carrier has market dominance.

Open access like that proposed in this amendment is nothing new. In fact Congress, just two and one-half years ago, approved legislation with similar requirements. When Congress de-regulated the telecommunications industry, the fundamental element to promote competition in that legislation was the requirement that the incumbent carriers would be required, by law, to allow their competitors to interconnect into their network.

In a situation analogous to the telecommunications market, in order to develop competition in the local market, we must impose, by law, the requirement that the dominant megacarriers, allow its competitors to interconnect into their networks. By adopting this amendment, new entrant carriers will be allowed to interconnect into the flight network of a major carrier which dominates a hub airport. In light of what has been required of other industries under the goal of promoting competition, this amendment makes sense if one wants to see a competitive airline industry.

The only way to allow for competition in this environment is to impose conditions on the major carriers to cooperate with their competitors. Interline and joint fares are necessary to ensure that the dominant carriers will not kill potential competitors.

Through the adoption of this amendment, much like the principle underlying the local competition in the telecommunications industry, we will be able to provide more choices, lower costs, and better service to the majority of markets across the country.

PERMANENT BAN ON ROCKY MOUNTAIN NATIONAL PARK COMMERCIAL TOUR OVERFLIGHTS

Mr. CAMPBELL. Mr. President, as I cast my vote in favor of final passage of the Federal Aviation Administration's Reauthorization bill, S.2279, I am pleased to bring attention to one special amendment to this bill.

The amendment which my colleague Senator ALLARD and I offered will make the FAA's temporary ban on commercial tour overflights permanent. I have been working toward permanently banning commercial tour overflights over Rocky Mountain National Park for many years now, and am pleased to see this provision pass the Senate.

As I cast my vote today, Coloradans will be one big step closer to being assured that they will be able to enjoy the scenic beauty of Rocky Mountain National Park without the noisy disturbances of commercial tour overflights.

At this time I want to thank Senator MCCAIN, who as the Chairman of the Commerce Committee, played a critical role in getting this amendment successfully included in the FAA bill.

Mr. INHOFE. Mr. President, section 606 subparagraph (6) of S. 2279 will have the unintended consequences of limiting competition at Chicago's O'Hare airport. I have spoke at length with Senators LOTT, MCCAIN, and FORD regarding my concerns with this provision and understand that it may be possible to correct this problem in conference. I hope that is the case.

This provision will allow those carriers who have lost landing/takeoff slots to foreign air carriers at Chicago's O'Hare to get them back. On the surface this seems very fair; however, it will in fact unfairly favor the largest slot holder at O'Hare at the expense of other competitors and new entrants. Because the dominant carrier at O'Hare has lost the most slots, it stands to gain the most. The result will be less competition rather than more at O'Hare.

Mr. President, by way of further explanation on this issue, I would like to submit for the RECORD a letter Senator NICKLES and I sent to Senators LOTT, DASCHLE, MCCAIN, HOLLINGS, SHELBY, and LAUTENBERG describing our concerns and asking for their assistance in correcting the problem.

Knowing that the managers of the bill have worked very hard to increase competition, I am certain they share my concerns regarding market domination at O'Hare. In my discussions with Senator LOTT, he has assured me that he has no position on section 606 and would not object to this section being removed in conference.

I ask unanimous consent that the letter be printed in the RECORD.

UNITED STATES SENATE,
Washington, DC, September 23, 1998.

Hon. TRENT LOTT,
Majority Leader, U.S. Senate,
Washington, DC.
Hon. TOM DASCHLE,
Minority Leader, U.S. Senate,
Washington, DC.
Hon. JOHN MCCAIN,
Chairman, Senate Commerce, Science, and Transportation Committee, U.S. Senate, Washington, DC.
Hon. ERNEST F. HOLLINGS,
Ranking Member, Senate Commerce, Science, and Transportation Committee, U.S. Senate, Washington, DC.
Hon. RICHARD C. SHELBY,
Chairman, Subcommittee on Transportation, Senate Appropriations Committee, U.S. Senate, Washington, DC.
Hon. FRANK R. LAUTENBERG,
Minority Member, Subcommittee on Transportation, Senate Appropriations Committee, U.S. Senate, Washington, DC.

DEAR SENATORS: We are writing to express our strong opposition to a proposal that would increase major airline dominance at a key hub airport while at the same time reversing a Federal Aviation Administration (FAA) decision and undercutting our international obligations. Specifically, a provision in Section 606 of FAA Reauthorization (S. 2279) would hand over roughly 35 slots at Chicago's O'Hare International Airport to its largest slot holder, United Airlines, while restricting access at that hub to its competitors and new entrants. It is our understanding that this special interest provision is being adviced for inclusion in other pieces of ''must-pass'' legislation. Such special interest legislation benefiting one airline will no doubt lead to less competition and higher airfares. We urge you to foster greater airline competition by deleting this special interest provision from S. 2279 and preventing it from being attached to other legislation.

Late last year, United petitioned FAA on just this issue and was rejected soundly. United sought priority for any future slot exemptions claiming they would replace the 35 slots withdrawn under FAA regulations and used by foreign carriers in order to meet our bilateral commitments. In a March 1998 order, FAA found that the public interest

would be best served by continuing to meet our aviation bilateral agreement commitments to international air transportation using the slots withdrawn from United and American Airlines at O'Hare, while using the slot exemptions to increase competition at that key airport. The priority by which slots were to be withdrawn was well known. United chose not to invest in better priority slots to protect its schedule and slot holdings. In rejecting United's request, FAA found:

''Since 1993 the FAA withdraws, on average, 31 air carrier slots from United, which is approximately four percent of United's domestic slot base. These slots are withdrawn based on a priority numbering system that was established by random lottery in 1986. Slots having the lowest numbers are most vulnerable to withdrawal, regardless of the slot holder. As articulated in our previous denial to United concerning this issue, United made its selection or acquisition of slots with vulnerable withdrawal priority and planned its hub operations fully knowing the effects of the rule's operations might have upon them . . . United knew, or should have known, that these slots were vulnerable in case of withdrawal.''

We applaud the Commerce Committee's efforts to fashion a bill that promotes greater airline competition aimed at producing lower airfares and improved service in all communities. Accordingly, we respectfully urge your support for striking this provision of section 606, the effect of which is directly opposite the intent of S. 2279 and other procompetitive aviation legislation.

Sincerely,

JIM INHOFE,
DON NICKLES.

Mr. BYRD. Mr. President, I support H.R. 4057, the Federal Aviation Administration (FAA) Reauthorization Act and I commend my colleagues on the bipartisan and expeditious manner in which this important legislation was adopted by the Senate. This bill will reauthorize the programs of the FAA for two years, including the Airport Improvement Program (AIP), which is due to expire on September 30. The purpose of the AIP is to provide grants to fund the capital needs of the nation's commercial airports and general aviation facilities. Without this important FAA reauthorization legislation to continue the contract authority for the AIP, the FAA would not be able to distribute airport grants that are vitally important to not only the State which I am honored to represent, West Virginia, but also the entire nation.

A major focus of H.R. 4057 is promoting competition and quality air service which, Mr. President, the State of West Virginia needs desperately. Since the deregulation of the airlines, West Virginia travelers have suffered from increased airfares and greatly reduced service. Consequently, the inefficiencies in the present air transportation system and the high costs have denied air passengers and air freight shippers in West Virginia reasonable access to the national and international air transportation system.

Mother Nature has blessed the State of West Virginia with a beautiful but most unforgiving terrain. Steeply undulating mountains and deep gorges are punctuated by sweetly serene valleys and hollows, and West Virginia is kind to those who need to travel through the State by automobile. Yet, despite the rigorous terrain of the State, most people have to drive great distances even to catch an airplane for what is usually the first of several stops en route to their final destination. In eastern West Virginia, residents travel to either Dulles or Reagan National Airports in Virginia; in the northern reaches, residents drive to Pennsylvania or Ohio; and in the southern portion of the State, they may have to drive to North Carolina to get to a major hub. Not only is the limited availability of flights and destinations a problem for air travel originating within West Virginia, but so is the exorbitant cost of air transportation to and from the State. For example, a round trip air ticket from Reagan National Airport to Yeager Airport in Charleston can cost almost $700. That is almost $700 to travel under 400 miles—and when you are done, you are only as far away as Washington, D.C. Leaving from Washington, $700 can take you to Europe and back! This does not make sense to most hardworking West Virginians, and it discourages other travelers from visiting to experience West Virginia's many wonders for themselves.

With the advent of the 21st Century just around the corner, the West Virginia air travelers and businesses that rely on air freight will welcome this legislation. West Virginia's expected economic expansion in the 21st century will depend on its ability to compete not only in the national economy, but also in the ever-growing global economy. To successfully compete, quality, affordable, and efficient air transportation is needed to successfully round out West Virginia's increasingly modern infrastructure of highways, railways, and waterways.

Mr. President, this bill, H.R. 4057, contains other necessary language to help West Virginia progress into the new millennium. Major provisions of this bill are not only the AIP program, but also the Small Communities Air Service Development Program, and slot exemptions for nonstop regional jet service.

The Small Communities Air Service Development Program will be a four-year, $30 million, small communities grant program. Executed through the Department of Transportation, this program will encourage commercial air service to small communities all over the United States, including those in West Virginia. By providing matching funds of up to 25 percent, a consortia of local communities in West Virginia is expected to compete for the grants of $500,000 per year available per community.

It was Thomas Edison who said, ''Restlessness and discontent are the necessities of progress.'' Mr. President, this captures the way that I feel about additional slot exemptions for nonstop regional jet service at Ronald Reagan National Airport. I share the concern expressed by the distinguished Senators from the State of Maryland and the Commonwealth of Virginia regarding increased noise pollution in the localities surrounding Reagan National Airport. On the other hand, twelve additional slots to increase traffic between Washington and smaller, nonhub airports increases the likelihood of additional airline traffic to underserved areas like West Virginia. Improved air travel to and from States like West Virginia will be critical to my State's remaining competitive in the future and accessible in the present.

Mr. STEVENS. Mr. President, I yield back the time.

Mr. REID. Time is yielded back by this side.

The PRESIDING OFFICER. All time is yielded back.

Mr. STEVENS. Have the yeas and nays been ordered?

The PRESIDING OFFICER. The yeas and nays have not been ordered.

Mr. STEVENS. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. All time having been yielded back, the question is, Shall the bill, H.R. 4057, as amended, pass? The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Missouri (Mr. ASHCROFT) and the Senator from Idaho (Mr. KEMPTHORNE) are necessarily absent.

Mr. FORD. I announce that the Senator from California (Mrs. BOXER), the Senator from Ohio (Mr. GLENN), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Illinois (Ms. MOSELEY-BRAUN), and the Senator from Minnesota (Mr. WELLSTONE) are necessarily absent.

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

The result was announced—yeas 92, nays 1, as follows:

[Rollcall Vote No. 288 Leg.]

YEAS—92

Abraham	D'Amato	Hutchinson
Akaka	Daschle	Hutchison
Allard	DeWine	Inhofe
Baucus	Dodd	Inouye
Bennett	Domenici	Jeffords
Biden	Dorgan	Johnson
Bingaman	Durbin	Kennedy
Bond	Enzi	Kerrey
Breaux	Faircloth	Kerry
Brownback	Feingold	Kohl
Bryan	Feinstein	Kyl
Bumpers	Ford	Landrieu
Burns	Frist	Lautenberg
Byrd	Gorton	Leahy
Campbell	Graham	Levin
Chafee	Gramm	Lieberman
Cleland	Grams	Lott
Coats	Grassley	Lugar
Cochran	Gregg	Mack
Collins	Hagel	McCain
Conrad	Harkin	McConnell
Coverdell	Hatch	Mikulski
Craig	Helms	Moynihan

Murkowski	Santorum	Stevens
Murray	Sarbanes	Thomas
Nickles	Sessions	Thompson
Reed	Shelby	Thurmond
Reid	Smith (NH)	Torricelli
Roberts	Smith (OR)	Warner
Rockefeller	Snowe	Wyden
Roth	Specter	

NAYS—1

Robb

NOT VOTING—7

Ashcroft	Hollings	Wellstone
Boxer	Kempthorne	
Glenn	Moseley-Braun	

The bill (H.R. 4057), as amended, was passed, as follows:

Resolved, That the bill from the House of Representatives (H.R. 4057) entitled ''An Act to amend title 49, United States Code, to reauthorize programs of the Federal Aviation Administration, and for other purposes.'', do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE; TABLE OF SECTIONS.

(a) SHORT TITLE.—This Act may be cited as the ''Wendell H. Ford National Air Transportation System Improvement Act of 1998''.

(b) TABLE OF SECTIONS.—The table of sections for this Act is as follows:

SEC. 2. AMENDMENTS TO TITLE 49, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

TITLE I—AUTHORIZATIONS

SEC. 101. FEDERAL AVIATION ADMINISTRATION OPERATIONS.

(a) IN GENERAL.—Section 106(k) is amended to read as follows:

''(k) AUTHORIZATION OF APPROPRIATIONS FOR OPERATIONS.—

''(1) IN GENERAL.—There are authorized to be appropriated to the Secretary of Transportation for operations of the Administration $5,631,000,000 for fiscal year 1999 and $5,784,000,000 for fiscal year 2000. Of the amounts authorized to be appropriated for fiscal year 1999, not more than $9,100,000 shall be used to support air safety efforts through payment of United States membership obligations, to be paid as soon as practicable.

''(2) AUTHORIZED EXPENDITURES.—Of the amounts appropriated under paragraph (1) $450,000 may be used for wildlife hazard mitigation measures and management of the wildlife strike database of the Federal Aviation Administration.

''(3) UNIVERSITY CONSORTIUM.—There are authorized to be appropriated not more than $9,100,000 for the 3 fiscal year period beginning with fiscal year 1999 to support a university consortium established to provide an air safety and security management certificate program, working cooperatively with the Federal Aviation Administration and United States air carriers. Funds authorized under this paragraph—

''(A) may not be used for the construction of a building or other facility; and

''(B) shall be awarded on the basis of open competition.''.

(b) COORDINATION.—The authority granted the Secretary under section 41717 of title 49, United States Code, does not affect the Secretary's authority under any other provision of law.

SEC. 102. AIR NAVIGATION FACILITIES AND EQUIPMENT.

(a) IN GENERAL.—Section 48101(a) is amended by striking paragraphs (1) and (2) and inserting the following:

''(1) for fiscal year 1999—

''(A) $222,800,000 for engineering, development, test, and evaluation: en route programs;

''(B) $74,700,000 for engineering, development, test, and evaluation: terminal programs;

''(C) $108,000,000 for engineering, development, test, and evaluation: landing and navigational aids;

''(D) $17,790,000 for engineering, development, test, and evaluation: research, test, and evaluation equipment and facilities programs;

''(E) $391,358,300 for air traffic control facilities and equipment: en route programs;

''(F) $492,315,500 for air traffic control facilities and equipment: terminal programs;

''(G) $38,764,400 for air traffic control facilities and equipment: flight services programs;

''(H) $50,500,000 for air traffic control facilities and equipment: other ATC facilities programs;

''(I) $162,400,000 for non-ATC facilities and equipment programs;

''(J) $14,500,000 for training and equipment facilities programs;

''(K) $280,800,000 for mission support programs;

''(L) $235,210,000 for personnel and related expenses; and

''(2) $2,189,000,000 for fiscal year 2000.''.

(b) CONTINUATION OF ILS INVENTORY PROGRAM.—Section 44502(a)(4)(B) is amended—

(1) by striking ''fiscal years 1995 and 1996'' and inserting ''fiscal years 1999 and 2000''; and

(2) by striking ''acquisition,'' and inserting ''acquisition under new or existing contracts,''.

(c) LIFE-CYCLE COST ESTIMATES.—The Administrator of the Federal Aviation Administration shall establish life-cycle cost estimates for any air traffic control modernization project the total life-cycle costs of which equal or exceed $50,000,000.

SEC. 103. AIRPORT PLANNING AND DEVELOPMENT AND NOISE COMPATIBILITY PLANNING AND PROGRAMS.

(a) EXTENSION AND AUTHORIZATION.—Section 48103 is amended by—

(1) striking ''September 30, 1996,'' and inserting ''September 30, 1998,''; and

(2) striking ''$2,280,000,000 for fiscal years ending before October 1, 1997, and $4,627,000,000 for fiscal years ending before October 1, 1998.'' and inserting ''$2,410,000,000 for fiscal years ending before October 1, 1999 and $4,885,000,000 for fiscal years ending before October 1, 2000.''.

(b) PROJECT GRANT AUTHORITY.—Section 47104(c) is amended by striking ''1998,'' and inserting ''2002,''.

SEC. 104. REPROGRAMMING NOTIFICATION REQUIREMENT.

Before reprogramming any amounts appropriated under section 106(k), 48101(a), or 48103 of title 49, United States Code, for which notification of the Committees on Appropriations of the Senate and the House of Representatives is required, the Secretary of Transportation shall submit a written explanation of the proposed reprogramming to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

SEC. 105. AIRPORT SECURITY PROGRAM.

(a) IN GENERAL.—Chapter 471 (as amended by section 202(a) of this Act) is amended by adding at the end thereof the following new section:

''§ 47136. Airport security program

''(a) GENERAL AUTHORITY.—To improve security at public airports in the United States, the Secretary of Transportation shall carry out not less than 1 project to test and evaluate innovative airport security systems and related technology.

''(b) PRIORITY.—In carrying out this section, the Secretary shall give the highest priority to a request from an eligible sponsor for a grant to undertake a project that—

''(1) evaluates and tests the benefits of innovative airport security systems or related technology, including explosives detection systems, for the purpose of improving airport and aircraft physical security and access control; and

''(2) provides testing and evaluation of airport security systems and technology in an operational, test bed environment.

''(c) MATCHING SHARE.—Notwithstanding section 47109, the United States Government's share of allowable project costs for a project under this section is 100 percent.

''(d) TERMS AND CONDITIONS.—The Secretary may establish such terms and conditions as the Secretary determines appropriate for carrying out a project under this section, including terms and conditions relating to the form and content of a proposal for a project, project assurances, and schedule of payments.

''(e) ELIGIBLE SPONSOR DEFINED.—In this section, the term 'eligible sponsor' means a nonprofit corporation composed of a consortium of public and private persons, including a sponsor of a primary airport, with the necessary engineering and technical expertise to successfully conduct the testing and evaluation of airport and aircraft related security systems.

''(f) AUTHORIZATION OF APPROPRIATIONS.—Of the amounts made available to the Secretary under section 47115 in a fiscal year, the Secretary shall make available not less than $5,000,000 for the purpose of carrying out this section.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for such chapter (as amended by section 202(b) of this Act) is amended by inserting after the item relating to section 47135 the following:

''47136. Airport security program.''.

SEC. 106. CONTRACT TOWER PROGRAM.

There are authorized to be appropriated to the Secretary of Transportation such sums as may be necessary to carry out the Federal Contract Tower Program under title 49, United States Code.

SEC. 107. AUTOMATED SURFACE OBSERVATION SYSTEM STATIONS.

The Administrator of the Federal Aviation Administration shall not terminate human weather observers for Automated Surface Observation System stations until—

(1) the Secretary of Transportation determines that the System provides consistent reporting of changing meteorological conditions and notifies the Congress in writing of that determination; and

(2) 60 days have passed since the report was submitted to the Congress.

TITLE II—AIRPORT IMPROVEMENT PROGRAM AMENDMENTS

SEC. 201. REMOVAL OF THE CAP ON DISCRETIONARY FUND.

Section 47115(g) is amended by striking paragraph (4).

SEC. 202. INNOVATIVE USE OF AIRPORT GRANT FUNDS.

(a) CODIFICATION AND IMPROVEMENT OF 1996 PROGRAM.—Subchapter I of chapter 471 is amended by adding at the end thereof the following:

''§ 47135. Innovative financing techniques

''(a) IN GENERAL.—The Secretary of Transportation is authorized to carry out a demonstration program under which the Secretary may approve applications under this subchapter for not more than 20 projects for which grants received under the subchapter may be used to implement innovative financing techniques.

''(b) PURPOSE.—The purpose of the demonstration program shall be to provide information on the use of innovative financing techniques for airport development projects.

''(c) LIMITATION—In no case shall the implementation of an innovative financing technique under this section be used in a manner giving rise to a direct or indirect guarantee of any airport debt instrument by the United States Government.

''(d) INNOVATIVE FINANCING TECHNIQUE DEFINED.—In this section, the term 'innovative financing technique' includes methods of financing projects that the Secretary determines may be beneficial to airport development, including—

''(1) payment of interest;

''(2) commercial bond insurance and other credit enhancement associated with airport bonds for eligible airport development; and

''(3) flexible non-Federal matching requirements.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 471 is amended by inserting after the item relating to section 47134 the following:

''47135. Innovative financing techniques.''.

SEC. 203. MATCHING SHARE.

Section 47109(a)(2) is amended by inserting ''not more than'' before ''90 percent''.

SEC. 204. INCREASE IN APPORTIONMENT FOR NOISE COMPATIBILITY PLANNING AND PROGRAMS.

Section 47117(e)(1)(A) is amended by striking ''31'' each time it appears and substituting ''35''.

SEC. 205. TECHNICAL AMENDMENTS.

(a) USE OF APPORTIONMENTS FOR ALASKA, PUERTO RICO, AND HAWAII.—Section 47114(d)(3) is amended to read as follows:

''(3) An amount apportioned under paragraph (2) of this subsection for airports in Alaska, Hawaii, or Puerto Rico may be made available by the Secretary for any public airport in those respective jurisdictions.''.

(b) SUPPLEMENTAL APPORTIONMENT FOR ALASKA.—Section 47114(e) is amended—

(1) by striking ''ALTERNATIVE'' in the subsection caption and inserting ''SUPPLEMENTAL'';

(2) in paragraph (1) by—

(A) striking ''Instead of apportioning amounts for airports in Alaska under'' and inserting ''Notwithstanding''; and

(B) striking ''those airports'' and inserting ''airports in Alaska''; and

(3) striking paragraph (3) and inserting the following:

''(3) An amount apportioned under this subsection may be used for any public airport in Alaska.''.

(c) REPEAL OF APPORTIONMENT LIMITATION ON COMMERCIAL SERVICE AIRPORTS IN ALASKA.—Section 47117 is amended by striking subsection (f) and redesignating subsections (g) and (h) as subsections (f) and (g), respectively.

(d) DISCRETIONARY FUND DEFINITION.—

(1) Section 47115 is amended—

(A) by striking ''25'' in subsection (a) and inserting ''12.5''; and

(B) by striking the second sentence in subsection (b).

(2) Section 47116 is amended—

(A) by striking ''75'' in subsection (a) and inserting ''87.5'';

(B) by redesignating paragraphs (1) and (2) in subsection (b) as subparagraphs (A) and (B), respectively, and inserting before subparagraph (A), as so redesignated, the following:

''(1) one-seventh for grants for projects at small hub airports (as defined in section 41731 of this title); and

''(2) the remaining amounts based on the following:''.

(e) CONTINUATION OF PROJECT FUNDING.—Section 47108 is amended by adding at the end thereof the following:

''(e) CHANGE IN AIRPORT STATUS.—If the status of a primary airport changes to a nonprimary airport at a time when a development project under a multiyear agreement under subsection (a) is not yet completed, the project shall remain eligible for funding from discretionary funds under section 47115 of this title at the funding level and under the terms provided by the agreement, subject to the availability of funds.''.

(f) GRANT ELIGIBILITY FOR PRIVATE RELIEVER AIRPORTS.—Section 47102(17)(B) is amended by—

(1) striking ''or'' at the end of clause (i) and redesignating clause (ii) as clause (iii); and

(2) inserting after clause (i) the following:

''(ii) a privately-owned airport that, as a reliever airport, received Federal aid for airport development prior to October 9, 1996, but only if the Administrator issues revised administrative guidance after July 1, 1998, for the designation of reliever airports; or''.

(g) RELIEVER AIRPORTS NOT ELIGIBLE FOR LETTERS OF INTENT.—Section 47110(e)(1) is amended by striking ''or reliever''.

(h) PASSENGER FACILITY FEE WAIVER FOR CERTAIN CLASS OF CARRIERS.—Section 40117(e)(2) is amended—

(1) by striking ''and'' after the semicolon in subparagraph (B);

(2) by striking ''payment.'' in subparagraph (C) and inserting ''payment; and''; and

(3) by adding at the end thereof the following:

''(D) in Alaska aboard an aircraft having a seating capacity of less than 20 passengers.''.

(i) PASSENGER FACILITY FEE WAIVER FOR CERTAIN CLASS OF CARRIERS OR FOR SERVICE TO AIRPORTS IN ISOLATED COMMUNITIES.—Section 40117(i) is amended—

(1) by striking ''and'' at the end of paragraph (1);

(2) by striking ''transportation.'' in paragraph (2)(D) and inserting ''transportation; and''; and

(3) by adding at the end thereof the following:

''(3) may permit a public agency to request that collection of a passenger facility fee be waived for—

''(A) passengers enplaned by any class of air carrier or foreign air carrier if the number of passengers enplaned by the carriers in the class constitutes not more than one percent of the total number of passengers enplaned annually at the airport at which the fee is imposed; or

''(B) passengers enplaned on a flight to an airport—

''(i) that has fewer than 2,500 passenger boardings each year and receives scheduled passenger service; or

''(ii) in a community which has a population of less than 10,000 and is not connected by a land highway or vehicular way to the land-connected National Highway System within a State.''.

(j) USE OF THE WORD ''GIFT'' AND PRIORITY FOR AIRPORTS IN SURPLUS PROPERTY DISPOSAL.—

(1) Section 47151 is amended—

(A) by striking ''give'' in subsection (a) and inserting ''convey to'';

(B) by striking ''gift'' in subsection (a)(2) and inserting ''conveyance'';

(C) by striking ''giving'' in subsection (b) and inserting ''conveying'';

(D) by striking ''gift'' in subsection (b) and inserting ''conveyance''; and

(E) by adding at the end thereof the following:

''(d) PRIORITY FOR PUBLIC AIRPORTS.—Except for requests from another Federal agency, a department, agency, or instrumentality of the Executive Branch of the United States Government shall give priority to a request by a public agency (as defined in section 47102 of this title) for surplus property described in subsection (a) of this section for use at a public airport.''.

(2) Section 47152 is amended—

(A) by striking ''**gifts**'' in the section caption and inserting ''**conveyances**''; and

(B) by striking ''gift'' in the first sentence and inserting ''conveyance''.

(3) The chapter analysis for chapter 471 is amended by striking the item relating to section 47152 and inserting the following:

''47152. Terms of conveyances.''.

(4) Section 47153(a) is amended—

(A) by striking ''gift'' in paragraph (1) and inserting ''conveyance'';

(B) by striking ''given'' in paragraph (1)(A) and inserting ''conveyed''; and

(C) by striking ''gift'' in paragraph (1)(B) and inserting ''conveyance''.

(k) APPORTIONMENT FOR CARGO ONLY AIRPORTS.—Section 47114(c)(2)(A) is amended by striking ''2.5 percent'' and inserting ''3 percent''.

(l) FLEXIBILITY IN PAVEMENT DESIGN STANDARDS.—Section 47114(d) is amended by adding at the end thereof the following:

''(4) The Secretary may permit the use of State highway specifications for airfield pavement construction using funds made available under this subsection at nonprimary airports with runways of 5,000 feet or shorter serving aircraft that do not exceed 60,000 pounds gross weight, if the Secretary determines that—

''(A) safety will not be negatively affected; and

''(B) the life of the pavement will not be shorter than it would be if constructed using Administration standards.

An airport may not seek funds under this subchapter for runway rehabilitation or reconstruction of any such airfield pavement constructed using State highway specifications for a period of 10 years after construction is completed.''.

SEC. 206. REPEAL OF PERIOD OF APPLICABILITY.

Section 125 of the Federal Aviation Reauthorization Act of 1996 (49 U.S.C. 47114 note) is repealed.

SEC. 207. REPORT ON EFFORTS TO IMPLEMENT CAPACITY ENHANCEMENTS.

Within 9 months after the date of enactment of this Act, the Secretary of Transportation shall report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives on efforts by the Federal Aviation Administration to implement capacity enhancements and improvements, such as precision runway monitoring systems, and the time frame for implementation of such enhancements and improvements.

SEC. 208. PRIORITIZATION OF DISCRETIONARY PROJECTS.

Section 47120 is amended by—

(1) inserting ''(a) IN GENERAL.—'' before ''In''; and

(2) adding at the end thereof the following:

''(b) DISCRETIONARY FUNDING TO BE USED FOR HIGHER PRIORITY PROJECTS.—The Administrator of the Federal Aviation Administration shall discourage airport sponsors and airports from using entitlement funds for lower priority projects by giving lower priority to discretionary projects submitted by airport sponsors and airports that have used entitlement funds for projects that have a lower priority than the projects for which discretionary funds are being requested.''.

SEC. 209. PUBLIC NOTICE BEFORE GRANT ASSURANCE REQUIREMENT WAIVED.

(a) IN GENERAL.—Notwithstanding any other provision of law to the contrary, the Secretary of Transportation may not waive any assurance required under section 47107 of title 49, United States Code, that requires property to be used for aeronautical purposes unless the Secretary provides notice to the public not less than 30 days before issuing any such waiver. Nothing in this section shall be construed to authorize the Secretary to issue a waiver of any assurance required under that section.

(b) EFFECTIVE DATE.—This section applies to any request filed on or after the date of enactment of this Act.

SEC. 210. DEFINITION OF PUBLIC AIRCRAFT.

Section 40102(a)(37)(B)(ii) is amended—

(1) by striking ''or'' at the end of subclause (I);

(2) by striking the ''States.'' in subclause (II) and inserting ''States; or''; and

(3) by adding at the end thereof the following:

''(III) transporting persons aboard the aircraft if the aircraft is operated for the purpose of prisoner transport.''.

SEC. 211. TERMINAL DEVELOPMENT COSTS.

Section 40117 is amended by adding at the end thereof the following:

''(j) SHELL OF TERMINAL BUILDING.—In order to enable additional air service by an air carrier with less than 50 percent of the scheduled passenger traffic at an airport, the Secretary may consider the shell of a terminal building (including heating, ventilation, and air conditioning) and aircraft fueling facilities adjacent to an airport terminal building to be an eligible airport-related project under subsection (a)(3)(E).''.

SEC. 212. AIRFIELD PAVEMENT CONDITIONS.

(a) EVALUATION OF OPTIONS.—The Administrator of the Federal Aviation Administration shall evaluate options for improving the quality of information available to the Administration on airfield pavement conditions for airports that are part of the national air transportation system, including—

(1) improving the existing runway condition information contained in the Airport Safety Data Program by reviewing and revising rating criteria and providing increased training for inspectors;

(2) requiring such airports to submit pavement condition index information as part of their airport master plan or as support in applications for airport improvement grants; and

(3) requiring all such airports to submit pavement condition index information on a regular basis and using this information to create a pavement condition database that could be used in evaluating the cost-effectiveness of project applications and forecasting anticipated pavement needs.

(b) REPORT TO CONGRESS.—The Administrator shall transmit a report, containing an evaluation of such options, to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure not later than 12 months after the date of enactment of this Act.

SEC. 213. DISCRETIONARY GRANTS.

Notwithstanding any limitation on the amount of funds that may be expended for grants for noise abatement, if any funds made available under section 48103 of title 49, United States Code, remain available at the end of the fiscal year for which those funds were made available, and are not allocated under section 47115 of that title, or under any other provision relating to the awarding of discretionary grants from unobligated funds made available under section 48103 of that title, the Secretary of Transportation may use those funds to make discretionary grants for noise abatement activities.

TITLE III—AMENDMENTS TO AVIATION LAW

SEC. 301. SEVERABLE SERVICES CONTRACTS FOR PERIODS CROSSING FISCAL YEARS.

(a) Chapter 401 is amended by adding at the end thereof the following:

''§ 40125. Severable services contracts for periods crossing fiscal years

''(a) IN GENERAL.—The Administrator of the Federal Aviation Administration may enter into a contract for procurement of severable services for a period that begins in one fiscal year and ends in the next fiscal year if (without regard to any option to extend the period of the contract) the contract period does not exceed one year.

''(b) OBLIGATION OF FUNDS.—Funds made available for a fiscal year may be obligated for the total amount of a contract entered into under the authority of subsection (a) of this section.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 401 is amended by adding at the end thereof the following:

''40125. Severable services contracts for periods crossing fiscal years.''.

SEC. 302. FOREIGN CARRIERS ELIGIBLE FOR WAIVER UNDER AIRPORT NOISE AND CAPACITY ACT.

The first sentence of section 47528(b)(1) is amended by inserting ''or foreign air carrier''

after ''air carrier'' the first place it appears and after ''carrier'' the first place it appears.

SEC. 303. GOVERNMENT AND INDUSTRY CONSORTIA.

Section 44903 is amended by adding at the end thereof the following:

''(f) GOVERNMENT AND INDUSTRY CONSORTIA.—The Administrator may establish at airports such consortia of government and aviation industry representatives as the Administrator may designate to provide advice on matters related to aviation security and safety. Such consortia shall not be considered federal advisory committees for purposes of the Federal Advisory Committee Act (5 U.S.C. App.).''.

SEC. 304. IMPLEMENTATION OF ARTICLE 83 BIS OF THE CHICAGO CONVENTION.

Section 44701 is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following:

''(e) BILATERAL EXCHANGES OF SAFETY OVERSIGHT RESPONSIBILITIES.—

''(1) Notwithstanding the provisions of this chapter, and pursuant to Article 83 bis of the Convention on International Civil Aviation, the Administrator may, by a bilateral agreement with the aeronautical authorities of another country, exchange with that country all or part of their respective functions and duties with respect to aircraft described in subparagraphs (A) and (B), under the following articles of the Convention:

''(A) Article 12 (Rules of the Air).

''(B) Article 31 (Certificates of Airworthiness).

''(C) Article 32a (Licenses of Personnel).

''(2) The agreement under paragraph (1) may apply to—

''(A) aircraft registered in the United States operated pursuant to an agreement for the lease, charter, or interchange of the aircraft or any similar arrangement by an operator that has its principal place of business, or, if it has no such place of business, its permanent residence, in another country; or

''(B) aircraft registered in a foreign country operated under an agreement for the lease, charter, or interchange of the aircraft or any similar arrangement by an operator that has its principal place of business, or, if it has no such place of business, its permanent residence, in the United States.

''(3) The Administrator relinquishes responsibility with respect to the functions and duties transferred by the Administrator as specified in the bilateral agreement, under the Articles listed in paragraph (1) of this subsection for United States-registered aircraft transferred abroad as described in subparagraph (A) of that paragraph, and accepts responsibility with respect to the functions and duties under those Articles for aircraft registered abroad that are transferred to the United States as described in subparagraph (B) of that paragraph.

''(4) The Administrator may, in the agreement under paragraph (1), predicate the transfer of these functions and duties on any conditions the Administrator deems necessary and prudent.''.

SEC. 305. FOREIGN AVIATION SERVICES AUTHORITY.

Section 45301 is amended by striking ''government.'' in subsection (a)(2) and inserting ''government or to any entity obtaining services outside the United States.''.

SEC. 306. FLEXIBILITY TO PERFORM CRIMINAL HISTORY RECORD CHECKS; TECHNICAL AMENDMENTS TO PILOT RECORDS IMPROVEMENT ACT.

Section 44936 is amended—

(1) by striking ''subparagraph (C))'' in subsection (a)(1)(B) and inserting ''subparagraph (C), or in the case of passenger, baggage, or property screening at airports, the Administrator decides it is necessary to ensure air transportation security)'';

(2) by striking ''individual'' in subsection (f)(1)(B)(ii) and inserting ''individual's performance as a pilot''; and

(3) by inserting ''or from a foreign government or entity that employed the individual,'' in subsection (f)(14)(B) after ''exists,''.

SEC. 307. AVIATION INSURANCE PROGRAM AMENDMENTS.

(a) REIMBURSEMENT OF INSURED PARTY'S SUBROGEE.—Subsection (a) of 44309 is amended—

(1) by striking the subsection caption and the first sentence, and inserting the following:

''(a) LOSSES.—

''(1) A person may bring a civil action in a district court of the United States or in the United States Court of Federal Claims against the United States Government when—

''(A) a loss insured under this chapter is in dispute; or

''(B)(i) the person is subrogated to the rights against the United States Government of a party insured under this chapter (other than under subsection 44305(b) of this title), under a contract between the person and such insured party; and

''(ii) the person has paid to such insured party, with the approval of the Secretary of Transportation, an amount for a physical damage loss that the Secretary of Transportation has determined is a loss covered under insurance issued under this chapter (other than insurance issued under subsection 44305(b) of this title).''; and

(2) by resetting the remainder of the subsection as a new paragraph and inserting ''(2)'' before ''A civil action''.

(b) EXTENSION OF AVIATION INSURANCE PROGRAM.—Section 44310 is amended by striking ''1998.'' and inserting ''2003.''.

SEC. 308. TECHNICAL CORRECTIONS TO CIVIL PENALTY PROVISIONS.

Section 46301 is amended—

(1) by striking ''46302, 46303, or'' in subsection (a)(1)(A);

(2) by striking ''individual'' the first time it appears in subsection (d)(7)(A) and inserting ''person''; and

(3) by inserting ''or the Administrator'' in subsection (g) after ''Secretary''.

SEC. 309. CRIMINAL PENALTY FOR PILOTS OPERATING IN AIR TRANSPORTATION WITHOUT AN AIRMAN'S CERTIFICATE.

(a) IN GENERAL.—Chapter 463 of title 49, United States Code, is amended by adding at the end the following:

''§ 46317. Criminal penalty for pilots operating in air transportation without an airman's certificate

''(a) APPLICATION.—This section applies only to aircraft used to provide air transportation.

''(b) GENERAL CRIMINAL PENALTY.—An individual shall be fined under title 18, imprisoned for not more than 3 years, or both, if that individual—

''(1) knowingly and willfully serves or attempts to serve in any capacity as an airman without an airman's certificate authorizing the individual to serve in that capacity; or

''(2) knowingly and willfully employs for service or uses in any capacity as an airman an individual who does not have an airman's certificate authorizing the individual to serve in that capacity.

''(c) CONTROLLED SUBSTANCE CRIMINAL PENALTY.—(1) In this subsection, the term 'controlled substance' has the same meaning given that term in section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802).

''(2) An individual violating subsection (b) shall be fined under title 18, imprisoned for not more than 5 years, or both, if the violation is related to transporting a controlled substance by aircraft or aiding or facilitating a controlled substance violation and that transporting, aiding, or facilitating—

''(A) is punishable by death or imprisonment of more than 1 year under a Federal or State law; or

''(B) is related to an act punishable by death or imprisonment for more than 1 year under a Federal or State law related to a controlled substance (except a law related to simple possession (as that term is used in section 46306(c)) of a controlled substance).

''(3) A term of imprisonment imposed under paragraph (2) shall be served in addition to, and not concurrently with, any other term of imprisonment imposed on the individual subject to the imprisonment.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 463 of title 49, United States Code, is amended by adding at the end the following:

''46317. Criminal penalty for pilots operating in air transportation without an airman's certificate.''.

SEC. 310. NONDISCRIMINATORY INTERLINE INTERCONNECTION REQUIREMENTS.

(a) IN GENERAL.—Subchapter I of chapter 417 of title 49, United States Code, is amended by adding at the end thereof the following:

''§ 41716. Interline agreements for domestic transportation

''(a) NONDISCRIMINATORY REQUIREMENTS.—If a major air carrier that provides air service to an essential airport facility has any agreement involving ticketing, baggage and ground handling, and terminal and gate access with another carrier, it shall provide the same services to any requesting air carrier that offers service to a community selected for participation in the program under section 41743 under similar terms and conditions and on a nondiscriminatory basis within 30 days after receiving the request, as long as the requesting air carrier meets such safety, service, financial, and maintenance requirements, if any, as the Secretary may by regulation establish consistent with public convenience and necessity. The Secretary must review any proposed agreement to determine if the requesting carrier meets operational requirements consistent with the rules, procedures, and policies of the major carrier. This agreement may be terminated by either party in the event of failure to meet the standards and conditions outlined in the agreement.''.

''(b) DEFINITIONS.—In this section the term 'essential airport facility' means a large hub airport (as defined in section 41731(a)(3)) in the contiguous 48 States in which one carrier has more than 50 percent of such airport's total annual enplanements.''.

(b) CLERICAL AMENDMENT.—The chapter analysis for chapter 417 of title 49, United States Code, is amended by inserting after the item relating to section 41715 the following:

''41716. Interline agreements for domestic transportation.''.

TITLE IV—TITLE 49 TECHNICAL CORRECTIONS

SEC. 401. RESTATEMENT OF 49 U.S.C. 106(g).

(a) IN GENERAL.—Section 106(g) is amended by striking ''40113(a), (c), and (d), 40114(a), 40119, 44501(a) and (c), 44502(a)(1), (b) and (c), 44504, 44505, 44507, 44508, 44511–44513, 44701–44716, 44718(c), 44721(a), 44901, 44902, 44903(a)–(c) and (e), 44906, 44912, 44935–44937, and 44938(a) and (b), chapter 451, sections 45302–45304,'' and inserting ''40113(a), (c)–(e), 40114(a), and 40119, and chapter 445 (except sections 44501(b), 44502(a)(2)–(4), 44503, 44506, 44509, 44510, 44514, and 44515), chapter 447 (except sections 44717, 44718(a) and (b), 44719, 44720, 44721(b), 44722, and 44723), chapter 449 (except sections 44903(d), 44904, 44905, 44907–44911, 44913, 44915, and 44931–44934), chapter 451, chapter 453, sections''.

(b) TECHNICAL CORRECTION.—The amendment made by this section may not be construed as making a substantive change in the language replaced.

SEC. 402. RESTATEMENT OF 49 U.S.C. 44909.

Section 44909(a)(2) is amended by striking ''shall'' and inserting ''should''.

TITLE V—MISCELLANEOUS

SEC. 501. OVERSIGHT OF FAA RESPONSE TO YEAR 2000 PROBLEM.

The Administrator of the Federal Aviation Administration shall report to the Senate Committee on Commerce, Science, and Transportation and the House Committee on Transportation and Infrastructure every 3 months, in oral or written form, on electronic data processing problems associated with the year 2000 within the Administration.

SEC. 502. CARGO COLLISION AVOIDANCE SYSTEMS DEADLINE.

(a) IN GENERAL.—The Administrator of the Federal Aviation Administration shall require by regulation that, not later than December 31, 2002, collision avoidance equipment be installed on each cargo aircraft with a payload capacity of 15,000 kilograms or more.

(b) EXTENSION.—The Administrator may extend the deadline imposed by subsection (a) for not more than 2 years if the Administrator finds that the extension is needed to promote—

(1) a safe and orderly transition to the operation of a fleet of cargo aircraft equipped with collision avoidance equipment; or

(2) other safety or public interest objectives.

(c) COLLISION AVOIDANCE EQUIPMENT.—For purposes of this section, the term ''collision avoidance equipment'' means TCAS II equipment (as defined by the Administrator), or any other similar system approved by the Administration for collision avoidance purposes.

SEC. 503. RUNWAY SAFETY AREAS; PRECISION APPROACH PATH INDICATORS.

Within 6 months after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall solicit comments on the need for—

(1) the improvement of runway safety areas; and

(2) the installation of precision approach path indicators.

SEC. 504. AIRPLANE EMERGENCY LOCATORS.

(a) REQUIREMENT.—Section 44712(b) is amended to read as follows:

''(b) NONAPPLICATION.—Subsection (a) does not apply to aircraft when used in—

''(1) scheduled flights by scheduled air carriers holding certificates issued by the Secretary of Transportation under subpart II of this part;

''(2) training operations conducted entirely within a 50-mile radius of the airport from which the training operations begin;

''(3) flight operations related to the design and testing, manufacture, preparation, and delivery of aircraft;

''(4) showing compliance with regulations, exhibition, or air racing; or

''(5) the aerial application of a substance for an agricultural purpose.''.

(b) COMPLIANCE.—Section 44712 is amended by redesignating subsection (c) as subsection (d), and by inserting after subsection (b) the following:

''(c) COMPLIANCE.—An aircraft is deemed to meet the requirement of subsection (a) if it is equipped with an emergency locator transmitter that transmits on the 121.5/243 megahertz frequency or the 406 megahertz frequency, or with other equipment approved by the Secretary for meeting the requirement of subsection (a).''.

(c) EFFECTIVE DATE; REGULATIONS.—

(1) REGULATIONS.—The Secretary of Transportation shall promulgate regulations under section 44712(b) of title 49, United States Code, as amended by this section not later than January 1, 2002.

(2) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2002.

SEC. 505. COUNTERFEIT AIRCRAFT PARTS.

(a) DENIAL; REVOCATION; AMENDMENT OF CERTIFICATE.—

(1) IN GENERAL.—Chapter 447 is amended by adding at the end thereof the following:

''§ 44725. Denial and revocation of certificate for counterfeit parts violations

''(a) DENIAL OF CERTIFICATE.—

''(1) IN GENERAL.—Except as provided in paragraph (2) of this subsection and subsection (e)(2) of this section, the Administrator may not issue a certificate under this chapter to any person—

''(A) convicted of a violation of a law of the United States or of a State relating to the installation, production, repair, or sale of a counterfeit or falsely-represented aviation part or material; or

''(B) subject to a controlling or ownership interest of an individual convicted of such a violation.

''(2) EXCEPTION.—Notwithstanding paragraph (1), the Administrator may issue a certificate under this chapter to a person described in paragraph (1) if issuance of the certificate will facilitate law enforcement efforts.

''(b) REVOCATION OF CERTIFICATE.—

''(1) IN GENERAL.—Except as provided in subsections (f) and (g) of this section, the Administrator shall issue an order revoking a certificate issued under this chapter if the Administrator finds that the holder of the certificate, or an individual who has a controlling or ownership interest in the holder—

''(A) was convicted of a violation of a law of the United States or of a State relating to the installation, production, repair, or sale of a counterfeit or falsely-represented aviation part or material; or

''(B) knowingly carried out or facilitated an activity punishable under such a law.

''(2) NO AUTHORITY TO REVIEW VIOLATION.—In carrying out paragraph (1) of this subsection, the Administrator may not review whether a person violated such a law.

''(c) NOTICE REQUIREMENT.—Before the Administrator revokes a certificate under subsection (b), the Administrator shall—

''(1) advise the holder of the certificate of the reason for the revocation; and

''(2) provide the holder of the certificate an opportunity to be heard on why the certificate should not be revoked.

''(d) APPEAL.—The provisions of section 44710(d) apply to the appeal of a revocation order under subsection (b). For the purpose of applying that section to such an appeal, 'person' shall be substituted for 'individual' each place it appears.

''(e) AQUITTAL OR REVERSAL.—

''(1) IN GENERAL.—The Administrator may not revoke, and the Board may not affirm a revocation of, a certificate under subsection (b)(1)(B) of this section if the holder of the certificate, or the individual, is acquitted of all charges related to the violation.

''(2) REISSUANCE.—The Administrator may reissue a certificate revoked under subsection (b) of this section to the former holder if—

''(A) the former holder otherwise satisfies the requirements of this chapter for the certificate;

''(B) the former holder, or individual, is acquitted of all charges related to the violation on which the revocation was based; or

''(C) the conviction of the former holder, or individual, of the violation on which the revocation was based is reversed.

''(f) WAIVER.—The Administrator may waive revocation of a certificate under subsection (b) of this section if—

''(1) a law enforcement official of the United States Government, or of a State (with respect to violations of State law), requests a waiver; or

''(2) the waiver will facilitate law enforcement efforts.

''(g) AMENDMENT OF CERTIFICATE.—If the holder of a certificate issued under this chapter is other than an individual and the Administrator finds that—

''(1) an individual who had a controlling or ownership interest in the holder committed a violation of a law for the violation of which a certificate may be revoked under this section, or knowingly carried out or facilitated an activity punishable under such a law; and

''(2) the holder satisfies the requirements for the certificate without regard to that individual,

then the Administrator may amend the certificate to impose a limitation that the certificate will not be valid if that individual has a controlling or ownership interest in the holder. A decision by the Administrator under this subsection is not reviewable by the Board.''.

(2) CONFORMING AMENDMENT.—The chapter analysis for chapter 447 is amended by adding at the end thereof the following:

''44725. Denial and revocation of certificate for counterfeit parts violations''.

(b) PROHIBITION ON EMPLOYMENT.—Section 44711 is amended by adding at the end thereof the following:

''(c) PROHIBITION ON EMPLOYMENT OF CONVICTED COUNTERFEIT PART DEALERS.—No person subject to this chapter may employ anyone to perform a function related to the procurement, sale, production, or repair of a part or material, or the installation of a part into a civil aircraft, who has been convicted of a violation of any Federal or State law relating to the installation, production, repair, or sale of a counterfeit or falsely-represented aviation part or material.''.

SEC. 506. FAA MAY FINE UNRULY PASSENGERS.

(a) IN GENERAL.—Chapter 463 is amended by redesignating section 46316 as section 46317, and by inserting after section 46315 the following:

''§ 46316. Interference with cabin or flight crew

''(a) IN GENERAL.—An individual who interferes with the duties or responsibilities of the flight crew or cabin crew of a civil aircraft, or who poses an imminent threat to the safety of the aircraft or other individuals on the aircraft, is liable to the United States Government for a civil penalty of not more than $10,000, which shall be paid to the Federal Aviation Administration and deposited in the account established by section 45303(c).

''(b) COMPROMISE AND SETOFF.—

''(1) The Secretary of Transportation or the Administrator may compromise the amount of a civil penalty imposed under subsection (a).

''(2) The Government may deduct the amount of a civil penalty imposed or compromised under this section from amounts it owes the individual liable for the penalty.''.

(b) CONFORMING CHANGE.—The chapter analysis for chapter 463 is amended by striking the item relating to section 46316 and inserting after the item relating to section 46315 the following:

''46316. Interference with cabin or flight crew.
''46317. General criminal penalty when specific penalty not provided.''.

SEC. 507. HIGHER STANDARDS FOR HANDICAPPED ACCESS.

(a) ESTABLISHMENT OF HIGHER INTERNATIONAL STANDARDS.—The Secretary of Transportation shall work with appropriate international organizations and the aviation authorities of other nations to bring about their establishment of higher standards for accommodating handicapped passengers in air transportation, particularly with respect to foreign air carriers that code-share with domestic air carriers.

(b) INCREASED CIVIL PENALTIES.—Section 46301(a) is amended by—

(1) inserting ''41705,'' after ''41704,'' in paragraph (1)(A); and

(2) adding at the end thereof the following:

''(7) Unless an air carrier that violates section 41705 with respect to an individual provides that individual a credit or voucher for the purchase of a ticket on that air carrier or any affiliated air carrier in an amount (determined by the Secretary) of—

''(A) not less than $500 and not more than $2,500 for the first violation; or

''(B) not less than $2,500 and not more than $5,000 for any subsequent violation, then that air carrier is liable to the United States Government for a civil penalty, determined by the Secretary, of not more than 100 percent of the amount of the credit or voucher so determined. For purposes of this paragraph, each act of discrimination prohibited by section 41705 constitutes a separate violation of that section.''.

SEC. 508. CONVEYANCES OF UNITED STATES GOVERNMENT LAND.

(a) IN GENERAL.—Section 47125(a) is amended to read as follows:

''(a) CONVEYANCES TO PUBLIC AGENCIES.—

''(1) REQUEST FOR CONVEYANCE.—Except as provided in subsection (b) of this section, the Secretary of Transportation—

''(A) shall request the head of the department, agency, or instrumentality of the United States Government owning or controlling land or airspace to convey a property interest in the land or airspace to the public agency sponsoring the project or owning or controlling the airport when necessary to carry out a project under this subchapter at a public airport, to operate a public airport, or for the future development of an airport under the national plan of integrated airport systems; and

''(B) may request the head of such a department, agency, or instrumentality to convey a property interest in the land or airspace to such a public agency for a use that will complement, facilitate, or augment airport development, including the development of additional revenue from both aviation and nonaviation sources.

''(2) RESPONSE TO REQUEST FOR CERTAIN CONVEYANCES.—Within 4 months after receiving a request from the Secretary under paragraph (1), the head of the department, agency, or instrumentality shall—

''(A) decide whether the requested conveyance is consistent with the needs of the department, agency, or instrumentality;

''(B) notify the Secretary of the decision; and

''(C) make the requested conveyance if—

''(i) the requested conveyance is consistent with the needs of the department, agency, or instrumentality;

''(ii) the Attorney General approves the conveyance; and

''(iii) the conveyance can be made without cost to the United States Government.

''(3) REVERSION.—Except as provided in subsection (b), a conveyance under this subsection may only be made on the condition that the property interest conveyed reverts to the Government, at the option of the Secretary, to the extent it is not developed for an airport purpose or used consistently with the conveyance.''.

(b) RELEASE OF CERTAIN CONDITIONS.—Section 47125 is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting the following after subsection (a):

''(b) RELEASE OF CERTAIN CONDITIONS.—The Secretary may grant a release from any term, condition, reservation, or restriction contained in any conveyance executed under this section, section 16 of the Federal Airport Act, section 23 of the Airport and Airway Development Act of 1970, or section 516 of the Airport and Airway Improvement Act of 1982, to facilitate the development of additional revenue from aeronautical and nonaeronautical sources if the Secretary—

''(1) determines that the property is no longer needed for aeronautical purposes;

''(2) determines that the property will be used solely to generate revenue for the public airport;

''(3) provides preliminary notice to the head of the department, agency, or instrumentality that conveyed the property interest at least 30 days before executing the release;

''(4) provides notice to the public of the requested release;

''(5) includes in the release a written justification for the release of the property; and

''(6) determines that release of the property will advance civil aviation in the United States.''.

(c) EFFECTIVE DATE.—Section 47125(b) of title 49, United States Code, as added by subsection (b) of this section, applies to property interests conveyed before, on, or after the date of enactment of this Act.

(d) IDITAROD AREA SCHOOL DISTRICT.—Notwithstanding any other provision of law (including section 47125 of title 49, United States Code, as amended by this section), the Administrator of the Federal Aviation Administration, or the Administrator of the General Services Administration, may convey to the Iditarod Area School District without reimbursement all right, title, and interest in 12 acres of property at Lake Minchumina, Alaska, identified by the Administrator of the Federal Aviation Administration, including the structures known as housing units 100 through 105 and as utility building 301.

SEC. 509. FLIGHT OPERATIONS QUALITY ASSURANCE RULES.

Not later than 90 days after the date of enactment of this Act, the Administrator shall issue a notice of proposed rulemaking to develop procedures to protect air carriers and their employees from civil enforcement action under the program known as Flight Operations Quality Assurance. Not later than 1 year after the last day of the period for public comment provided for in the notice of proposed rulemaking, the Administrator shall issue a final rule establishing those procedures.

SEC. 510. WIDE AREA AUGMENTATION SYSTEM.

(a) PLAN.—The Administrator shall identify or develop a plan to implement WAAS to provide navigation and landing approach capabilities for civilian use and make a determination as to whether a backup system is necessary. Until the Administrator determines that WAAS is the sole means of navigation, the Administration shall continue to develop and maintain a backup system.

(b) REPORT.—Within 6 months after the date of enactment of this Act, the Administrator shall—

(1) report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure, on the plan developed under subsection (a);

(2) submit a timetable for implementing WAAS; and

(3) make a determination as to whether WAAS will ultimately become a primary or sole means of navigation and landing approach capabilities.

(c) WAAS DEFINED.—For purposes of this section, the term ''WAAS'' means wide area augmentation system.

(d) FUNDING AUTHORIZATION.—There are authorized to be appropriated to the Secretary of Transportation such sums as may be necessary to carry out this section.

SEC. 511. REGULATION OF ALASKA AIR GUIDES.

The Administrator shall reissue the notice to operators originally published in the Federal Register on January 2, 1998, which advised Alaska guide pilots of the applicability of part 135 of title 14, Code of Federal Regulations, to guide pilot operations. In reissuing the notice, the Administrator shall provide for not less than 60 days of public comment on the Federal Aviation Administration action. If, notwithstanding the public comments, the Administrator decides to proceed with the action, the Administrator shall publish in the Federal Register a notice justifying the Administrator's decision and providing at least 90 days for compliance.

SEC. 512. APPLICATION OF FAA REGULATIONS.

Section 40113 is amended by adding at the end thereof the following:

''(f) APPLICATION OF CERTAIN REGULATIONS TO ALASKA.—In amending title 14, Code of Federal Regulations, in a manner affecting intrastate aviation in Alaska, the Administrator of the Federal Aviation Administration shall consider the extent to which Alaska is not served by transportation modes other than aviation, and shall establish such regulatory distinctions as the Administrator considers appropriate.''.

SEC. 513. HUMAN FACTORS PROGRAM.

(a) IN GENERAL.—Chapter 445 is amended by adding at the end thereof the following:

''§ 44516. Human factors program

''(a) OVERSIGHT COMMITTEE.—The Administrator of the Federal Aviation Administration shall establish an advanced qualification program oversight committee to advise the Administrator on the development and execution of Advanced Qualification Programs for air carriers under this section, and to encourage their adoption and implementation.

''(b) HUMAN FACTORS TRAINING.—

''(1) AIR TRAFFIC CONTROLLERS.—The Administrator shall—

''(A) address the problems and concerns raised by the National Research Council in its report 'The Future of Air Traffic Control' on air traffic control automation; and

''(B) respond to the recommendations made by the National Research Council.

''(2) PILOTS AND FLIGHT CREWS.—The Administrator shall work with the aviation industry to develop specific training curricula, within 12 months after the date of enactment of the Wendell H. Ford National Air Transportation System Improvement Act of 1998, to address critical safety problems, including problems of pilots—

''(A) in recovering from loss of control of the aircraft, including handling unusual attitudes and mechanical malfunctions;

''(B) in deviating from standard operating procedures, including inappropriate responses to emergencies and hazardous weather;

''(C) in awareness of altitude and location relative to terrain to prevent controlled flight into terrain; and

''(D) in landing and approaches, including nonprecision approaches and go-around procedures.

''(c) ACCIDENT INVESTIGATIONS.—The Administrator, working with the National Transportation Safety Board and representatives of the aviation industry, shall establish a process to assess human factors training as part of accident and incident investigations.

''(d) TEST PROGRAM.—The Administrator shall establish a test program in cooperation with United States air carriers to use model Jeppesen approach plates or other similar tools to improve nonprecision landing approaches for aircraft.

''(e) ADVANCED QUALIFICATION PROGRAM DEFINED.—For purposes of this section, the term 'advanced qualification program' means an alternative method for qualifying, training, certifying, and ensuring the competency of flight crews and other commercial aviation operations personnel subject to the training and evaluation requirements of Parts 121 and 135 of title 14, Code of Federal Regulations.''.

(b) AUTOMATION AND ASSOCIATED TRAINING.—The Administrator shall complete the Administration's updating of training practices for automation and associated training requirements within 12 months after the date of enactment of this Act.

(c) CONFORMING AMENDMENT.—The chapter analysis for chapter 445 is amended by adding at the end thereof the following:

''44516. Human factors program.''.

SEC. 514. INDEPENDENT VALIDATION OF FAA COSTS AND ALLOCATIONS.

(a) INDEPENDENT ASSESSMENT.—

(1) INITIATION.—Not later than 90 days after the date of enactment of this Act, the Inspector General of the Department of Transportation shall initiate the analyses described in paragraph (2). In conducting the analyses, the Inspector General shall ensure that the analyses are carried out by 1 or more entities that are independent of the Federal Aviation Administration. The Inspector General may use the staff and resources of the Inspector General or may contract with independent entities to conduct the analyses.

(2) ASSESSMENT OF ADEQUACY AND ACCURACY OF FAA COST DATA AND ATTRIBUTIONS.—To ensure that the method for capturing and distributing the overall costs of the Federal Aviation Administration is appropriate and reasonable, the Inspector General shall conduct an assessment that includes the following:

(A)(i) Validation of Federal Aviation Administration cost input data, including an audit of the reliability of Federal Aviation Administration source documents and the integrity and reliability of the Federal Aviation Administration's data collection process.

(ii) An assessment of the reliability of the Federal Aviation Administration's system for tracking assets.

(iii) An assessment of the reasonableness of the Federal Aviation Administration's bases for establishing asset values and depreciation rates.

(iv) An assessment of the Federal Aviation Administration's system of internal controls for ensuring the consistency and reliability of reported data to begin immediately after full operational capability of the cost accounting system.

(B) A review and validation of the Federal Aviation Administration's definition of the services to which the Federal Aviation Administration ultimately attributes its costs, and the methods used to identify direct costs associated with the services.

(C) An assessment and validation of the general cost pools used by the Federal Aviation Administration, including the rationale for and reliability of the bases on which the Federal Aviation Administration proposes to allocate costs of services to users and the integrity of the cost pools as well as any other factors considered important by the Inspector General. Appropriate statistical tests shall be performed to assess relationships between costs in the various cost pools and activities and services to which the costs are attributed by the Federal Aviation Administration.

(b) DEADLINE.—The independent analyses described in this section shall be completed no later than 270 days after the contracts are awarded to the outside independent contractors. The Inspector General shall submit a final report combining the analyses done by its staff with those of the outside independent contractors to the Secretary of Transportation, the Administrator, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Transportation and Infrastructure of the House of Representatives. The final report shall be submitted by the Inspector General not later than 300 days after the award of contracts.

(c) FUNDING.—There are authorized to be appropriated such sums as may be necessary for the cost of the contracted audit services authorized by this section.

SEC. 515. WHISTLEBLOWER PROTECTION FOR FAA EMPLOYEES.

Section 347(b)(1) of Public Law 104–50 (49 U.S.C. 106, note) is amended by striking ''protection;'' and inserting ''protection, including the provisions for investigations and enforcement as provided in chapter 12 of title 5, United States Code;''.

SEC. 516. REPORT ON MODERNIZATION OF OCEANIC ATC SYSTEM.

The Administrator of the Federal Aviation Administration shall report to the Congress on plans to modernize the oceanic air traffic control system, including a budget for the program, a determination of the requirements for modernization, and, if necessary, a proposal to fund the program.

SEC. 517. REPORT ON AIR TRANSPORTATION OVERSIGHT SYSTEM.

Beginning in 1999, the Administrator of the Federal Aviation Administration shall report biannually to the Congress on the air transportation oversight system program announced by the Administration on May 13, 1998, in detail on the training of inspectors, the number of inspectors using the system, air carriers subject to the system, and the budget for the system.

SEC. 518. RECYCLING OF EIS.

Notwithstanding any other provision of law to the contrary, the Secretary of Transportation may authorize the use, in whole or in part, of a completed environmental assessment or environmental impact study for a new airport construction project on the air operations area, that is substantially similar in nature to one previously constructed pursuant to the completed environmental assessment or environmental impact study in order to avoid unnecessary duplication of expense and effort, and any such authorized use shall meet all requirements of Federal law for the completion of such an assessment or study.

SEC. 519. PROTECTION OF EMPLOYEES PROVIDING AIR SAFETY INFORMATION.

(a) GENERAL RULE.—Chapter 421 of title 49, United States Code, is amended by adding at the end the following new subchapter:

''SUBCHAPTER III—WHISTLEBLOWER PROTECTION PROGRAM

''§ 42121. Protection of employees providing air safety information

''(a) DISCRIMINATION AGAINST AIRLINE EMPLOYEES.—No air carrier or contractor or subcontractor of an air carrier may discharge an employee of the air carrier or the contractor or subcontractor of an air carrier or otherwise discriminate against any such employee with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to a request of the employee)—

''(1) provided, caused to be provided, or is about to provide or cause to be provided to the Federal Government information relating to any violation or alleged violation of any order, regulation, or standard of the Federal Aviation Administration or any other provision of Federal law relating to air carrier safety under this subtitle or any other law of the United States;

''(2) has filed, caused to be filed, or is about to file or cause to be filed a proceeding relating to any violation or alleged violation of any order, regulation, or standard of the Federal Aviation Administration or any other provision of Federal law relating to air carrier safety under this subtitle or any other law of the United States;

''(3) testified or will testify in such a proceeding; or

''(4) assisted or participated or is about to assist or participate in such a proceeding.

''(b) DEPARTMENT OF LABOR COMPLAINT PROCEDURE.—

''(1) FILING AND NOTIFICATION.—

''(A) IN GENERAL.—In accordance with this paragraph, a person may file (or have a person file on behalf of that person) a complaint with the Secretary of Labor if that person believes that an air carrier or contractor or subcontractor of an air carrier discharged or otherwise discriminated against that person in violation of subsection (a).

''(B) REQUIREMENTS FOR FILING COMPLAINTS.—A complaint referred to in subparagraph (A) may be filed not later than 90 days after an alleged violation occurs. The complaint shall state the alleged violation.

''(C) NOTIFICATION.—Upon receipt of a complaint submitted under subparagraph (A), the Secretary of Labor shall notify the air carrier, contractor, or subcontractor named in the complaint and the Administrator of the Federal Aviation Administration of the—

''(i) filing of the complaint;

''(ii) allegations contained in the complaint;

''(iii) substance of evidence supporting the complaint; and

''(iv) opportunities that are afforded to the air carrier, contractor, or subcontractor under paragraph (2).

''(2) INVESTIGATION; PRELIMINARY ORDER.—

''(A) IN GENERAL.—

''(i) INVESTIGATION.—Not later than 60 days after receipt of a complaint filed under paragraph (1) and after affording the person named in the complaint an opportunity to submit to the Secretary of Labor a written response to the complaint and an opportunity to meet with a representative of the Secretary to present statements from witnesses, the Secretary of Labor shall conduct an investigation and determine whether there is reasonable cause to believe that the complaint has merit and notify in writing the complainant and the person alleged to have committed a violation of subsection (a) of the Secretary's findings.

''(ii) ORDER.—Except as provided in subparagraph (B), if the Secretary of Labor concludes that there is reasonable cause to believe that a violation of subsection (a) has occurred, the Secretary shall accompany the findings referred to in clause (i) with a preliminary order providing the relief prescribed under paragraph (3)(B).

''(iii) OBJECTIONS.—Not later than 30 days after the date of notification of findings under this paragraph, the person alleged to have committed the violation or the complainant may file objections to the findings or preliminary order and request a hearing on the record.

''(iv) EFFECT OF FILING.—The filing of objections under clause (iii) shall not operate to stay any reinstatement remedy contained in the preliminary order.

''(v) HEARINGS.—Hearings conducted pursuant to a request made under clause (iii) shall be conducted expeditiously. If a hearing is not requested during the 30-day period prescribed in clause (iii), the preliminary order shall be deemed a final order that is not subject to judicial review.

''(B) REQUIREMENTS.—

''(i) REQUIRED SHOWING BY COMPLAINANT.—The Secretary of Labor shall dismiss a complaint filed under this subsection and shall not conduct an investigation otherwise required under subparagraph (A) unless the complainant makes a prima facie showing that any behavior described in paragraphs (1) through (4) of subsection (a) was a contributing factor in the unfavorable personnel action alleged in the complaint.

''(ii) SHOWING BY EMPLOYER.—Notwithstanding a finding by the Secretary that the complainant has made the showing required under clause (i), no investigation otherwise required under subparagraph (A) shall be conducted if the employer demonstrates, by clear and convincing evidence, that the employer would have taken the same unfavorable personnel action in the absence of that behavior.

''(iii) CRITERIA FOR DETERMINATION BY SECRETARY.—The Secretary may determine that a violation of subsection (a) has occurred only if the complainant demonstrates that any behavior described in paragraphs (1) through (4) of subsection (a) was a contributing factor in the unfavorable personnel action alleged in the complaint.

''(iv) PROHIBITION.—Relief may not be ordered under subparagraph (A) if the employer demonstrates by clear and convincing evidence that the employer would have taken the same unfavorable personnel action in the absence of that behavior.

''(3) FINAL ORDER.—

''(A) DEADLINE FOR ISSUANCE; SETTLEMENT AGREEMENTS.—

''(i) IN GENERAL.—Not later than 120 days after conclusion of a hearing under paragraph (2), the Secretary of Labor shall issue a final order that—

''(I) provides relief in accordance with this paragraph; or

''(II) denies the complaint.

''(ii) SETTLEMENT AGREEMENT.—At any time before issuance of a final order under this paragraph, a proceeding under this subsection may be terminated on the basis of a settlement agreement entered into by the Secretary of Labor, the complainant, and the air carrier, contractor, or

subcontractor alleged to have committed the violation.

''(B) REMEDY.—If, in response to a complaint filed under paragraph (1), the Secretary of Labor determines that a violation of subsection (a) has occurred, the Secretary of Labor shall order the air carrier, contractor, or subcontractor that the Secretary of Labor determines to have committed the violation to—

''(i) take action to abate the violation;

''(ii) reinstate the complainant to the former position of the complainant and ensure the payment of compensation (including back pay) and the restoration of terms, conditions, and privileges associated with the employment; and

''(iii) provide compensatory damages to the complainant.

''(C) COSTS OF COMPLAINT.—If the Secretary of Labor issues a final order that provides for relief in accordance with this paragraph, the Secretary of Labor, at the request of the complainant, shall assess against the air carrier, contractor, or subcontractor named in the order an amount equal to the aggregate amount of all costs and expenses (including attorney and expert witness fees) reasonably incurred by the complainant (as determined by the Secretary of Labor) for, or in connection with, the bringing of the complaint that resulted in the issuance of the order.

''(4) REVIEW.—

''(A) APPEAL TO COURT OF APPEALS.—

''(i) IN GENERAL.—Not later than 60 days after a final order is issued under paragraph (3), a person adversely affected or aggrieved by that order may obtain review of the order in the United States court of appeals for the circuit in which the violation allegedly occurred or the circuit in which the complainant resided on the date of that violation.

''(ii) REQUIREMENTS FOR JUDICIAL REVIEW.—A review conducted under this paragraph shall be conducted in accordance with chapter 7 of title 5. The commencement of proceedings under this subparagraph shall not, unless ordered by the court, operate as a stay of the order that is the subject of the review.

''(B) LIMITATION ON COLLATERAL ATTACK.—An order referred to in subparagraph (A) shall not be subject to judicial review in any criminal or other civil proceeding.

''(5) ENFORCEMENT OF ORDER BY SECRETARY OF LABOR.—

''(A) IN GENERAL.—If an air carrier, contractor, or subcontractor named in an order issued under paragraph (3) fails to comply with the order, the Secretary of Labor may file a civil action in the United States district court for the district in which the violation occurred to enforce that order.

''(B) RELIEF.—In any action brought under this paragraph, the district court shall have jurisdiction to grant any appropriate form of relief, including injunctive relief and compensatory damages.

''(6) ENFORCEMENT OF ORDER BY PARTIES.—

''(A) COMMENCEMENT OF ACTION.—A person on whose behalf an order is issued under paragraph (3) may commence a civil action against the air carrier, contractor, or subcontractor named in the order to require compliance with the order. The appropriate United States district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce the order.

''(B) ATTORNEY FEES.—In issuing any final order under this paragraph, the court may award costs of litigation (including reasonable attorney and expert witness fees) to any party if the court determines that the awarding of those costs is appropriate.

''(c) MANDAMUS.—Any nondiscretionary duty imposed by this section shall be enforceable in a mandamus proceeding brought under section 1361 of title 28.

''(d) NONAPPLICABILITY TO DELIBERATE VIOLATIONS.—Subsection (a) shall not apply with respect to an employee of an air carrier, or contractor or subcontractor of an air carrier who, acting without direction from the air carrier (or an agent, contractor, or subcontractor of the air carrier), deliberately causes a violation of any requirement relating to air carrier safety under this subtitle or any other law of the United States.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 421 of title 49, United States Code, is amended by adding at the end the following:

''SUBCHAPTER III—WHISTLEBLOWER PROTECTION PROGRAM

''42121. Protection of employees providing air safety information.''.

(c) CIVIL PENALTY.—Section 46301(a)(1)(A) of title 49, United States Code, is amended by striking ''subchapter II of chapter 421,'' and inserting ''subchapter II or III of chapter 421,''.

SEC. 520. IMPROVEMENTS TO AIR NAVIGATION FACILITIES.

Section 44502(a) is amended by adding at the end thereof the following:

''(5) The Administrator may improve real property leased for air navigation facilities without regard to the costs of the improvements in relation to the cost of the lease if—

''(A) the improvements primarily benefit the government;

''(B) are essential for mission accomplishment; and

''(C) the government's interest in the improvements is protected.''.

SEC. 521. DENIAL OF AIRPORT ACCESS TO CERTAIN AIR CARRIERS.

Section 47107 is amended by adding at the end thereof the following:

''(q) DENIAL OF ACCESS.—

''(1) EFFECT OF DENIAL.—If an owner or operator of an airport described in paragraph (2) denies access to an air carrier described in paragraph (3), that denial shall not be considered to be unreasonable or unjust discrimination or a violation of this section.

''(2) AIRPORTS TO WHICH SUBSECTION APPLIES.—An airport is described in this paragraph if it—

''(A) is designated as a reliever airport by the Administrator of the Federal Aviation Administration;

''(B) does not have an operating certificate issued under part 139 of title 14, Code of Federal Regulations (or any subsequent similar regulations); and

''(C) is located within a 35-mile radius of an airport that has—

''(i) at least 0.05 percent of the total annual boardings in the United States; and

''(ii) current gate capacity to handle the demands of a public charter operation.

''(3) AIR CARRIERS DESCRIBED.—An air carrier is described in this paragraph if it conducts operations as a public charter under part 380 of title 14, Code of Federal Regulations (or any subsequent similar regulations) with aircraft that is designed to carry more than 9 passengers per flight.

''(4) DEFINITIONS.—In this subsection:

''(A) AIR CARRIER; AIR TRANSPORTATION; AIRCRAFT; AIRPORT.—The terms 'air carrier', 'air transportation', 'aircraft', and 'airport' have the meanings given those terms in section 40102 of this title.

''(B) PUBLIC CHARTER.—The term 'public charter' means charter air transportation for which the general public is provided in advance a schedule containing the departure location, departure time, and arrival location of the flights.''.

SEC. 522. TOURISM.

(a) FINDINGS.—Congress finds that—

(1) through an effective public-private partnership, Federal, State, and local governments and the travel and tourism industry can successfully market the United States as the premiere international tourist destination in the world;

(2) in 1997, the travel and tourism industry made a substantial contribution to the health of the Nation's economy, as follows:

(A) The industry is one of the Nation's largest employers, directly employing 7,000,000 Americans, throughout every region of the country, heavily concentrated among small businesses, and indirectly employing an additional 9,200,000 Americans, for a total of 16,200,000 jobs.

(B) The industry ranks as the first, second, or third largest employer in 32 States and the District of Columbia, generating a total tourism-related annual payroll of $127,900,000,000.

(C) The industry has become the Nation's third-largest retail sales industry, generating a total of $489,000,000,000 in total expenditures.

(D) The industry generated $71,700,000,000 in tax revenues for Federal, State, and local governments;

(3) the more than $98,000,000,000 spent by foreign visitors in the United States in 1997 generated a trade services surplus of more than $26,000,000,000;

(4) the private sector, States, and cities currently spend more than $1,000,000,000 annually to promote particular destinations within the United States to international visitors;

(5) because other nations are spending hundreds of millions of dollars annually to promote the visits of international tourists to their countries, the United States will miss a major marketing opportunity if it fails to aggressively compete for an increased share of international tourism expenditures as they continue to increase over the next decade;

(6) a well-funded, well-coordinated international marketing effort—combined with additional public and private sector efforts—would help small and large businesses, as well as State and local governments, share in the anticipated phenomenal growth of the international travel and tourism market in the 21st century;

(7) by making permanent the successful visa waiver pilot program, Congress can facilitate the increased flow of international visitors to the United States;

(8) Congress can increase the opportunities for attracting international visitors and enhancing their stay in the United States by—

(A) improving international signage at airports, seaports, land border crossings, highways, and bus, train, and other public transit stations in the United States;

(B) increasing the availability of multilingual tourist information; and

(C) creating a toll-free, private-sector operated, telephone number, staffed by multilingual operators, to provide assistance to international tourists coping with an emergency;

(9) by establishing a satellite system of accounting for travel and tourism, the Secretary of Commerce could provide Congress and the President with objective, thorough data that would help policymakers more accurately gauge the size and scope of the domestic travel and tourism industry and its significant impact on the health of the Nation's economy; and

(10) having established the United States National Tourism Organization under the United States National Tourism Organization Act of 1996 (22 U.S.C. 2141 et seq.) to increase the United States share of the international tourism market by developing a national travel and tourism strategy, Congress should support a long-term marketing effort and other important regulatory reform initiatives to promote increased travel to the United States for the benefit of every sector of the economy.

(b) PURPOSES.—The purposes of this section are to provide international visitor initiatives and an international marketing program to enable the United States travel and tourism industry and every level of government to benefit from a successful effort to make the United States the premiere travel destination in the world.

(c) INTERNATIONAL VISITOR ASSISTANCE TASK FORCE.—

(1) ESTABLISHMENT.—Not later than 9 months after the date of enactment of this Act, the Secretary of Commerce shall establish an Intergovernmental Task Force for International Visitor Assistance (hereafter in this subsection referred to as the ''Task Force'').

(2) DUTIES.—The Task Force shall examine—

(A) signage at facilities in the United States, including airports, seaports, land border crossings, highways, and bus, train, and other public transit stations, and shall identify existing inadequacies and suggest solutions for such inadequacies, such as the adoption of uniform standards on international signage for use throughout the United States in order to facilitate international visitors' travel in the United States;

(B) the availability of multilingual travel and tourism information and means of disseminating, at no or minimal cost to the Government, of such information; and

(C) facilitating the establishment of a toll-free, private-sector operated, telephone number, staffed by multilingual operators, to provide assistance to international tourists coping with an emergency.

(3) MEMBERSHIP.—The Task Force shall be composed of the following members:

(A) The Secretary of Commerce.

(B) The Secretary of State.

(C) The Secretary of Transportation.

(D) The Chair of the Board of Directors of the United States National Tourism Organization.

(E) Such other representatives of other Federal agencies and private-sector entities as may be determined to be appropriate to the mission of the Task Force by the Chairman.

(4) CHAIRMAN.—The Secretary of Commerce shall be Chairman of the Task Force. The Task Force shall meet at least twice each year. Each member of the Task Force shall furnish necessary assistance to the Task Force.

(5) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Chairman of the Task Force shall submit to the President and to Congress a report on the results of the review, including proposed amendments to existing laws or regulations as may be appropriate to implement such recommendations.

(d) TRAVEL AND TOURISM INDUSTRY SATELLITE SYSTEM OF ACCOUNTING.—

(1) IN GENERAL.—The Secretary of Commerce shall complete, as soon as may be practicable, a satellite system of accounting for the travel and tourism industry.

(2) FUNDING.—To the extent any costs or expenditures are incurred under this subsection, they shall be covered to the extent funds are available to the Department of Commerce for such purpose.

(e) AUTHORIZATION OF APPROPRIATIONS.—

(1) AUTHORIZATION.—Subject to paragraph (2), there are authorized to be appropriated such sums as may be necessary for the purpose of funding international promotional activities by the United States National Tourism Organization to help brand, position, and promote the United States as the premiere travel and tourism destination in the world.

(2) RESTRICTIONS ON USE OF FUNDS.—None of the funds appropriated under paragraph (1) may be used for purposes other than marketing, research, outreach, or any other activity designed to promote the United States as the premiere travel and tourism destination in the world, except that the general and administrative expenses of operating the United States National Tourism Organization shall be borne by the private sector through such means as the Board of Directors of the Organization shall determine.

(3) REPORT TO CONGRESS.—Not later than March 30 of each year in which funds are made available under subsection (a), the Secretary shall submit to the Committee on Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a detailed report setting forth—

(A) the manner in which appropriated funds were expended;

(B) changes in the United States market share of international tourism in general and as measured against specific countries and regions;

(C) an analysis of the impact of international tourism on the United States economy, including, as specifically as practicable, an analysis of the impact of expenditures made pursuant to this section;

(D) an analysis of the impact of international tourism on the United States trade balance and, as specifically as practicable, an analysis of the impact on the trade balance of expenditures made pursuant to this section; and

(E) an analysis of other relevant economic impacts as a result of expenditures made pursuant to this section.

SEC. 523. EQUIVALENCY OF FAA AND EU SAFETY STANDARDS.

The Administrator of the Federal Aviation Administration shall determine whether the Administration's safety regulations are equivalent to the safety standards set forth in European Union Directive 89/336EEC. If the Administrator determines that the standards are equivalent, the Administrator shall work with the Secretary of Commerce to gain acceptance of that determination pursuant to the Mutual Recognition Agreement between the United States and the European Union of May 18, 1998, in order to ensure that aviation products approved by the Administration are acceptable under that Directive.

SEC. 524. SENSE OF THE SENATE ON PROPERTY TAXES ON PUBLIC-USE AIRPORTS.

It is the sense of the Senate that—

(1) property taxes on public-use airports should be assessed fairly and equitably, regardless of the location of the owner of the airport; and

(2) the property tax recently assessed on the City of The Dalles, Oregon, as the owner and operator of the Columbia Gorge Regional/The Dalles Municipal Airport, located in the State of Washington, should be repealed.

SEC. 525. FEDERAL AVIATION ADMINISTRATION PERSONNEL MANAGEMENT SYSTEM.

(a) APPLICABILITY OF MERIT SYSTEMS PROTECTION BOARD PROVISIONS.—Section 347(b) of the Department of Transportation and Related Agencies Appropriations Act, 1996 (109 Stat. 460) is amended—

(1) by striking ''and'' at the end of paragraph (6);

(2) by striking the period at the end of paragraph (7) and inserting a semicolon and ''and''; and

(3) by adding at the end thereof the following:

''(8) sections 1204, 1211–1218, 1221, and 7701–7703, relating to the Merit Systems Protection Board.''.

(b) APPEALS TO MERIT SYSTEMS PROTECTION BOARD.—Section 347(c) of the Department of Transportation and Related Agencies Appropriations Act, 1996 is amended to read as follows:

''(c) APPEALS TO MERIT SYSTEMS PROTECTION BOARD.—Under the new personnel management system developed and implemented under subsection (a), an employee of the Federal Aviation Administration may submit an appeal to the Merit Systems Protection Board and may seek judicial review of any resulting final orders or decisions of the Board from any action that was appealable to the Board under any law, rule, or regulation as of March 31, 1996.''.

SEC 526. AIRCRAFT AND AVIATION COMPONENT REPAIR AND MAINTENANCE ADVISORY PANEL.

(a) ESTABLISHMENT OF PANEL.—The Administrator of the Federal Aviation Administration—

(1) shall establish an Aircraft Repair and Maintenance Advisory Panel to review issues related to the use and oversight of aircraft and aviation component repair and maintenance facilities located within, or outside of, the United States; and

(2) may seek the advice of the panel on any issue related to methods to improve the safety of domestic or foreign contract aircraft and aviation component repair facilities.

(b) MEMBERSHIP.—The panel shall consist of—

(1) 8 members, appointed by the Administrator as follows:

(A) 3 representatives of labor organizations representing aviation mechanics;

(B) 1 representative of cargo air carriers;

(C) 1 representative of passenger air carriers;

(D) 1 representative of aircraft and aviation component repair stations;

(E) 1 representative of aircraft manufacturers; and

(F) 1 representative of the aviation industry not described in the preceding subparagraphs;

(2) 1 representative from the Department of Transportation, designated by the Secretary of Transportation;

(3) 1 representative from the Department of State, designated by the Secretary of State; and

(4) 1 representative from the Federal Aviation Administration, designated by the Administrator.

(c) RESPONSIBILITIES.—The panel shall—

(1) determine how much aircraft and aviation component repair work and what type of aircraft and aviation component repair work is being performed by aircraft and aviation component repair stations located within, and outside of, the United States to better understand and analyze methods to improve the safety and oversight of such facilities; and

(2) provide advice and counsel to the Administrator with respect to aircraft and aviation component repair work performed by those stations, staffing needs, and any safety issues associated with that work.

(d) FAA TO REQUEST INFORMATION FROM FOREIGN AIRCRAFT REPAIR STATIONS.—

(1) COLLECTION OF INFORMATION.—The Administrator shall by regulation request aircraft and aviation component repair stations located outside the United States to submit such information as the Administrator may require in order to assess safety issues and enforcement actions with respect to the work performed at those stations on aircraft used by United States air carriers.

(2) DRUG AND ALCOHOL TESTING INFORMATION.—Included in the information the Administrator requests under paragraph (1) shall be information on the existence and administration of employee drug and alcohol testing programs in place at such stations, if applicable.

(3) DESCRIPTION OF WORK DONE.—Included in the information the Administrator requests under paragraph (1) shall be information on the amount and type of aircraft and aviation component repair work performed at those stations on aircraft registered in the United States.

(e) FAA TO REQUEST INFORMATION ABOUT DOMESTIC AIRCRAFT REPAIR STATIONS.—If the Administrator determines that information on the volume of the use of domestic aircraft and aviation component repair stations is needed in order to better utilize Federal Aviation Administration resources, the Administrator may—

(1) require United States air carriers to submit the information described in subsection (d) with respect to their use of contract and noncontract aircraft and aviation component repair facilities located in the United States; and

(2) obtain information from such stations about work performed for foreign air carriers.

(f) FAA TO MAKE INFORMATION AVAILABLE TO PUBLIC.—The Administrator shall make any information received under subsection (d) or (e) available to the public.

(g) TERMINATION.—The panel established under subsection (a) shall terminate on the earlier of—

(1) the date that is 2 years after the date of enactment of this Act; or

(2) December 31, 2000.

(h) ANNUAL REPORT TO CONGRESS.—The Administrator shall report annually to the Congress on the number and location of air agency

certificates that were revoked, suspended, or not renewed during the preceding year.

(i) DEFINITIONS.—Any term used in this section that is defined in subtitle VII of title 49, United States Code, has the meaning given that term in that subtitle.

SEC. 527. REPORT ON ENHANCED DOMESTIC AIRLINE COMPETITION.

(a) FINDINGS.—The Congress makes the following findings:

(1) There has been a reduction in the level of competition in the domestic airline business brought about by mergers, consolidations, and proposed domestic alliances.

(2) Foreign citizens and foreign air carriers may be willing to invest in existing or start-up airlines if they are permitted to acquire a larger equity share of a United States airline.

(b) STUDY.—The Secretary of Transportation, after consulting the appropriate Federal agencies, shall study and report to the Congress not later than December 31, 1998, on the desirability and implications of—

(1) decreasing the foreign ownership provision in section 40102(a)(15) of title 49, United States Code, to 51 percent from 75 percent; and

(2) changing the definition of air carrier in section 40102(a)(2) of such title by substituting ''a company whose principal place of business is in the United States'' for ''a citizen of the United States''.

SEC. 528. AIRCRAFT SITUATIONAL DISPLAY DATA.

(a) IN GENERAL.—A memorandum of agreement between the Administrator of the Federal Aviation Administration and any person directly that obtains aircraft situational display data from the Administration shall require that—

(1) the person demonstrate to the satisfaction of the Administrator that such person is capable of selectively blocking the display of any aircraft-situation-display-to-industry derived data related to any identified aircraft registration number; and

(2) the person agree to block selectively the aircraft registration numbers of any aircraft owner or operator upon the Administration's request.

(b) EXISTING MEMORANDA TO BE CONFORMED.—The Administrator shall conform any memoranda of agreement, in effect on the date of enactment of this Act, between the Administration and a person under which that person obtains such data to incorporate the requirements of subsection (a) within 30 days after that date.

SEC. 529. TO EXPRESS THE SENSE OF THE SENATE CONCERNING A BILATERAL AGREEMENT BETWEEN THE UNITED STATES AND THE UNITED KINGDOM REGARDING CHARLOTTE-LONDON ROUTE.

(a) DEFINITIONS.—In this section:

(1) AIR CARRIER.—The term ''air carrier'' has the meaning given that term in section 40102 of title 49, United States Code.

(2) BERMUDA II AGREEMENT.—The term ''Bermuda II Agreement'' means the Agreement Between the United States of America and United Kingdom of Great Britain and Northern Ireland Concerning Air Services, signed at Bermuda on July 23, 1977 (TIAS 8641).

(3) CHARLOTTE-LONDON (GATWICK) ROUTE.—The term ''Charlotte-London (Gatwick) route'' means the route between Charlotte, North Carolina, and the Gatwick Airport in London, England.

(4) FOREIGN AIR CARRIER.—The term ''foreign air carrier'' has the meaning given that term in section 40102 of title 49, United States Code.

(5) SECRETARY.—The term ''Secretary'' means the Secretary of Transportation.

(b) FINDINGS.—Congress finds that—

(1) under the Bermuda II Agreement, the United States has a right to designate an air carrier of the United States to serve the Charlotte-London (Gatwick) route;

(2) the Secretary awarded the Charlotte-London (Gatwick) route to US Airways on September 12, 1997, and on May 7, 1998, US Airways announced plans to launch nonstop service in competition with the monopoly held by British Airways on the route and to provide convenient single-carrier one-stop service to the United Kingdom from dozens of cities in North Carolina and South Carolina and the surrounding region;

(3) US Airways was forced to cancel service for the Charlotte-London (Gatwick) route for the summer of 1998 and the following winter because the Government of the United Kingdom refused to provide commercially viable access to Gatwick Airport;

(4) British Airways continues to operate monopoly service on the Charlotte-London (Gatwick) route and recently upgraded the aircraft for that route to B–777 aircraft;

(5) British Airways had been awarded an additional monopoly route between London England and Denver, Colorado, resulting in a total of 10 monopoly routes operated by British Airways between the United Kingdom and points in the United States;

(6) monopoly service results in higher fares to passengers; and

(7) US Airways is prepared, and officials of the air carrier are eager, to initiate competitive air service on the Charlotte-London (Gatwick) route as soon as the Government of the United Kingdom provides commercially viable access to the Gatwick Airport.

(c) SENSE OF THE SENATE.—It is the sense of the Senate that the Secretary should—

(1) act vigorously to ensure the enforcement of the rights of the United States under the Bermuda II Agreement;

(2) intensify efforts to obtain the necessary assurances from the Government of the United Kingdom to allow an air carrier of the United States to operate commercially viable, competitive service for the Charlotte-London (Gatwick) route; and

(3) ensure that the rights of the Government of the United States and citizens and air carriers of the United States are enforced under the Bermuda II Agreement before seeking to renegotiate a broader bilateral agreement to establish additional rights for air carriers of the United States and foreign air carriers of the United Kingdom.

SEC. 530. TO EXPRESS THE SENSE OF THE SENATE CONCERNING A BILATERAL AGREEMENT BETWEEN THE UNITED STATES AND THE UNITED KINGDOM REGARDING CLEVELAND-LONDON ROUTE.

(a) DEFINITIONS.—In this section:

(1) AIR CARRIER.—The term ''air carrier'' has the meaning given that term in section 40102 of title 49, United States Code.

(2) AIRCRAFT.—The term ''aircraft'' has the meaning given that term in section 40102 of title 49, United States Code.

(3) AIR TRANSPORTATION.—The term ''air transportation'' has the meaning given that term in section 40102 of title 49, United States Code.

(4) BERMUDA II AGREEMENT.—The term ''Bermuda II Agreement'' means the Agreement Between the United States of America and United Kingdom of Great Britain and Northern Ireland Concerning Air Services, signed at Bermuda on July 23, 1977 (TIAS 8641).

(5) CLEVELAND-LONDON (GATWICK) ROUTE.—The term ''Cleveland-London (Gatwick) route'' means the route between Cleveland, Ohio, and the Gatwick Airport in London, England.

(6) FOREIGN AIR CARRIER.—The term ''foreign air carrier'' has the meaning given that term in section 40102 of title 49, United States Code.

(7) SECRETARY.—The term ''Secretary'' means the Secretary of Transportation.

(8) SLOT.—The term ''slot'' means a reservation for an instrument flight rule takeoff or landing by an air carrier of an aircraft in air transportation.

(b) FINDINGS.—Congress finds that—

(1) under the Bermuda II Agreement, the United States has a right to designate an air carrier of the United States to serve the Cleveland-London (Gatwick) route;

(2)(A) on December 3, 1996, the Secretary awarded the Cleveland-London (Gatwick) route to Continental Airlines;

(B) on June 15, 1998, Continental Airlines announced plans to launch nonstop service on that route on February 19, 1999, and to provide single-carrier one-stop service between London, England (from Gatwick Airport) and dozens of cities in Ohio and the surrounding region; and

(C) on August 4, 1998, the Secretary tentatively renewed the authority of Continental Airlines to carry out the nonstop service referred to in subparagraph (B) and selected Cleveland, Ohio, as a new gateway under the Bermuda II Agreement;

(3) unless the Government of the United Kingdom provides Continental Airlines commercially viable access to Gatwick Airport, Continental Airlines will not be able to initiate service on the Cleveland-London (Gatwick) route; and

(4) Continental Airlines is prepared to initiate competitive air service on the Cleveland-London (Gatwick) route when the Government of the United Kingdom provides commercially viable access to the Gatwick Airport.

(c) SENSE OF THE SENATE.—It is the sense of the Senate that the Secretary should—

(1) act vigorously to ensure the enforcement of the rights of the United States under the Bermuda II Agreement;

(2) intensify efforts to obtain the necessary assurances from the Government of the United Kingdom to allow an air carrier of the United States to operate commercially viable, competitive service for the Cleveland-London (Gatwick) route; and

(3) ensure that the rights of the Government of the United States and citizens and air carriers of the United States are enforced under the Bermuda II Agreement before seeking to renegotiate a broader bilateral agreement to establish additional rights for air carriers of the United States and foreign air carriers of the United Kingdom, including the right to commercially viable competitive slots at Gatwick Airport and Heathrow Airport in London, England, for air carriers of the United States.

SEC. 531. ALLOCATION OF TRUST FUND FUNDING.

(a) DEFINITIONS.—In this section:

(1) AIRPORT AND AIRWAY TRUST FUND.—The term ''Airport and Airway Trust Fund'' means the trust fund established under section 9502 of the Internal Revenue Code of 1986.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of Transportation.

(3) STATE.—The term ''State'' means each of the States, the District of Columbia, and the Commonwealth of Puerto Rico.

(4) STATE DOLLAR CONTRIBUTION TO THE AIRPORT AND AIRWAY TRUST FUND.—The term ''State dollar contribution to the Airport and Airway Trust Fund'', with respect to a State and fiscal year, means the amount of funds equal to the amounts transferred to the Airport and Airway Trust Fund under section 9502 of the Internal Revenue Code of 1986 that are equivalent to the taxes described in section 9502(b) of the Internal Revenue Code of 1986 that are collected in that State.

(b) REPORTING.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, and annually thereafter, the Secretary of the Treasury shall report to the Secretary the amount equal to the amount of taxes collected in each State during the preceding fiscal year that were transferred to the Airport and Airway Trust Fund.

(2) REPORT BY SECRETARY.—Not later than 90 days after the date of enactment of this Act, and annually thereafter, the Secretary shall prepare and submit to Congress a report that provides, for each State, for the preceding fiscal year—

(A) the State dollar contribution to the Airport and Airway Trust Fund; and

(B) the amount of funds (from funds made available under section 48103 of title 49, United States Code) that were made available to the State (including any political subdivision thereof) under chapter 471 of title 49, United States Code.

SEC. 532. TAOS PUEBLO AND BLUE LAKES WILDERNESS AREA DEMONSTRATION PROJECT.

Within 18 months after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall work with the Taos Pueblo to study the feasibility of conducting a demonstration project to require all aircraft that fly over Taos Pueblo and the Blue Lake Wilderness Area of Taos Pueblo, New Mexico, to maintain a mandatory minimum altitude of at least 5,000 feet above ground level.

SEC. 533. AIRLINE MARKETING DISCLOSURE.

(a) DEFINITIONS.—In this section:

(1) AIR CARRIER.—The term ''air carrier'' has the meaning given that term in section 40102 of title 49, United States Code.

(2) AIR TRANSPORTATION.—The term ''air transportation'' has the meaning given that term in section 40102 of title 49, United States Code.

(b) FINAL REGULATIONS.—Not later than 90 days after the date of enactment of this Act, the Secretary of Transportation shall promulgate final regulations to provide for improved oral and written disclosure to each consumer of air transportation concerning the corporate name of the air carrier that provides the air transportation purchased by that consumer. In issuing the regulations issued under this subsection, the Secretary shall take into account the proposed regulations issued by the Secretary on January 17, 1995, published at page 3359, volume 60, Federal Register.

SEC. 534. CERTAIN AIR TRAFFIC CONTROL TOWERS.

Notwithstanding any other provision of law, regulation, intergovernmental circular advisories or other process, or any judicial proceeding or ruling to the contrary, the Federal Aviation Administration shall use such funds as necessary to contract for the operation of air traffic control towers, located in Salisbury, Maryland; Bozeman, Montana; and Boca Raton, Florida: Provided, That the Federal Aviation Administration has made a prior determination of eligibility for such towers to be included in the contract tower program.

SEC. 535. COMPENSATION UNDER THE DEATH ON THE HIGH SEAS ACT.

(a) IN GENERAL.—Section 2 of the Death on the High Seas Act (46 U.S.C. App. 762) is amended by—

(1) inserting ''(a) IN GENERAL.—'' before ''The recovery''; and

(2) adding at the end thereof the following:

''(b) COMMERCIAL AVIATION.—

''(1) IN GENERAL.—If the death was caused during commercial aviation, additional compensation for nonpecuniary damages for wrongful death of a decedent is recoverable in a total amount, for all beneficiaries of that decedent, that shall not exceed the greater of the pecuniary loss sustained or a sum total of $750,000 from all defendants for all claims. Punitive damages are not recoverable.

''(2) INFLATION ADJUSTMENT.—The $750,000 amount shall be adjusted, beginning in calendar year 2000 by the increase, if any, in the Consumer Price Index for all urban consumers for the prior year over the Consumer Price Index for all urban consumers for the calendar year 1998.

''(3) NONPECUNIARY DAMAGES.—For purposes of this subsection, the term 'nonpecuniary damages' means damages for loss of care, comfort, and companionship.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies to any death caused during commercial aviation occurring after July 16, 1996.

TITLE VI—AVIATION COMPETITION PROMOTION

SEC. 601. PURPOSE.

The purpose of this title is to facilitate, through a 4-year pilot program, incentives and projects that will help up to 40 communities or consortia of communities to improve their access to the essential airport facilities of the national air transportation system through public-private partnerships and to identify and establish ways to overcome the unique policy, economic, geographic, and marketplace factors that may inhibit the availability of quality, affordable air service to small communities.

SEC. 602. ESTABLISHMENT OF SMALL COMMUNITY AVIATION DEVELOPMENT PROGRAM.

Section 102 is amended by adding at the end thereof the following:

''(g) SMALL COMMUNITY AIR SERVICE DEVELOPMENT PROGRAM.—

''(1) ESTABLISHMENT.—The Secretary shall establish a 4-year pilot aviation development program to be administered by a program director designated by the Secretary.

''(2) FUNCTIONS.—The program director shall—

''(A) function as a facilitator between small communities and air carriers;

''(B) carry out section 41743 of this title;

''(C) carry out the airline service restoration program under sections 41744, 41745, and 41746 of this title;

''(D) ensure that the Bureau of Transportation Statistics collects data on passenger information to assess the service needs of small communities;

''(E) work with and coordinate efforts with other Federal, State, and local agencies to increase the viability of service to small communities and the creation of aviation development zones; and

''(F) provide policy recommendations to the Secretary and the Congress that will ensure that small communities have access to quality, affordable air transportation services.

''(3) REPORTS.—The program director shall provide an annual report to the Secretary and the Congress beginning in 1999 that—

''(A) analyzes the availability of air transportation services in small communities, including, but not limited to, an assessment of the air fares charged for air transportation services in small communities compared to air fares charged for air transportation services in larger metropolitan areas and an assessment of the levels of service, measured by types of aircraft used, the availability of seats, and scheduling of flights, provided to small communities;

''(B) identifies the policy, economic, geographic and marketplace factors that inhibit the availability of quality, affordable air transportation services to small communities; and

''(C) provides policy recommendations to address the policy, economic, geographic, and marketplace factors inhibiting the availability of quality, affordable air transportation services to small communities.''.

SEC. 603. COMMUNITY-CARRIER AIR SERVICE PROGRAM.

(a) IN GENERAL.—Subchapter II of chapter 417 is amended by adding at the end thereof the following:

''§ 41743. Air service program for small communities

''(a) COMMUNITIES PROGRAM.—Under advisory guidelines prescribed by the Secretary of Transportation, a small community or a consortia of small communities or a State may develop an assessment of its air service requirements, in such form as the program director designated by the Secretary under section 102(g) may require, and submit the assessment and service proposal to the program director.

''(b) SELECTION OF PARTICIPANTS.—In selecting community programs for participation in the communities program under subsection (a), the program director shall apply criteria, including geographical diversity and the presentation of unique circumstances, that will demonstrate the feasibility of the program. For purposes of this subsection, the application of geographical diversity criteria means criteria that—

''(1) will promote the development of a national air transportation system; and

''(2) will involve the participation of communities in all regions of the country.

''(c) CARRIERS PROGRAM.—The program director shall invite part 121 air carriers and regional/commuter carriers (as such terms are defined in section 41715(d) of this title) to offer service proposals in response to, or in conjunction with, community aircraft service assessments submitted to the office under subsection (a). A service proposal under this paragraph shall include—

''(1) an assessment of potential daily passenger traffic, revenues, and costs necessary for the carrier to offer the service;

''(2) a forecast of the minimum percentage of that traffic the carrier would require the community to garner in order for the carrier to start up and maintain the service; and

''(3) the costs and benefits of providing jet service by regional or other jet aircraft.

''(d) PROGRAM SUPPORT FUNCTION.—The program director shall work with small communities and air carriers, taking into account their proposals and needs, to facilitate the initiation of service. The program director—

''(1) may work with communities to develop innovative means and incentives for the initiation of service;

''(2) may obligate funds appropriated under section 604 of the Wendell H. Ford National Air Transportation System Improvement Act of 1998 to carry out this section;

''(3) shall continue to work with both the carriers and the communities to develop a combination of community incentives and carrier service levels that—

''(A) are acceptable to communities and carriers; and

''(B) do not conflict with other Federal or State programs to facilitate air transportation to the communities;

''(4) designate an airport in the program as an Air Service Development Zone and work with the community on means to attract business to the area surrounding the airport, to develop land use options for the area, and provide data, working with the Department of Commerce and other agencies;

''(5) take such other action under this chapter as may be appropriate.

''(e) LIMITATIONS.—

''(1) COMMUNITY SUPPORT.—The program director may not provide financial assistance under subsection (c)(2) to any community unless the program director determines that—

''(A) a public-private partnership exists at the community level to carry out the community's proposal;

''(B) the community will make a substantial financial contribution that is appropriate for that community's resources, but of not less than 25 percent of the cost of the project in any event;

''(C) the community has established an open process for soliciting air service proposals; and

''(D) the community will accord similar benefits to air carriers that are similarly situated.

''(2) AMOUNT.—The program director may not obligate more than $30,000,000 of the amounts appropriated under 604 of the Wendell H. Ford National Air Transportation System Improvement Act of 1998 over the 4 years of the program.

''(3) NUMBER OF PARTICIPANTS.—The program established under subsection (a) shall not involve more than 40 communities or consortia of communities.

''(f) REPORT.—The program director shall report through the Secretary to the Congress annually on the progress made under this section

during the preceding year in expanding commercial aviation service to smaller communities.

''§ 41744. Pilot program project authority

''(a) IN GENERAL.—The program director designated by the Secretary of Transportation under section 102(g)(1) shall establish a 4-year pilot program—

''(1) to assist communities and States with inadequate access to the national transportation system to improve their access to that system; and

''(2) to facilitate better air service link-ups to support the improved access.

''(b) PROJECT AUTHORITY.—Under the pilot program established pursuant to subsection (a), the program director may—

''(1) out of amounts appropriated under section 604 of the Wendell H. Ford National Air Transportation System Improvement Act of 1998, provide financial assistance by way of grants to small communities or consortia of small communities under section 41743 of up to $500,000 per year; and

''(2) take such other action as may be appropriate.

''(c) OTHER ACTION.—Under the pilot program established pursuant to subsection (a), the program director may facilitate service by—

''(1) working with airports and air carriers to ensure that appropriate facilities are made available at essential airports;

''(2) collecting data on air carrier service to small communities; and

''(3) providing policy recommendations to the Secretary to stimulate air service and competition to small communities.

''(d) ADDITIONAL ACTION.—Under the pilot program established pursuant to subsection (a), the Secretary shall work with air carriers providing service to participating communities and major air carriers serving large hub airports (as defined in section 41731(a)(3)) to facilitate joint fare arrangements consistent with normal industry practice.

''§ 41745. Assistance to communities for service

''(a) IN GENERAL.—Financial assistance provided under section 41743 during any fiscal year as part of the pilot program established under section 41744(a) shall be implemented for not more than—

''(1) 4 communities within any State at any given time; and

''(2) 40 communities in the entire program at any time.

For purposes of this subsection, a consortium of communities shall be treated as a single community.

''(b) ELIGIBILITY.—In order to participate in a pilot project under this subchapter, a State, community, or group of communities shall apply to the Secretary in such form and at such time, and shall supply such information, as the Secretary may require, and shall demonstrate to the satisfaction of the Secretary that—

''(1) the applicant has an identifiable need for access, or improved access, to the national air transportation system that would benefit the public;

''(2) the pilot project will provide material benefits to a broad section of the travelling public, businesses, educational institutions, and other enterprises whose access to the national air transportation system is limited;

''(3) the pilot project will not impede competition; and

''(4) the applicant has established, or will establish, public-private partnerships in connection with the pilot project to facilitate service to the public.

''(c) COORDINATION WITH OTHER PROVISIONS OF SUBCHAPTER.—The Secretary shall carry out the 4-year pilot program authorized by this subchapter in such a manner as to complement action taken under the other provisions of this subchapter. To the extent the Secretary determines to be appropriate, the Secretary may adopt criteria for implementation of the 4-year pilot program that are the same as, or similar to, the criteria developed under the preceding sections of this subchapter for determining which airports are eligible under those sections. The Secretary shall also, to the extent possible, provide incentives where no direct, viable, and feasible alternative service exists, taking into account geographical diversity and appropriate market definitions.

''(d) MAXIMIZATION OF PARTICIPATION.—The Secretary shall structure the program established pursuant to section 41744(a) in a way designed to—

''(1) permit the participation of the maximum feasible number of communities and States over a 4-year period by limiting the number of years of participation or otherwise; and

''(2) obtain the greatest possible leverage from the financial resources available to the Secretary and the applicant by—

''(A) progressively decreasing, on a project-by-project basis, any Federal financial incentives provided under this chapter over the 4-year period; and

''(B) terminating as early as feasible Federal financial incentives for any project determined by the Secretary after its implementation to be—

''(i) viable without further support under this subchapter; or

''(ii) failing to meet the purposes of this chapter or criteria established by the Secretary under the pilot program.

''(e) SUCCESS BONUS.—If Federal financial incentives to a community are terminated under subsection (d)(2)(B) because of the success of the program in that community, then that community may receive a one-time incentive grant to ensure the continued success of that program.

''(f) PROGRAM TO TERMINATE IN 4 YEARS.—No new financial assistance may be provided under this subchapter for any fiscal year beginning more than 4 years after the date of enactment of the Wendell H. Ford National Air Transportation System Improvement Act of 1998.

''§ 41746. Additional authority

''In carrying out this chapter, the Secretary—

''(1) may provide assistance to States and communities in the design and application phase of any project under this chapter, and oversee the implementation of any such project;

''(2) may assist States and communities in putting together projects under this chapter to utilize private sector resources, other Federal resources, or a combination of public and private resources;

''(3) may accord priority to service by jet aircraft;

''(4) take such action as may be necessary to ensure that financial resources, facilities, and administrative arrangements made under this chapter are used to carry out the purposes of title VI of the Wendell H. Ford National Air Transportation System Improvement Act of 1998; and

''(5) shall work with the Federal Aviation Administration on airport and air traffic control needs of communities in the program.

''§ 41747. Air traffic control services pilot program

''(a) IN GENERAL.—To further facilitate the use of, and improve the safety at, small airports, the Administrator of the Federal Aviation Administration shall establish a pilot program to contract for Level I air traffic control services at 20 facilities not eligible for participation in the Federal Contract Tower Program.

''(b) PROGRAM COMPONENTS.—In carrying out the pilot program established under subsection (a), the Administrator may—

''(1) utilize current, actual, site-specific data, forecast estimates, or airport system plan data provided by a facility owner or operator;

''(2) take into consideration unique aviation safety, weather, strategic national interest, disaster relief, medical and other emergency management relief services, status of regional airline service, and related factors at the facility;

''(3) approve for participation any facility willing to fund a pro rata share of the operating costs used by the Federal Aviation Administration to calculate, and, as necessary, a 1:1 benefit-to-cost ratio, as required for eligibility under the Federal Contract Tower Program; and

''(4) approve for participation no more than 3 facilities willing to fund a pro rata share of construction costs for an air traffic control tower so as to achieve, at a minimum, a 1:1 benefit-to-cost ratio, as required for eligibility under the Federal Contract Tower Program, and for each of such facilities the Federal share of construction costs does not exceed $1,000,000.

''(c) REPORT.—One year before the pilot program established under subsection (a) terminates, the Administrator shall report to the Congress on the effectiveness of the program, with particular emphasis on the safety and economic benefits provided to program participants and the national air transportation system.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 417 is amended by inserting after the item relating to section 41742 the following:

''41743. Air service program for small communities.
''41744. Pilot program project authority.
''41745. Assistance to communities for service.
''41746. Additional authority.
''41747. Air traffic control services pilot program.''.

(c) WAIVER OF LOCAL CONTRIBUTION.—Section 41736(b) is amended by inserting after paragraph (4) the following:

''Paragraph (4) does not apply to any community approved for service under this section during the period beginning October 1, 1991, and ending December 31, 1997.''.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation such sums as may be necessary to carry out section 41747 of title 49, United States Code.

SEC. 604. AUTHORIZATION OF APPROPRIATIONS.

To carry out sections 41743 through 41746 of title 49, United States Code, for the 4 fiscal-year period beginning with fiscal year 1999—

(1) there are authorized to be appropriated to the Secretary of Transportation not more than $10,000,000; and

(2) not more than $20,000,000 shall be made available, if available, to the Secretary for obligation and expenditure out of the account established under section 45303(a) of title 49, United States Code.

To the extent that amounts are not available in such account, there are authorized to be appropriated such sums as may be necessary to provide the amount authorized to be obligated under paragraph (2) to carry out those sections for that 4 fiscal-year period.

SEC. 605. MARKETING PRACTICES.

Section 41712 is amended by—

(1) inserting ''(a) IN GENERAL.—'' before ''On''; and

(2) adding at the end thereof the following:

''(b) MARKETING PRACTICES THAT ADVERSELY AFFECT SERVICE TO SMALL OR MEDIUM COMMUNITIES.—Within 180 days after the date of enactment of the Wendell H. Ford National Air Transportation System Improvement Act of 1998, the Secretary shall review the marketing practices of air carriers that may inhibit the availability of quality, affordable air transportation services to small and medium-sized communities, including—

''(1) marketing arrangements between airlines and travel agents;

''(2) code-sharing partnerships;

''(3) computer reservation system displays;

''(4) gate arrangements at airports;

''(5) exclusive dealing arrangments; and

''(6) any other marketing practice that may have the same effect.

''(c) REGULATIONS.—If the Secretary finds, after conducting the review required by subsection (b), that marketing practices inhibit the availability of such service to such communities, then, after public notice and an opportunity for comment, the Secretary shall promulgate regulations that address the problem.''.

SEC. 606. SLOT EXEMPTIONS FOR NONSTOP REGIONAL JET SERVICE.

(a) IN GENERAL.—Subchapter I of chapter 417 is amended by—

(1) redesignating section 41715 as 41716; and

(2) inserting after section 41714 the following:

''§ 41715. Slot exemptions for nonstop regional jet service.

''(a) IN GENERAL.—Within 90 days after receiving an application for an exemption to provide nonstop regional jet air service between—

''(1) an airport with fewer than 2,000,000 annual enplanements; and

''(2) a high density airport subject to the exemption authority under section 41714(a),

the Secretary of Transportation shall grant or deny the exemption in accordance with established principles of safety and the promotion of competition.

''(b) EXISTING SLOTS TAKEN INTO ACCOUNT.—In deciding to grant or deny an exemption under subsection (a), the Secretary may take into consideration the slots and slot exemptions already used by the applicant.

''(c) CONDITIONS.—The Secretary may grant an exemption to an air carrier under subsection (a)—

''(1) for a period of not less than 12 months;

''(2) for a minimum of 2 daily roundtrip flights; and

''(3) for a maximum of 3 daily roundtrip flights.

''(d) CHANGE OF NONHUB, SMALL HUB, OR MEDIUM HUB AIRPORT; JET AIRCRAFT.—The Secretary may, upon application made by an air carrier operating under an exemption granted under subsection (a)—

''(1) authorize the air carrier or an affiliated air carrier to upgrade service under the exemption to a larger jet aircraft; or

''(2) authorize an air carrier operating under such an exemption to change the nonhub airport or small hub airport for which the exemption was granted to provide the same service to a different airport that is smaller than a large hub airport (as defined in section 47134(d)(2)) if—

''(A) the air carrier has been operating under the exemption for a period of not less than 12 months; and

''(B) the air carrier can demonstrate unmitigatable losses.

''(e) FOREFEITURE FOR MISUSE.—Any exemption granted under subsection (a) shall be terminated immediately by the Secretary if the air carrier to which it was granted uses the slot for any purpose other than the purpose for which it was granted or in violation of the conditions under which it was granted.

''(f) RESTORATION OF AIR SERVICE.—To the extent that—

''(1) slots were withdrawn from an air carrier under section 41714(b);

''(2) the withdrawal of slots under that section resulted in a net loss of slots; and

''(3) the net loss of slots and slot exemptions resulting from the withdrawal had an adverse effect on service to nonhub airports and in other domestic markets,

the Secretary shall give priority consideration to the request of any air carrier from which slots were withdrawn under that section for an equivalent number of slots at the airport where the slots were withdrawn. No priority consideration shall be given under this subsection to an air carrier described in paragraph (1) when the net loss of slots and slot exemptions is eliminated.

''(g) PRIORITY TO NEW ENTRANTS AND LIMITED INCUMBENT CARRIERS.—

''(1) IN GENERAL.—In granting slot exemptions under this section the Secretary shall give priority consideration to an application from an air carrier that, as of July 1, 1998, operated or held fewer than 20 slots or slot exemptions at the high density airport for which it filed an exemption application.

''(2) LIMITATION.—No priority may be given under paragraph (1) to an air carrier that, at the time of application, operates or holds 20 or more slots and slot exemptions at the airport for which the exemption application is filed.

''(3) AFFILIATED CARRIERS.—The Secretary shall treat all commuter air carriers that have cooperative agreements, including code-share agreements, with other air carriers equally for determining eligibility for exemptions under this section regardless of the form of the corporate relationship between the commuter air carrier and the other air carrier.

''(h) STAGE 3 AIRCRAFT REQUIRED.—An exemption may not be granted under this section with respect to any aircraft that is not a Stage 3 aircraft (as defined by the Secretary).

''(i) REGIONAL JET DEFINED.—In this section, the term 'regional jet' means a passenger, turbofan-powered aircraft carrying not fewer than 30 and not more than 50 passengers.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 40102 is amended by inserting after paragraph (28) the following:

''(28A) LIMITED INCUMBENT AIR CARRIER.—The term 'limited incumbent air carrier' has the meaning given that term in subpart S of part 93 of title 14, Code of Federal Regulations, except that '20' shall be substituted for '12' in sections 93.213(a)(5), 93.223(c)(3), and 93.226(h) as such sections were in effect on August 1, 1998.''.

(2) The chapter analysis for chapter 417 is amended by striking the item relating to section 41716 and inserting the following:

''41715. Slot exemptions for nonstop regional jet service.

''41716. Air service termination notice.''.

SEC. 607. EXEMPTIONS TO PERIMETER RULE AT RONALD REAGAN WASHINGTON NATIONAL AIRPORT.

(a) IN GENERAL.—Subchapter I of chapter 417, as amended by section 606, is amended by—

(1) redesignating section 41716 as 41717; and

(2) inserting after section 41715 the following:

''§ 41716. Special Rules for Ronald Reagan Washington National Airport

''(a) BEYOND-PERIMETER EXEMPTIONS.—The Secretary shall by order grant exemptions from the application of sections 49104(a)(5), 49109, 49111(e), and 41714 of this title to air carriers to operate limited frequencies and aircraft on select routes between Ronald Reagan Washington National Airport and domestic hub airports of such carriers and exemptions from the requirements of subparts K and S of part 93, Code of Federal Regulations, if the Secretary finds that the exemptions will—

''(1) provide air transportation service with domestic network benefits in areas beyond the perimeter described in that section;

''(2) increase competition in multiple markets;

''(3) not reduce travel options for communities served by small hub airports and medium hub airports within the perimeter described in section 49109 of title 49, United States Code; and

''(4) not result in meaningfully increased travel delays.

''(b) WITHIN-PERIMETER EXEMPTIONS.—The Secretary shall by order grant exemptions from the requirements of sections 49104(a)(5), 49111(e), and 41714 of this title and subparts K and S of part 93 of title 14, Code of Federal Regulations, to commuter air carriers for service to airports with fewer than 2,000,000 annual enplanements within the perimeter established for civil aircraft operations at Ronald Reagan Washington National Airport under section 49109. The Secretary shall develop criteria for distributing slot exemptions for flights within the perimeter to such airports under this paragraph in a manner consistent with the promotion of air transportation.

''(c) LIMITATIONS.—

''(1) STAGE 3 AIRCRAFT REQUIRED.—An exemption may not be granted under this section with respect to any aircraft that is not a Stage 3 aircraft (as defined by the Secretary).

''(2) GENERAL EXEMPTIONS.—The exemptions granted under subsections (a) and (b) may not increase the number of operations at Ronald Reagan Washington National Airport in any 1-hour period during the hours between 7:00 a.m. and 9:59 p.m. by more than 2 operations.''.

''(3) ADDITIONAL EXEMPTIONS.—The Secretary shall grant exemptions under subsections (a) and (b) that—

''(A) will result in 12 additional daily air carrier slot exemptions at such airport for long-haul service beyond the perimeter;

''(B) will result in 12 additional daily commuter slot exemptions at such airport; and

''(C) will not result in additional daily commuter slot exemptions for service to any within-the-perimeter airport that is not smaller than a large hub airport (as defined in section 47134(d)(2)).

''(4) ASSESSMENT OF SAFETY, NOISE AND ENVIRONMENTAL IMPACTS.—The Secretary shall assess the impact of granting exemptions, including the impacts of the additional slots and flights at Ronald Reagan Washington National Airport provided under subsections (a) and (b) on safety, noise levels and the environment within 90 days of the date of the enactment of this Act. The environmental assessment shall be carried out in accordance with parts 1500–1508 of title 40, Code of Federal Regulations. Such environmental assessment shall include a public meeting.

''(5) APPLICABILITY WITH EXEMPTION 5133.—Nothing in this section affects Exemption No. 5133, as from time-to-time amended and extended.''.

(b) OVERRIDE OF MWAA RESTRICTION.—Section 49104(a)(5) is amended by adding at the end thereof the following:

''(D) Subparagraph (C) does not apply to any increase in the number of instrument flight rule takeoffs and landings necessary to implement exemptions granted by the Secretary under section 41716.''.

(c) MWAA NOISE-RELATED GRANT ASSURANCES.—

(1) IN GENERAL.—In addition to any condition for approval of an airport development project that is the subject of a grant application submitted to the Secretary of Transportation under chapter 471 of title 49, United States Code, by the Metropolitan Washington Airports Authority, the Authority shall be required to submit a written assurance that, for each such grant made to the Authority for fiscal year 1999 or any subsequent fiscal year—

(A) the Authority will make available for that fiscal year funds for noise compatibility planning and programs that are eligible to receive funding under chapter 471 of title 49, United States Code, in an amount not less than 10 percent of the aggregate annual amount of financial assistance provided to the Authority by the Secretary as grants under chapter 471 of title 49, United States Code; and

(B) the Authority will not divert funds from a high priority safety project in order to make funds available for noise compatibility planning and programs.

(2) WAIVER.—The Secretary of Transportation may waive the requirements of paragraph (1) for any fiscal year for which the Secretary determines that the Metropolitan Washington Airports Authority is in full compliance with applicable airport noise compatibility planning and program requirements under part 150 of title 14, Code of Federal Regulations.

(3) SUNSET.—This subsection shall cease to be in effect 5 years after the date of enactment of this Act, if on that date the Secretary of Transportation certifies that the Metropolitan Washington Airports Authority has achieved full

compliance with applicable noise compatibility planning and program requirements under part 150 of title 14, Code of Federal Regulations.

(d) NOISE COMPATIBILITY PLANNING AND PROGRAMS.—Section 47117(e) is amended by adding at the end the following:

''(3) The Secretary shall give priority in making grants under paragraph (1)(A) to applications for airport noise compatibility planning and programs at and around airports where operations increase under title VI of the Wendell H. Ford National Air Transportation System Improvement Act of 1998 and the amendments made by that title.''.

(e) CONFORMING AMENDMENTS.—

(1) Section 49111 is amended by striking subsection (e).

(2) The chapter analysis for chapter 417, as amended by section 606(b) of this Act, is amended by striking the item relating to section 41716 and inserting the following:

''41716. Special Rules for Ronald Reagan Washington National Airport.

''41717. Air service termination notice.''.

(f) REPORT.—Within 1 year after the date of enactment of this Act, and biannually thereafter, the Secretary shall certify to the United States Senate Committee on Commerce, Science, and Transportation, the United States House of Representatives Committee on Transportation and Infrastructure, the Governments of Maryland, Virginia, and West Virginia and the metropolitan planning organization for Washington D.C. that noise standards, air traffic congestion, airport-related vehicular congestion, safety standards, and adequate air service to communities served by small hub airports and medium hub airports within the perimeter described in section 49109 of title 49, United States Code, have been maintained at appropriate levels.

SEC. 608. ADDITIONAL SLOT EXEMPTIONS AT CHICAGO O'HARE INTERNATIONAL AIRPORT.

(a) IN GENERAL.—Chapter 417, as amended by section 607, is amended by—

(1) redesignating section 41717 as 41718; and

(2) inserting after section 41716 the following:

''§41717. Special Rules for Chicago O'Hare International Airport

''(a) IN GENERAL.—The Secretary of Transportation shall grant 30 slot exemptions over a 3-year period beginning on the date of enactment of the Wendell H. Ford National Air Transportation System Improvement Act of 1998 at Chicago O'Hare International Airport.

''(b) EQUIPMENT AND SERVICE REQUIREMENTS.—

''(1) STAGE 3 AIRCRAFT REQUIRED.—An exemption may not be granted under this section with respect to any aircraft that is not a Stage 3 aircraft (as defined by the Secretary).

''(2) SERVICE PROVIDED.—Of the exemptions granted under subsection (a)—

''(A) 18 shall be used only for service to underserved markets, of which no fewer than 6 shall be designated as commuter slot exemptions; and

''(B) 12 shall be air carrier slot exemptions.

''(c) PROCEDURAL REQUIREMENTS.—Before granting exemptions under subsection (a), the Secretary shall—

''(1) conduct an environmental review, taking noise into account, and determine that the granting of the exemptions will not cause a significant increase in noise;

''(2) determine whether capacity is available and can be used safely and, if the Secretary so determines then so certify;

''(3) give 30 days notice to the public through publication in the Federal Register of the Secretary's intent to grant the exemptions; and

''(4) consult with appropriate officers of the State and local government on any related noise and environmental issues.

''(d) UNDERSERVED MARKET DEFINED.—In this section, the term 'service to underserved markets' means passenger air transportation service to an airport that is a nonhub airport or a small hub airport (as defined in paragraphs (4) and (5), respectively, of section 41731(a)).''.

(b) STUDIES.—

(1) 3-YEAR REPORT.—The Secretary shall study and submit a report 3 years after the first exemption granted under section 41717(a) of title 49, United States Code, is first used on the impact of the additional slots on the safety, environment, noise, access to underserved markets, and competition at Chicago O'Hare International Airport.

(2) DOT STUDY IN 2000.—The Secretary of Transportation shall study community noise levels in the areas surrounding the 4 high-density airports after the 100 percent Stage 3 fleet requirements are in place, and compare those levels with the levels in such areas before 1991.

(c) CONFORMING AMENDMENT.—The chapter analysis for chapter 417, as amended by section 607(b) of this Act, is amended by striking the item relating to section 41717 and inserting the following:

''41717. Special Rules for Chicago O'Hare International Airport.

''41718. Air service termination notice.''.

SEC. 609. CONSUMER NOTIFICATION OF E-TICKET EXPIRATION DATES.

Section 41712, as amended by section 605 of this Act, is amended by adding at the end thereof the following:

''(d) E-TICKET EXPIRATION NOTICE.—It shall be an unfair or deceptive practice under subsection (a) for any air carrier utilizing electronically transmitted tickets to fail to notify the purchaser of such a ticket of its expiration date, if any.''.

SEC. 610. JOINT VENTURE AGREEMENTS.

(a) IN GENERAL.—Subchapter I of chapter 417, as amended by section 608, is amended by adding at the end the following:

''§41719. Joint venture agreements

''(a) DEFINITIONS.—In this section—

''(1) JOINT VENTURE AGREEMENT.—The term 'joint venture agreement' means an agreement entered into by a major air carrier on or after January 1, 1998, with regard to (A) code-sharing, blocked-space arrangements, long-term wet leases (as defined in section 207.1 of title 14, Code of Federal Regulations) of a substantial number (as defined by the Secretary by regulation) of aircraft, or frequent flyer programs, or (B) any other cooperative working arrangement (as defined by the Secretary by regulation) between 2 or more major air carriers that affects more than 15 percent of the total number of available seat miles offered by the major air carriers.

''(2) MAJOR AIR CARRIER.—The term 'major air carrier' means a passenger air carrier that is certificated under chapter 411 of this title and included in Carrier Group III under criteria contained in section 04 of part 241 of title 14, Code of Federal Regulations.

''(b) SUBMISSION OF JOINT VENTURE AGREEMENT.—At least 30 days before a joint venture agreement may take effect, each of the major air carriers that entered into the agreement shall submit to the Secretary—

''(1) a complete copy of the joint venture agreement and all related agreements; and

''(2) other information and documentary material that the Secretary may require by regulation.

''(c) EXTENSION OF WAITING PERIOD.—

''(1) IN GENERAL.—The Secretary may extend the 30-day period referred to in subsection (b) until—

''(A) in the case of a joint venture agreement with regard to code-sharing, the 150th day following the last day of such period; and

''(B) in the case of any other joint venture agreement, the 60th day following the last day of such period.

''(2) PUBLICATION OF REASONS FOR EXTENSION.—If the Secretary extends the 30-day period referred to in subsection (b), the Secretary shall publish in the Federal Register the reasons of the Secretary for making the extension.

''(d) TERMINATION OF WAITING PERIOD.—At any time after the date of submission of a joint venture agreement under subsection (b), the Secretary may terminate the waiting periods referred to in subsections (b) and (c) with respect to the agreement.

''(e) REGULATIONS.—The effectiveness of a joint venture agreement may not be delayed due to any failure of the Secretary to issue regulations to carry out this subsection.

''(f) MEMORANDUM TO PREVENT DUPLICATIVE REVIEWS.—Promptly after the date of enactment of this section, the Secretary shall consult with the Assistant Attorney General of the Antitrust Division of the Department of Justice in order to establish, through a written memorandum of understanding, preclearance procedures to prevent unnecessary duplication of effort by the Secretary and the Assistant Attorney General under this section and the United States antitrust laws, respectively.

''(g) PRIOR AGREEMENTS.—With respect to a joint venture agreement entered into before the date of enactment of this section as to which the Secretary finds that—

''(1) the parties have submitted the agreement to the Secretary before such date of enactment; and

''(2) the parties have submitted any information on the agreement requested by the Secretary,

the waiting period described in paragraphs (2) and (3) shall begin on the date, as determined by the Secretary, on which all such information was submitted and end on the last day to which the period could be extended under this section.

''(h) LIMITATION ON STATUTORY CONSTRUCTION.—The authority granted to the Secretary under this subsection shall not in any way limit the authority of the Attorney General to enforce the antitrust laws as defined in the first section of the Clayton Act (15 U.S.C. 12).''.

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of such chapter is amended by adding at the end the following:

''41716. Joint venture agreements.''.

SEC. 611. REGIONAL AIR SERVICE INCENTIVE OPTIONS.

(a) PURPOSE.—The purpose of this section is to provide the Congress with an analysis of means to improve service by jet aircraft to underserved markets by authorizing a review of different programs of Federal financial assistance, including loan guarantees like those that would have been provided for by section 2 of S. 1353, 105th Congress, as introduced, to commuter air carriers that would purchase regional jet aircraft for use in serving those markets.

(b) STUDY.—The Secretary of Transportation shall study the efficacy of a program of Federal loan guarantees for the purchase of regional jets by commuter air carriers. The Secretary shall include in the study a review of options for funding, including alternatives to Federal funding. In the study, the Secretary shall analyze—

(1) the need for such a program;

(2) its potential benefit to small communities;

(3) the trade implications of such a program;

(4) market implications of such a program for the sale of regional jets;

(5) the types of markets that would benefit the most from such a program;

(6) the competititve implications of such a program; and

(7) the cost of such a program.

(c) REPORT.—The Secretary shall submit a report of the results of the study to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure not later than 24 months after the date of enactment of this Act.

SEC. 612. GAO STUDY OF AIR TRANSPORTATION NEEDS.

The General Accounting Office shall conduct a study of the current state of the national airport network and its ability to meet the air

transportation needs of the United States over the next 15 years. The study shall include airports located in remote communities and reliever airports. In assessing the effectiveness of the system the Comptroller General may consider airport runway length of 5,500 feet or the equivalent altitude-adjusted length, air traffic control facilities, and navigational aids.

TITLE VII—NATIONAL PARKS OVERFLIGHTS

SEC. 701. FINDINGS.

The Congress finds that—

(1) the Federal Aviation Administration has sole authority to control airspace over the United States;

(2) the Federal Aviation Administration has the authority to preserve, protect, and enhance the environment by minimizing, mitigating, or preventing the adverse effects of aircraft overflights on the public and tribal lands;

(3) the National Park Service has the responsibility of conserving the scenery and natural and historic objects and wildlife in national parks and of providing for the enjoyment of the national parks in ways that leave the national parks unimpaired for future generations;

(4) the protection of tribal lands from aircraft overflights is consistent with protecting the public health and welfare and is essential to the maintenance of the natural and cultural resources of Indian tribes;

(5) the National Parks Overflights Working Group, composed of general aviation, air tour, environmental, and Native American representatives, recommended that the Congress enact legislation based on its consensus work product; and

(6) this title reflects the recommendations made by that Group.

SEC. 702. AIR TOUR MANAGEMENT PLANS FOR NATIONAL PARKS.

(a) IN GENERAL.—Chapter 401, as amended by section 301 of this Act, is amended by adding at the end the following:

"§ 40126. Overflights of national parks

''(a) IN GENERAL.—

''(1) GENERAL REQUIREMENTS.—A commercial air tour operator may not conduct commercial air tour operations over a national park or tribal lands except—

''(A) in accordance with this section;

''(B) in accordance with conditions and limitations prescribed for that operator by the Administrator; and

''(C) in accordance with any effective air tour management plan for that park or those tribal lands.

''(2) APPLICATION FOR OPERATING AUTHORITY.—

''(A) APPLICATION REQUIRED.—Before commencing commercial air tour operations over a national park or tribal lands, a commercial air tour operator shall apply to the Administrator for authority to conduct the operations over that park or those tribal lands.

''(B) COMPETITIVE BIDDING FOR LIMITED CAPACITY PARKS.—Whenever a commercial air tour management plan limits the number of commercial air tour flights over a national park area during a specified time frame, the Administrator, in cooperation with the Director, shall authorize commercial air tour operators to provide such service. The authorization shall specify such terms and conditions as the Administrator and the Director find necessary for management of commercial air tour operations over the national park. The Administrator, in cooperation with the Director, shall develop an open competitive process for evaluating proposals from persons interested in providing commercial air tour services over the national park. In making a selection from among various proposals submitted, the Administrator, in cooperation with the Director, shall consider relevant factors, including—

''(i) the safety record of the company or pilots;

''(ii) any quiet aircraft technology proposed for use;

''(iii) the experience in commercial air tour operations over other national parks or scenic areas;

''(iv) the financial capability of the company;

''(v) any training programs for pilots; and

''(vi) responsiveness to any criteria developed by the National Park Service or the affected national park.

''(C) NUMBER OF OPERATIONS AUTHORIZED.—In determining the number of authorizations to issue to provide commercial air tour service over a national park, the Administrator, in cooperation with the Director, shall take into consideration the provisions of the air tour management plan, the number of existing commercial air tour operators and current level of service and equipment provided by any such companies, and the financial viability of each commercial air tour operation.

''(D) COOPERATION WITH NPS.—Before granting an application under this paragraph, the Administrator shall, in cooperation with the Director, develop an air tour management plan in accordance with subsection (b) and implement such plan.

''(E) TIME LIMIT ON RESPONSE TO ATMP APPLICATIONS.—The Administrator shall act on any such application and issue a decision on the application not later than 24 months after it is received or amended.

''(3) EXCEPTION.—Notwithstanding paragraph (1), commercial air tour operators may conduct commercial air tour operations over a national park under part 91 of the Federal Aviation Regulations (14 CFR 91.1 et seq.) if—

''(A) such activity is permitted under part 119 (14 CFR 119.1(e)(2));

''(B) the operator secures a letter of agreement from the Administrator and the national park superintendent for that national park describing the conditions under which the flight operations will be conducted; and

''(C) the total number of operations under this exception is limited to not more than 5 flights in any 30-day period over a particular park.

''(4) SPECIAL RULE FOR SAFETY REQUIREMENTS.—Notwithstanding subsection (c), an existing commercial air tour operator shall, not later than 90 days after the date of enactment of the Wendell H. Ford National Air Transportation System Improvement Act of 1998, apply for operating authority under part 119, 121, or 135 of the Federal Aviation Regulations (14 CFR Pt. 119, 121, or 135). A new entrant commercial air tour operator shall apply for such authority before conducting commercial air tour operations over a national park or tribal lands.

''(b) AIR TOUR MANAGEMENT PLANS.—

''(1) ESTABLISHMENT OF ATMPS.—

''(A) IN GENERAL.—The Administrator shall, in cooperation with the Director, establish an air tour management plan for any national park or tribal land for which such a plan is not already in effect whenever a person applies for authority to operate a commercial air tour over the park. The development of the air tour management plan is to be a cooperative undertaking between the Federal Aviation Administration and the National Park Service. The air tour management plan shall be developed by means of a public process, and the agencies shall develop information and analysis that explains the conclusions that the agencies make in the application of the respective criteria. Such explanations shall be included in the Record of Decision and may be subject to judicial review.

''(B) OBJECTIVE.—The objective of any air tour management plan shall be to develop acceptable and effective measures to mitigate or prevent the significant adverse impacts, if any, of commercial air tours upon the natural and cultural resources and visitor experiences and tribal lands.

''(2) ENVIRONMENTAL DETERMINATION.—In establishing an air tour management plan under this subsection, the Administrator and the Director shall each sign the environmental decision document required by section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332) which may include a finding of no significant impact, an environmental assessment, or an environmental impact statement, and the Record of Decision for the air tour management plan.

''(3) CONTENTS.—An air tour management plan for a national park—

''(A) may prohibit commercial air tour operations in whole or in part;

''(B) may establish conditions for the conduct of commercial air tour operations, including commercial air tour routes, maximum or minimum altitudes, time-of-day restrictions, restrictions for particular events, maximum number of flights per unit of time, intrusions on privacy on tribal lands, and mitigation of noise, visual, or other impacts;

''(C) shall apply to all commercial air tours within ½ mile outside the boundary of a national park;

''(D) shall include incentives (such as preferred commercial air tour routes and altitudes, relief from caps and curfews) for the adoption of quiet aircraft technology by commercial air tour operators conducting commercial air tour operations at the park;

''(E) shall provide for the initial allocation of opportunities to conduct commercial air tours if the plan includes a limitation on the number of commercial air tour flights for any time period; and

''(F) shall justify and document the need for measures taken pursuant to subparagraphs (A) through (E).

''(4) PROCEDURE.—In establishing a commercial air tour management plan for a national park, the Administrator and the Director shall—

''(A) initiate at least one public meeting with interested parties to develop a commercial air tour management plan for the park;

''(B) publish the proposed plan in the Federal Register for notice and comment and make copies of the proposed plan available to the public;

''(C) comply with the regulations set forth in sections 1501.3 and 1501.5 through 1501.8 of title 40, Code of Federal Regulations (for purposes of complying with those regulations, the Federal Aviation Administration is the lead agency and the National Park Service is a cooperating agency); and

''(D) solicit the participation of any Indian tribe whose tribal lands are, or may be, overflown by aircraft involved in commercial air tour operations over a national park or tribal lands, as a cooperating agency under the regulations referred to in paragraph (4)(C).

''(5) AMENDMENTS.—Any amendment of an air tour management plan shall be published in the Federal Register for notice and comment. A request for amendment of an air tour management plan shall be made in such form and manner as the Administrator may prescribe.

''(c) INTERIM OPERATING AUTHORITY.—

''(1) IN GENERAL.—Upon application for operating authority, the Administrator shall grant interim operating authority under this paragraph to a commercial air tour operator for a national park or tribal lands for which the operator is an existing commercial air tour operator.

''(2) REQUIREMENTS AND LIMITATIONS.—Interim operating authority granted under this subsection—

''(A) shall provide annual authorization only for the greater of—

''(i) the number of flights used by the operator to provide such tours within the 12-month period prior to the date of enactment of the Wendell H. Ford National Air Transportation System Improvement Act of 1998; or

''(ii) the average number of flights per 12-month period used by the operator to provide such tours within the 36-month period prior to such date of enactment, and, for seasonal operations, the number of flights so used during the season or seasons covered by that 12-month period;

''(B) may not provide for an increase in the number of operations conducted during any time period by the commercial air tour operator to which it is granted unless the increase is agreed to by the Administrator and the Director;

''(C) shall be published in the Federal Register to provide notice and opportunity for comment;

''(D) may be revoked by the Administrator for cause;

''(E) shall terminate 180 days after the date on which an air tour management plan is established for that park or those tribal lands; and

''(F) shall—

''(i) promote protection of national park resources, visitor experiences, and tribal lands;

''(ii) promote safe operations of the commercial air tour;

''(iii) promote the adoption of quiet technology, as appropriate; and

''(iv) allow for modifications of the operation based on experience if the modification improves protection of national park resources and values and of tribal lands.

''(3) NEW ENTRANT AIR TOUR OPERATORS.—

''(A) IN GENERAL.—The Administrator, in cooperation with the Director, may grant interim operating authority under this paragraph to an air tour operator for a national park for which that operator is a new entrant air tour operator if the Administrator determines the authority is necessary to ensure competition in the provision of commercial air tours over that national park or those tribal lands.

''(B) SAFETY LIMITATION.—The Administrator may not grant interim operating authority under subparagraph (A) if the Administrator determines that it would create a safety problem at that park or on tribal lands, or the Director determines that it would create a noise problem at that park or on tribal lands.

''(C) ATMP LIMITATION.—The Administrator may grant interim operating authority under subparagraph (A) of this paragraph only if the air tour management plan for the park or tribal lands to which the application relates has not been developed within 24 months after the date of enactment of the Wendell H. Ford National Air Transportation System Improvement Act of 1998.

''(d) DEFINITIONS.—In this section, the following definitions apply:

''(1) COMMERCIAL AIR TOUR.—The term 'commercial air tour' means any flight conducted for compensation or hire in a powered aircraft where a purpose of the flight is sightseeing. If the operator of a flight asserts that the flight is not a commercial air tour, factors that can be considered by the Administrator in making a determination of whether the flight is a commercial air tour, include, but are not limited to—

''(A) whether there was a holding out to the public of willingness to conduct a sightseeing flight for compensation or hire;

''(B) whether a narrative was provided that referred to areas or points of interest on the surface;

''(C) the area of operation;

''(D) the frequency of flights;

''(E) the route of flight;

''(F) the inclusion of sightseeing flights as part of any travel arrangement package; or

''(G) whether the flight or flights in question would or would not have been canceled based on poor visibility of the surface.

''(2) COMMERCIAL AIR TOUR OPERATOR.—The term 'commercial air tour operator' means any person who conducts a commercial air tour.

''(3) EXISTING COMMERCIAL AIR TOUR OPERATOR.—The term 'existing commercial air tour operator' means a commercial air tour operator that was actively engaged in the business of providing commercial air tours over a national park at any time during the 12-month period ending on the date of enactment of the Wendell H. Ford National Air Transportation System Improvement Act of 1998.

''(4) NEW ENTRANT COMMERCIAL AIR TOUR OPERATOR.—The term 'new entrant commercial air tour operator' means a commercial air tour operator that—

''(A) applies for operating authority as a commercial air tour operator for a national park; and

''(B) has not engaged in the business of providing commercial air tours over that national park or those tribal lands in the 12-month period preceding the application.

''(5) COMMERCIAL AIR TOUR OPERATIONS.—The term 'commercial air tour operations' means commercial air tour flight operations conducted—

''(A) over a national park or within ½ mile outside the boundary of any national park;

''(B) below a minimum altitude, determined by the Administrator in cooperation with the Director, above ground level (except solely for purposes of takeoff or landing, or necessary for safe operation of an aircraft as determined under the rules and regulations of the Federal Aviation Administration requiring the pilot-in-command to take action to ensure the safe operation of the aircraft); and

''(C) less than 1 mile laterally from any geographic feature within the park (unless more than ½ mile outside the boundary).

''(6) NATIONAL PARK.—The term 'national park' means any unit of the National Park System.

''(7) TRIBAL LANDS.—The term 'tribal lands' means 'Indian country', as defined by section 1151 of title 18, United States Code, that is within or abutting a national park.

''(8) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Federal Aviation Administration.

''(9) DIRECTOR.—The term 'Director' means the Director of the National Park Service.''.

(b) EXEMPTIONS.—

(1) GRAND CANYON.—Section 40126 of title 49, United States Code, as added by subsection (a), does not apply to—

(A) the Grand Canyon National Park; or

(B) Indian country within or abutting the Grand Canyon National Park.

(2) ALASKA.—The provisions of this title and section 40126 of title 49, United States Code, as added by subsection (a), do not apply to any land or waters located in Alaska.

(3) COMPLIANCE WITH OTHER REGULATIONS.—For purposes of section 40126 of title 49, United States Code—

(A) regulations issued by the Secretary of Transportation and the Administrator of the Federal Aviation Administration under section 3 of Public Law 100–91 (16 U.S.C. 1a–1, note); and

(B) commercial air tour operations carried out in compliance with the requirements of those regulations,

shall be deemed to meet the requirements of such section 40126.

(c) CLERICAL AMENDMENT.—The table of sections for chapter 401 is amended by adding at the end thereof the following:

''40126. Overflights of national parks.''.

SEC. 703. ADVISORY GROUP.

(a) ESTABLISHMENT.—Not later than 1 year after the date of enactment of this Act, the Administrator of the Federal Aviation Administration and the Director of the National Park Service shall jointly establish an advisory group to provide continuing advice and counsel with respect to the operation of commercial air tours over and near national parks.

(b) MEMBERSHIP.—

(1) IN GENERAL.—The advisory group shall be composed of—

(A) a balanced group of —

(i) representatives of general aviation;

(ii) representatives of commercial air tour operators;

(iii) representatives of environmental concerns; and

(iv) representatives of Indian tribes;

(B) a representative of the Federal Aviation Administration; and

(C) a representative of the National Park Service.

(2) EX-OFFICIO MEMBERS.—The Administrator and the Director shall serve as ex-officio members.

(3) CHAIRPERSON.—The representative of the Federal Aviation Administration and the representative of the National Park Service shall serve alternating 1-year terms as chairman of the advisory group, with the representative of the Federal Aviation Administration serving initially until the end of the calendar year following the year in which the advisory group is first appointed.

(c) DUTIES.—The advisory group shall provide advice, information, and recommendations to the Administrator and the Director—

(1) on the implementation of this title;

(2) on the designation of appropriate and feasible quiet aircraft technology standards for quiet aircraft technologies under development for commercial purposes, which will receive preferential treatment in a given air tour management plan;

(3) on other measures that might be taken to accommodate the interests of visitors to national parks; and

(4) on such other national park or tribal lands-related safety, environmental, and air touring issues as the Administrator and the Director may request.

(d) COMPENSATION; SUPPORT; FACA.—

(1) COMPENSATION AND TRAVEL.—Members of the advisory group who are not officers or employees of the United States, while attending conferences or meetings of the group or otherwise engaged in its business, or while serving away from their homes or regular places of business, each member may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

(2) ADMINISTRATIVE SUPPORT.—The Federal Aviation Administration and the National Park Service shall jointly furnish to the advisory group clerical and other assistance.

(3) NONAPPLICATION OF FACA.—Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) does not apply to the advisory group.

(e) REPORT.—The Administrator and the Director shall jointly report to the Congress within 24 months after the date of enactment of this Act on the success of this title in providing incentives for quiet aircraft technology.

SEC. 704. OVERFLIGHT FEE REPORT.

Not later than 180 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall transmit to Congress a report on the effects proposed overflight fees are likely to have on the commercial air tour industry. The report shall include, but shall not be limited to—

(1) the viability of a tax credit for the commercial air tour operators equal to the amount of the proposed fee charged by the National Park Service; and

(2) the financial effects proposed offsets are likely to have on Federal Aviation Administration budgets and appropriations.

SEC. 705. PROHIBITION OF COMMERCIAL AIR TOURS OVER THE ROCKY MOUNTAIN NATIONAL PARK.

Effective beginning on the date of enactment of this Act, no commercial air tour may be operated in the airspace over the Rocky Mountain National Park notwithstanding any other provision of this Act or section 40126 of title 49, United States Code, as added by this Act.

TITLE VIII—CENTENNIAL OF FLIGHT COMMEMORATION

SEC. 801. SHORT TITLE.

This title may be cited as the ''Centennial of Flight Commemoration Act''.

SEC. 802. FINDINGS.

Congress finds that—

(1) December 17, 2003, is the 100th anniversary of the first successful manned, free, controlled,

and sustained flight by a power-driven, heavier-than-air machine;

(2) the first flight by Orville and Wilbur Wright represents the fulfillment of the age-old dream of flying;

(3) the airplane has dramatically changed the course of transportation, commerce, communication, and warfare throughout the world;

(4) the achievement by the Wright brothers stands as a triumph of American ingenuity, inventiveness, and diligence in developing new technologies, and remains an inspiration for all Americans;

(5) it is appropriate to remember and renew the legacy of the Wright brothers at a time when the values of creativity and daring represented by the Wright brothers are critical to the future of the Nation; and

(6) as the Nation approaches the 100th anniversary of powered flight, it is appropriate to celebrate and commemorate the centennial year through local, national, and international observances and activities.

SEC. 803. ESTABLISHMENT.

There is established a commission to be known as the Centennial of Flight Commission.

SEC. 804. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—The Commission shall be composed of 6 members, as follows:

(1) The Director of the National Air and Space Museum of the Smithsonian Institution or his designee.

(2) The Administrator of the National Aeronautics and Space Administration or his designee.

(3) The chairman of the First Flight Centennial Foundation of North Carolina, or his designee.

(4) The chairman of the 2003 Committee of Ohio, or his designee.

(5) As chosen by the Commission, the president or head of a United States aeronautical society, foundation, or organization of national stature or prominence who will be a person from a State other than Ohio or North Carolina.

(6) The Administrator of the Federal Aviation Administration, or his designee.

(b) VACANCIES.—Any vacancy in the Commission shall be filled in the same manner in which the original designation was made.

(c) COMPENSATION.—

(1) PROHIBITION OF PAY.—Except as provided in paragraph (2), members of the Commission shall serve without pay or compensation.

(2) TRAVEL EXPENSES.—The Commission may adopt a policy, only by unanimous vote, for members of the Commission and related advisory panels to receive travel expenses, including per diem in lieu of subsistence. The policy may not exceed the levels established under sections 5702 and 5703 of title 5, United States Code. Members who are Federal employees shall not receive travel expenses if otherwise reimbursed by the Federal Government.

(d) QUORUM.—Three members of the Commission shall constitute a quorum.

(e) CHAIRPERSON.—The Commission shall select a Chairperson of the Commission from the members designated under subsection (a) (1), (2), or (5). The Chairperson may not vote on matters before the Commission except in the case of a tie vote. The Chairperson may be removed by a vote of a majority of the Commission's members.

(f) ORGANIZATION.—No later than 90 days after the date of enactment of this Act, the Commission shall meet and select a Chairperson, Vice Chairperson, and Executive Director.

SEC. 805. DUTIES.

(a) IN GENERAL.—The Commission shall—

(1) represent the United States and take a leadership role with other nations in recognizing the importance of aviation history in general and the centennial of powered flight in particular, and promote participation by the United States in such activities;

(2) encourage and promote national and international participation and sponsorships in commemoration of the centennial of powered flight by persons and entities such as—

(A) aerospace manufacturing companies;

(B) aerospace-related military organizations;

(C) workers employed in aerospace-related industries;

(D) commercial aviation companies;

(E) general aviation owners and pilots;

(F) aerospace researchers, instructors, and enthusiasts;

(G) elementary, secondary, and higher educational institutions;

(H) civil, patriotic, educational, sporting, arts, cultural, and historical organizations and technical societies;

(I) aerospace-related museums; and

(J) State and local governments;

(3) plan and develop, in coordination with the First Flight Centennial Commission, the First Flight Centennial Foundation of North Carolina, and the 2003 Committee of Ohio, programs and activities that are appropriate to commemorate the 100th anniversary of powered flight;

(4) maintain, publish, and distribute a calendar or register of national and international programs and projects concerning, and provide a central clearinghouse for, information and coordination regarding, dates, events, and places of historical and commemorative significance regarding aviation history in general and the centennial of powered flight in particular;

(5) provide national coordination for celebration dates to take place throughout the United States during the centennial year;

(6) assist in conducting educational, civic, and commemorative activities relating to the centennial of powered flight throughout the United States, especially activities that occur in the States of North Carolina and Ohio and that highlight the activities of the Wright brothers in such States; and

(7) encourage the publication of popular and scholarly works related to the history of aviation or the anniversary of the centennial of powered flight.

(b) NONDUPLICATION OF ACTIVITIES.—The Commission shall attempt to plan and conduct its activities in such a manner that activities conducted pursuant to this title enhance, but do not duplicate, traditional and established activities of Ohio's 2003 Committee, North Carolina's First Flight Centennial Commission, the First Flight Centennial Foundation, or any other organization of national stature or prominence.

SEC. 806. POWERS.

(a) ADVISORY COMMITTEES AND TASK FORCES.—

(1) IN GENERAL.—The Commission may appoint any advisory committee or task force from among the membership of the Advisory Board in section 812.

(2) FEDERAL COOPERATION.—To ensure the overall success of the Commission's efforts, the Commission may call upon various Federal departments and agencies to assist in and give support to the programs of the Commission. The head of the Federal department or agency, where appropriate, shall furnish the information or assistance requested by the Commission, unless prohibited by law.

(3) PROHIBITION OF PAY OTHER THAN TRAVEL EXPENSES.—Members of an advisory committee or task force authorized under paragraph (1) shall not receive pay, but may receive travel expenses pursuant to the policy adopted by the Commission under section 804(c)(2).

(b) POWERS OF MEMBERS AND AGENTS.—Any member or agent of the Commission may, if authorized by the Commission, take any action that the Commission is authorized to take under this title.

(c) AUTHORITY TO PROCURE AND TO MAKE LEGAL AGREEMENTS.—

(1) IN GENERAL.—Notwithstanding any other provision in this title, only the Commission may procure supplies, services, and property, and make or enter into leases and other legal agreements in order to carry out this title.

(2) RESTRICTION.—

(A) IN GENERAL.—A contract, lease, or other legal agreement made or entered into by the Commission may not extend beyond the date of the termination of the Commission.

(B) FEDERAL SUPPORT.—The Commission shall obtain property, equipment, and office space from the General Services Administration or the Smithsonian Institution, unless other office space, property, or equipment is less costly.

(3) SUPPLIES AND PROPERTY POSSESSED BY COMMISSION AT TERMINATION.—Any supplies and property, except historically significant items, that are acquired by the Commission under this title and remain in the possession of the Commission on the date of the termination of the Commission shall become the property of the General Services Administration upon the date of termination.

(d) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as any other Federal agency.

SEC. 807. STAFF AND SUPPORT SERVICES.

(a) EXECUTIVE DIRECTOR.—There shall be an Executive Director appointed by the Commission and chosen from among detailees from the agencies and organizations represented on the Commission. The Executive Director may be paid at a rate not to exceed the maximum rate of basic pay payable for the Senior Executive Service.

(b) STAFF.—The Commission may appoint and fix the pay of any additional personnel that it considers appropriate, except that an individual appointed under this subsection may not receive pay in excess of the maximum rate of basic pay payable for GS–14 of the General Schedule.

(c) INAPPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The Executive Director and staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates, except as provided under subsections (a) and (b) of this section.

(d) MERIT SYSTEM PRINCIPLES.—The appointment of the Executive Director or any personnel of the Commission under subsection (a) or (b) shall be made consistent with the merit system principles under section 2301 of title 5, United States Code.

(e) STAFF OF FEDERAL AGENCIES.—Upon request by the Chairperson of the Commission, the head of any Federal department or agency may detail, on either a nonreimbursable or reimbursable basis, any of the personnel of the department or agency to the Commission to assist the Commission to carry out its duties under this title.

(f) ADMINISTRATIVE SUPPORT SERVICES.—

(1) REIMBURSABLE SERVICES.—The Secretary of the Smithsonian Institution may provide to the Commission on a reimbursable basis any administrative support services that are necessary to enable the Commission to carry out this title.

(2) NONREIMBURSABLE SERVICES.—The Secretary may provide administrative support services to the Commission on a nonreimbursable basis when, in the opinion of the Secretary, the value of such services is insignificant or not practical to determine.

(g) COOPERATIVE AGREEMENTS.—The Commission may enter into cooperative agreements with other Federal agencies, State and local governments, and private interests and organizations that will contribute to public awareness of and interest in the centennial of powered flight and toward furthering the goals and purposes of this title.

(h) PROGRAM SUPPORT.—The Commission may receive program support from the nonprofit sector.

SEC. 808. CONTRIBUTIONS.

(a) DONATIONS.—The Commission may accept donations of personal services and historic materials relating to the implementation of its responsibilities under the provisions of this title.

(b) VOLUNTEER SERVICES.—Notwithstanding section 1342 of title 31, United States Code, the Commission may accept and use voluntary and uncompensated services as the Commission determines necessary.

(c) REMAINING FUNDS.—Any funds (including funds received from licensing royalties) remaining with the Commission on the date of the termination of the Commission may be used to ensure proper disposition, as specified in the final report required under section 810(b), of historically significant property which was donated to or acquired by the Commission. Any funds remaining after such disposition shall be transferred to the Secretary of the Treasury for deposit into the general fund of the Treasury of the United States.

SEC. 809. EXCLUSIVE RIGHT TO NAME, LOGOS, EMBLEMS, SEALS, AND MARKS.

(a) IN GENERAL.—The Commission may devise any logo, emblem, seal, or descriptive or designating mark that is required to carry out its duties or that it determines is appropriate for use in connection with the commemoration of the centennial of powered flight.

(b) LICENSING.—The Commission shall have the sole and exclusive right to use, or to allow or refuse the use of, the name ''Centennial of Flight Commission'' on any logo, emblem, seal, or descriptive or designating mark that the Commission lawfully adopts.

(c) EFFECT ON OTHER RIGHTS.—No provision of this section may be construed to conflict or interfere with established or vested rights.

(d) USE OF FUNDS.—Funds from licensing royalties received pursuant to this section shall be used by the Commission to carry out the duties of the Commission specified by this title.

(e) LICENSING RIGHTS.—All exclusive licensing rights, unless otherwise specified, shall revert to the Air and Space Museum of the Smithsonian Institution upon termination of the Commission.

SEC. 810. REPORTS.

(a) ANNUAL REPORT.—In each fiscal year in which the Commission is in existence, the Commission shall prepare and submit to Congress a report describing the activities of the Commission during the fiscal year. Each annual report shall also include—

(1) recommendations regarding appropriate activities to commemorate the centennial of powered flight, including—

(A) the production, publication, and distribution of books, pamphlets, films, and other educational materials;

(B) bibliographical and documentary projects and publications;

(C) conferences, convocations, lectures, seminars, and other similar programs;

(D) the development of exhibits for libraries, museums, and other appropriate institutions;

(E) ceremonies and celebrations commemorating specific events that relate to the history of aviation;

(F) programs focusing on the history of aviation and its benefits to the United States and humankind; and

(G) competitions, commissions, and awards regarding historical, scholarly, artistic, literary, musical, and other works, programs, and projects related to the centennial of powered flight;

(2) recommendations to appropriate agencies or advisory bodies regarding the issuance of commemorative coins, medals, and stamps by the United States relating to aviation or the centennial of powered flight;

(3) recommendations for any legislation or administrative action that the Commission determines to be appropriate regarding the commemoration of the centennial of powered flight;

(4) an accounting of funds received and expended by the Commission in the fiscal year that the report concerns, including a detailed description of the source and amount of any funds donated to the Commission in the fiscal year; and

(5) an accounting of any cooperative agreements and contract agreements entered into by the Commission.

(b) FINAL REPORT.—Not later than June 30, 2004, the Commission shall submit to the President and Congress a final report. The final report shall contain—

(1) a summary of the activities of the Commission;

(2) a final accounting of funds received and expended by the Commission;

(3) any findings and conclusions of the Commission; and

(4) specific recommendations concerning the final disposition of any historically significant items acquired by the Commission, including items donated to the Commission under section 808(a)(1).

SEC. 811. AUDIT OF FINANCIAL TRANSACTIONS.

(a) IN GENERAL.—

(1) AUDIT.—The Comptroller General of the United States shall audit on an annual basis the financial transactions of the Commission, including financial transactions involving donated funds, in accordance with generally accepted auditing standards.

(2) ACCESS.—In conducting an audit under this section, the Comptroller General—

(A) shall have access to all books, accounts, financial records, reports, files, and other papers, items, or property in use by the Commission, as necessary to facilitate the audit; and

(B) shall be afforded full facilities for verifying the financial transactions of the Commission, including access to any financial records or securities held for the Commission by depositories, fiscal agents, or custodians.

(b) FINAL REPORT.—Not later than September 30, 2004, the Comptroller General of the United States shall submit to the President and to Congress a report detailing the results of any audit of the financial transactions of the Commission conducted by the Comptroller General.

SEC. 812. ADVISORY BOARD.

(a) ESTABLISHMENT.—There is established a First Flight Centennial Federal Advisory Board.

(b) NUMBER AND APPOINTMENT.—

(1) IN GENERAL.—The Board shall be composed of 19 members as follows:

(A) The Secretary of the Interior, or the designee of the Secretary.

(B) The Librarian of Congress, or the designee of the Librarian.

(C) The Secretary of the Air Force, or the designee of the Secretary.

(D) The Secretary of the Navy, or the designee of the Secretary.

(E) The Secretary of Transportation, or the designee of the Secretary.

(F) Six citizens of the United States, appointed by the President, who—

(i) are not officers or employees of any government (except membership on the Board shall not be construed to apply to the limitation under this clause); and

(ii) shall be selected based on their experience in the fields of aerospace history, science, or education, or their ability to represent the entities enumerated under section 805(a)(2).

(G) Four citizens of the United States, appointed by the majority leader of the Senate in consultation with the minority leader of the Senate.

(H) Four citizens of the United States, appointed by the Speaker of the House of Representatives in consultation with the minority leader of the House of Representatives. Of the individuals appointed under this subparagraph—

(i) one shall be selected from among individuals recommended by the representative whose district encompasses the Wright Brothers National Memorial; and

(ii) one shall be selected from among individuals recommended by the representatives whose districts encompass any part of the Dayton Aviation Heritage National Historical Park.

(c) VACANCIES.—Any vacancy in the Advisory Board shall be filled in the same manner in which the original designation was made.

(d) MEETINGS.—Seven members of the Advisory Board shall constitute a quorum for a meeting. All meetings shall be open to the public.

(e) CHAIRPERSON.—The President shall designate 1 member appointed under subsection (b)(1)(F) as chairperson of the Advisory Board.

(f) MAILS.—The Advisory Board may use the United States mails in the same manner and under the same conditions as a Federal agency.

(g) DUTIES.—The Advisory Board shall advise the Commission on matters related to this title.

(h) PROHIBITION OF COMPENSATION OTHER THAN TRAVEL EXPENSES.—Members of the Advisory Board shall not receive pay, but may receive travel expenses pursuant to the policy adopted by the Commission under section 804(e).

(i) TERMINATION.—The Advisory Board shall terminate upon the termination of the Commission.

SEC. 813. DEFINITIONS.

In this title:

(1) ADVISORY BOARD.—The term ''Advisory Board'' means the Centennial of Flight Federal Advisory Board.

(2) CENTENNIAL OF POWERED FLIGHT.—The term ''centennial of powered flight'' means the anniversary year, from December 2002 to December 2003, commemorating the 100-year history of aviation beginning with the First Flight and highlighting the achievements of the Wright brothers in developing the technologies which have led to the development of aviation as it is known today.

(3) COMMISSION.—The term ''Commission'' means the Centennial of Flight Commission.

(4) DESIGNEE.—The term ''designee'' means a person from the respective entity of each entity represented on the Commission or Advisory Board.

(5) FIRST FLIGHT.—The term ''First Flight'' means the first four successful manned, free, controlled, and sustained flights by a power-driven, heavier-than-air machine, which were accomplished by Orville and Wilbur Wright of Dayton, Ohio on December 17, 1903, at Kitty Hawk, North Carolina.

SEC. 814. TERMINATION.

The Commission shall terminate not later than 60 days after the submission of the final report required by section 810(b) and shall transfer all documents and material to the National Archives or other appropriate Federal entity.

SEC. 815. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this title—

(1) $250,000 for fiscal year 1999;

(2) $600,000 for fiscal year 2000;

(3) $750,000 for fiscal year 2001;

(4) $900,000 for fiscal year 2002;

(5) $900,000 for fiscal year 2003; and

(6) $600,000 for fiscal year 2004.

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

SEC. 901. EXTENSION OF EXPENDITURE AUTHORITY.

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

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

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

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

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

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

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

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

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

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senate insists on its amendment, requests a conference with the House, and the Chair appoints the following conferees on the part of the Senate.

The PRESIDING OFFICER (Mr. HAGEL) appointed Mr. MCCAIN, Mr. STEVENS, Mr. GORTON, Mr. HOLLINGS, and Mr. FORD conferees on the part of the Senate.

Mr. MCCAIN. Mr. President, Senator ASHCROFT is necessarily absent. For the record, if he had been here today, he would have voted in favor of the Wendell Ford National Air Transportation System Improvement Act.

Mr. STEVENS. Mr. President, this is the Wendell Ford National Air Transportation System Improvement Act, as Chairman MCCAIN just pointed out.

I see my good friend from Kentucky is here. I think that this is an act that should be named after the Senator from Kentucky because of his long service on the Commerce Committee and particularly on the Aviation Subcommittee.

Our Nation has come through a very interesting period during the time that WENDELL FORD has been Senator from Kentucky—a total revolution in aviation and a concentration on safety and improvement of our airway system.

WENDELL FORD has been a leader in that effort. This bill signifies the totality of what he has done for the aviation community.

I come to the floor today, because, as I believe most Members of the Senate know, Alaska is completely dependent upon air transportation.

Over 70 percent of our communities can only be reached by air year-round. We believe in the safety of that system.

I have been pleased to have the honor to be able to work with the Senator from Kentucky on a whole series of matters dealing with operations, with safety, and with the maintenance of the airways system, and in particularly with the development of air transportation facilities on the ground.

As you go throughout this country and go to these major new terminals, you should think of WENDELL FORD, because he has led us, through the period when he was chairman of the Aviation Subcommittee, and during the period when he has been ranking member of that subcommittee, to an understanding of what is necessary to keep the lead that we have as a nation in aviation.

I come to the floor to thank my good friend for all he as done for us and for the Nation, but particularly to thank him on behalf of all of us in Alaska who rely so much on this system that he has improved and made more safe.

Thank you, Mr. President.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, it is difficult for me to respond because it is somewhat melancholy, as this is my last effort at developing an aviation package, to have such kind remarks come from my learned friend who also has worked tirelessly in an attempt to make the aviation industry safer, more accessible, helping it expand, and giving it the opportunity to grow.

He comes from a unique State. He sits down with you and explains the problem. It isn't ''I am TED STEVENS, vote with me.'' He sits down and explains the problem and what is needed to improve the problems of his fine State. It is very difficult for anyone to not help once they understand what Alaska has.

We have a great mix in this country. You go all the way from the cold in the north in the 49th State to the south where it is hot, and to Hawaii, the 50th State. We have a great mix. The people who represent those States are great.

My friend from Alaska is really and truly my friend. One of the things I will miss around here is my association with him. He has helped me on more than one occasion to do some things maybe that he would rather not do. But I found, as my dad taught me, that you pay your debts whether you sign the paper or shake a man's hand. TED STEVENS' word is his bond. And I respect him for that. I respect what he does as a Member of this institution.

I will feel comfortable when I leave here that Senator STEVENS is head of appropriations. He is still on the Commerce Committee. And when the new aviation bill comes forth, he will be sure that those things that we fought for so long will be improved.

I thank my friend very, very much.

Mr. STEVENS. I thank the Senator, Mr. President.

Mr. FORD. Mr. President, I thank my colleagues for all their hard work in putting this bill together. It was a tough task. But we have been able to work out just about every issue that was of concern to Members on both sides of the aisle.

The FAA in the future years must be able to have the funding that it needs to modernize. The new Administrator has a very difficult job. She has been working with the industry and with Congress to move forward on many tough issues.

Some have described the modernization of the air traffic control system like this: It is sort of like needing to rebuild your entire house, but you have to live there at the same time.

Modernization is a critical issue. We included in this bill a section on tourism, and because of its importance to each of us and without an aviation system that can grow, tourism will also be affected. In leaving, let me mention a few areas of concern.

In the next year the FAA and the aviation community, airports, airlines, manufacturers, and our international partners, all must address the year 2000 computer problem. The FAA must also move forward on the STARS and WASS programs. Think about that. We need to yank out all of the controller workstations across the country and put in new computers. All of us have had new systems put in our offices, and we know it is a mess. The FAA has to do it while planes are still flying and people's lives are at stake. We may fault the FAA at times for not moving as quickly as we want, but keep in mind how tough the task is.

With respect to the Wide Area Augmentation System, the industry is beginning to equip its fleet to be able to take advantage of a satellite-based tracking system. The FAA, Congress and the industry have got to move forward with this new program. We have committed hundreds of millions of dollars to this effort, and we cannot turn back now.

The Administrator knows all this, but this body has to give her the resources to do the job. Next year, you will debate and argue over how to fund the FAA. It is a critical matter. We know that traffic will increase by 35 percent over the next several years. We know that our airports need to be expanded. Gridlock cannot occur because the FAA does not have the ability to meet the industry's needs.

I also want to mention the small communities program in this bill. There are many segments of the country that have not received all the benefits of deregulation. We are going to try to help those areas, but not by merely giving them money. The communities will need to work hard to develop their markets and work with carriers to provide the needed service.

I thank the chairman, Senator MCCAIN. I know that he will continue to fight for FAA's needs next year. I also hope that we can quickly conclude the conference on this bill. There are a few tough issues that will need to be decided by the Members, and I hope that we can come to closure soon.

Mr. President, in this life in the Senate, you come across some very, very fine people, and those are the ones who make this place run and are not recognized. We get all the publicity, good or bad. We have to face the voters, good

or bad. But the staff who support us, the staff who support the committee, the staff who support us on the floor, they are the ones who need to have the accolades. They work hard—all night, they work 24 hours, around the clock—and we never seem to thank them as we should. I know my life in the Senate would have been made a lot tougher, and I probably would not have succeeded had it not been for staff.

You find a lot of excellent staff, on both sides now. Don't think I am just talking about one side of the aisle. Ann—I hope I pronounce her last name right—Choiniere. Getting close? This is the first time I have worked with her, and I found out how tough she can be but how thorough and fair she is representing the chairman; she has done an excellent job. Mike Reynolds and others on Senator MCCAIN's side have all done well. Senator GORTON's staff. He was fairly bright and smart when he brought Brett Hale from Kentucky on his staff. He is one of the people around here who definitely understands Kentucky Wildcat basketball, and we can talk together about that on occasion. And Jeanne Bumpus on Senator GORTON's staff; Jim Drewry and Carl Bentzel, Dave Regan and others on my side.

But there is one you have to depend on, one who is the leader, one who comes and sits down and we work through the problems and then get the challenge to go and get it settled and come back and see where we are and keep you informed and keep you moving. Sam Whitehorn is that kind of fellow, and I am going to miss him. He and I have become good friends. I don't look at him as a staff person. I look at him as a member of the family, because he is. He is dedicated, and wants to get the job done. And sometimes he has to do maybe what he didn't exactly like to do, but I made the decision. Sam has been a good soldier through the whole thing, and I am grateful to him.

Mr. President, as we end this part of the aviation bill, I again thank my colleagues, and I look forward to being down in Kentucky to see some of this work I have done, to watch it grow there, because we need as much help as any other State. I am grateful for the opportunity I have had, and I thank the chairman again. Some people think he is tough and rough and that sort of thing, but he really has a soft spot. Now, if you can find that soft spot, you can get along with him. Sometimes it is difficult to find it. But you see him laughing. That is the kind of association we have had. I look forward to working with him to complete this bill, working in conference, so that when we leave here sometime mid-October we can leave knowing we have done the best we could, that we have tried to be responsible to the people we represent in this great country of ours.

Mr. President, I yield the floor.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I join Senator FORD in thanking the staff for their contributions: John Raidt, Ann Choiniere, Michael Reynolds, Lloyd Ator, Scott Verstandig, Brad Sabala, and Bill Winter on the Commerce Committee staff; Ivan Schlager, Sam Whitehorn, Jim Drewry, and Becky Kojm with Senator HOLLINGS' staff; Brett Hale and Jeanne Bumpus with Senator GORTON; and David Regan with Senator FORD. Charles Chambers and Tom Zoeller, who are no longer Senate staffers, made efforts in making this legislation happen. Also, Mr. President, because of the scope associated with this bill, we have negotiated with literally every Senator and their staff members on various provisions of this bill, and I thank all of them, also.

But obviously, Mr. President, I wish to express again my deep and profound appreciation to the Senator from Kentucky for his efforts on this legislation and many, many other aviation bills that have moved through the Senate during my time here. I think it is a very small token that the bill before us is named for him. He deserves that recognition and much, much more.

Mr. President, Senator FORD has been a Member of the U.S. Senate for 24 years. That is a long time, even in the history of the U.S. Senate. I have had the privilege of working with him for 12. When I first came to the Commerce Committee 12 years ago, I spent a lot of time with Senator FORD then and in the intervening years, especially on aviation issues, because he is regarded, perhaps, as the most knowledgeable Member of the U.S. Senate on those issues.

Senator FORD is also known—as I think, perhaps, I may be to some extent—as a person who fights fiercely for the principles that he believes in, for what he believes is right as God gave him the right to see it. And he also is a strong advocate for his party. I noted, while looking at his biography this morning—I was scanning it—not only is he a former Governor, but for 6 years he was the chairman of the Democratic Senatorial Campaign Committee. I know that there are many times when he and his colleagues yearn for those golden days of yesteryear.

Mr. FORD. No, we lost then.

Mr. MCCAIN. Did you? But Senator FORD has obviously served his party with distinction as well. Around this place you have the opportunity of working with your colleagues on a variety of issues, but I do not believe that I have observed anyone as effective, as single-minded, and as dedicated as the Senator from Kentucky. Yes, we have had fierce differences of opinion which have always been resolved at the end of the day with a smile and a handshake. I have learned from those encounters. I believe one of the great learning experiences of my life was in 1990 when Senator FORD was responsible for a massive restructuring of the aviation system in America. The impact of that will be felt well into the next century. I watched him guide that legislation through all the rocks and shoals of the process around here, and it emerged as a landmark piece of legislation.

I am proud to have learned from him. I am proud to have worked with him and to be associated with him on a broad variety of various areas. Most of all, I will be pleased many years from now to be able to call him my friend. So I thank him. I look forward to observing that same fierce determination as we do battle with the folks on the other side, to try to maintain this legislation intact as it has been reported out through the Senate.

As has often been observed, the Senator from Kentucky is not dying, he is just leaving the Senate.

Mr. FORD. Thanks.

Mr. MCCAIN. We will, for many, many years in the future, work with the Senator from Kentucky and maintain our close relationships with him. I know I speak for every Member on my side of the aisle when I say that.

Mr. President, I yield the floor.

Mr. FORD. Thank you, JOHN. I appreciate it very much.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, let me add my words of admiration for the work done by Senator FORD. He has been an important part of the Senate for many years and has done some very important things for his country and the Senate will miss very much the service that he has offered. He is in the leadership, has been for many years on the Democratic side of the aisle. But he is fiercely independent. He is smart. He is tough, and he has all the qualities that you look for in a good legislator. He will, in my judgment, for many, many years be remembered as one of the really outstanding legislators in this body, and I feel very fortunate to have been able to serve with him. I just wanted to add those words to the words offered by the Senator from Arizona.

Mr. LOTT. Mr. President, I rise to recognize the importance of today's passage of the Federal Aviation Administration Reauthorization bill. Today is a great day for rural America's air passengers. This legislation, now known as the Wendell H. Ford National Air Transportation System Improvement Act of 1998, will bring much needed air service to underserved communities throughout the Nation. It will grant billions of dollars in Federal funds to our Nation's small airports for upgrades, through the Airport Improvements Program (AIP).

Additionally, Senator MCCAIN, chairman of the Committee on Commerce, Science, and Transportation, is to be commended for his superb leadership on this complex and contentious measure. Together with Senator FORD, their joint efforts moved this bill through the committee and to the Senate floor in such a manner that the amendment process went smoothly.

It is only fitting that this must-pass legislation be named after such a worthy Senator. WENDELL FORD has spent

nearly 24 years as a Member of this body. For the last 10 years, I have enjoyed working with Senator FORD on a variety of issues within the jurisdiction of the Senate Commerce Committee. Through his leadership on this legislation, Senator FORD has proven himself as a champion of rural aviation issues. The Senate will certainly miss his guidance and insight. Likewise, the Senate will miss his wry, biting humor.

Rural Americans are the biggest winners with the passage of the Ford Act. Citizens of underserved communities will no longer have to travel hundreds of miles and several hours to board a plane. This legislation gives incentives to domestic air carriers and its affiliates to reach out to these people and serve them conveniently near their homes. Many Americans will be able to travel a reasonable distance to gain access to our Nation's skies and, from there, anywhere they wish to go.

Mr. President, I also applaud the hard work of Senator BILL FRIST of Tennessee. He added provisions to the Ford Act to expand small community air service. His dedicated efforts ensured that underserved cities like Knoxville, Chattanooga, and Bristol/Johnson City are now in a position to receive additional or expanded air service.

The major policy changes in the Ford Act led to hard fought but honest disagreements. I have enormous respect for the efforts of Senators JOHN WARNER, JIM INHOFE, and KAY BAILEY HUTCHISON as they diligently advocated for their constituents and their respective States. This honest debate is what makes it exciting to serve in the United States Senate. I was very pleased by the efforts of Senators SLADE GORTON and ARLEN SPECTER to address a very sensitive issue, while resolving it in a true Senate fashion—a consensus which will prove to be beneficial to both sides of the debate.

Throughout the last 12 months, my home State of Mississippi has received Federal support from the AIP to make needed physical improvements. A portion of these funds went to the Bobby L. Chain Municipal Airport in Hattiesburg to rehabilitate their existing runway pavement and lights. Other funds were allocated to the Jackson International Airport to construct a new taxiway and apron. These enhancements are needed. And this bill will ensure that the AIP will continue uninterrupted. AIP's reauthorization within the Ford Act will allow Mississippi to continue to receive funds for essential enhancements for the upcoming year. I look forward to working with the airport authorities in my home State to make sure that the right improvements are made at the right airports. This is about safety and about economic growth.

No legislative initiation is ever possible without the dedicated efforts of staff, and I want to take a moment to identify those who worked hard to prepare the Ford Act for consideration by the full Senate.

From the Senate Committee on Commerce, Science, and Transportation: Mark Buse; Ann Choiniere; Jim Drewry; Becky Kojm; John Raidt; Mike Reynolds; Ivan Schlager; Scott Verstandig; and Sam Whitehorn.

The following staff also participated on behalf of their Senators: David Broome; Steve Browning; Jeanne Bumpus; Nat Grubbs; Brett Hale; Katrina Hardin; Dan Renberg; Pam Sellars; Ellen Stein; Ben Thompson; and Clay Williams.

Mr. President, these individuals worked very hard on the Wendell H. Ford National Air Transportation System Improvement Act of 1998 and the Senate owes them a debt of gratitude for their dedicated service to this legislation.

Mr. President, our Nation's small communities are a step closer to receiving long-sought air service. Also, America's smaller, yet important air strips and airports will be enhanced. This is good for all Americans.

MORNING BUSINESS

Mr. MCCAIN. Mr. President, for the information of Members, we are still working on a unanimous consent agreement on the Internet Tax Freedom Act between now and 10:30.

I now ask unanimous consent that there be a period for the transaction of routine morning business until 10:30, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER (Mr. HAGEL). Without objection, it is so ordered.

UNANIMOUS CONSENT REQUEST—S. 442

Mr. MCCAIN. Mr. President, I ask unanimous consent it be in order for the majority leader, after notification of the Democratic leader, to turn to S. 442, the Internet tax bill and immediately after the reporting by the clerk, the Commerce Committee amendment be agreed to, and immediately following that action, the Finance Committee substitute be agreed to and considered original text for the purpose of further amendments.

I also ask unanimous consent that, during the Senate's consideration of S. 442 or the House companion bill, that only relevant amendments be in order.

Finally, I ask that the Senate proceed to the bill at this time.

The PRESIDING OFFICER (Mr. GORTON). Is there objection?

Mr. GRAHAM. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard. The Senator from Arizona.

Mr. MCCAIN. I heard the objection from the Senator from Florida. I deeply regret that.

The Senator from Florida, as I understand it, is insisting on a specific result in this legislation. We never do that. The Senator from Florida knows that. We don't insist on a specific result.

We would be more than happy to listen to the amendment of the Senator from Florida. We would be glad to debate it. Perhaps I could even support it. But, frankly, what the Senator from Florida is doing right here—the other 99 Senators are in agreement—by objecting to us moving forward to the bill that is vital to the future of the economy of this Nation, I think the Senator from Florida takes on a very large responsibility.

I want to tell the Senator from Florida I am going to file cloture right now and we are going to have a vote. And I also want to tell the Senator from Florida that because of that, we will delay, again, consideration of this very important bill. We will move forward. I do not understand why the Senator from Florida, after having a commitment of mine, that of the Senator from Oregon and everybody else, to give the kind of consideration that he deserves, and ample debate, unlimited debate on his amendment and a willingness to work with him—because the Senator from Florida knows that there is a Senator on this side who cannot agree to the language of the amendment that he is insisting on. That is what debate is all about.

We just finished a bill, an omnibus aviation bill, where everybody sat down together. The Senator from Oregon was very unhappy with one of the results, as were a number of other Senators, including this one. But we worked the process.

So I again urge the Senator from Florida to withdraw his objection, especially when faced with the inevitability that this cloture motion is going to be agreed to, probably 99 to 1.

Mr. President, I ask, again, unanimous consent that the Senate proceed to the bill at this time.

Several Senators addressed the Chair.

The PRESIDING OFFICER. Is there objection?

Mr. GRAHAM. I object.

INTERNET TAX FREEDOM ACT—MOTION TO PROCEED

CLOTURE MOTION

Mr. MCCAIN. Mr. President, I still have the floor.

In light of the objection, I now move to proceed to the consideration of S. 442 and I send a cloture motion to the desk. I announce this cloture vote would occur on Tuesday of next week.

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 the motion to proceed to Calendar No. 509, S. 442, the Internet legislation:

Trent Lott, John McCain, Dan Coats, Chuck Hagel, Larry Craig, Christopher

Bond, Wayne Allard, Paul Coverdell, Tim Hutchinson, Jim Inhofe, Mike DeWine, Dirk Kempthorne, Strom Thurmond, Jeff Sessions, Conrad Burns, and Robert F. Bennett.

Mr. MCCAIN. I now ask the mandatory quorum under rule XXII be waived.

The PRESIDING OFFICER. Is there objection to the motion to waive the mandatory quorum? Without objection, it is so ordered.

The Senator from Arizona.

Mr. MCCAIN. Mr. President, let me just point out the President of the United States is in Silicon Valley today and the people in Silicon Valley were under the impression that we were going to move forward with this bill and resolve it next week. I hope that is duly noted.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, I am very hopeful that the Senate will not have to get into this cloture matter with respect to the Internet tax bill. The Senator from Florida is one of the Senators that I most respect in this body. I find myself agreeing with him on just about everything that comes before the Senate. As he knows, we have, over many, many months, tried to address the host of legitimate concerns that the States have. We have a number of Governors—the Senator from Florida having served as Governor, as have others here—who know a tremendous amount about this. I have tried to make clear, as the principal sponsor of this legislation, all we are seeking is technological neutrality with respect to the Internet. The Internet would be treated like everything else—nothing favorable, nothing discriminatory.

Because many of the Nation's Governors are concerned about other issues, particularly the question of out-of-State sales, this legislation, S. 442, has become a magnet for a variety of other issues.

The sponsors, Senator MCCAIN and I, especially have, in my view, done somersaults now to make sure there was a fair evaluation of all the important issues with respect to out-of-State sales. Let me say, in doing that, there have been a number of other Senators—Senator GREGG and Senator LIEBERMAN—who I think have been very fair in an effort to try to get to a compromise on this matter. As the Senator from Florida knows, just a few minutes ago Senator MCCAIN and I were willing to make additional changes in the managers' amendment to ensure that there would be a fair study of both the Internet and commercial activities, which is the precise language that the Governors have sought.

I don't think there is anything else that Senator MCCAIN, I, or others can offer at this point to ensure that a fair and objective set of studies and analyses go on by the commission.

I hope that if there continues to be opposition to this legislation, that those who oppose the legislation simply say that they are opposed and not, in effect, produce a situation which I think is going to turn what ought to be a bipartisan and thoughtful fight into what will be a very bloody battle.

I see my friend from North Dakota here. The Senator from North Dakota has had strong views on this, and over many, many months we have been negotiating on it. He did not come to the floor today to object as a result of that work, nor did Senator BUMPERS.

I am hopeful that particularly Senators on the Democratic side are not going to force what I think will be a very unfortunate and bloody fight with respect to a bill that has undergone more than 30 separate and important changes since it was originally introduced to accommodate the concerns of the States and localities. Those folks were very, very opposed when this discussion started. They raised legitimate issues. We have sought to deal with them. I am hopeful we will be able to go to a motion to proceed early next week and not have a bitter fight as I think we have over cloture.

Let me conclude by way of saying that I and my staff are prepared to continue to work around the clock with the Senator from Florida and others who may have questions about how this legislation will affect the States, but let us go forward in an effort to try to resolve this and not just get to a solution with respect to one section and then say, ''Well, I have another one that we have to deal with,'' which, regrettably, has been the case. I have enormous respect for the Senator from Florida and I think one of the more unpleasant tasks is to have an argument with him. I hope this can be resolved.

Mr. President, I yield the floor.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, I appreciate those kinds words from my good friend from Oregon. I share the hope that we can arrive at a reasoned resolution of this matter.

I will briefly state why I think this is such an important piece of legislation. First is fundamental fairness. We have a situation now in which remote commerce—that is, commerce that is not conducted through the traditional retail sales outlet—is effectively exempted from State sales taxes. The same sweater that one would buy at the local department store, subject to local and State sales taxes, is exempt from those taxes, for practical purposes, if it is purchased by a remote sale, either the traditional postal sales or by the newer electronic commerce.

The U.S. Supreme Court has ruled that that degree of unfairness as to taxability of the form of sales is a decision which has been made by the Congress. It is, as Harvey Cox once observed, not to decide is to decide. Our decision not to authorize the States to impose a tax on the seller using a remote sales method has resulted in the inability of the States to impose that tax.

Therefore, as we are looking at the issue of Internet sales, those of us who are concerned about this unfairness in the marketplace where our local merchants are required to collect the sales tax and, therefore, are subject to the competitive disadvantage of their remote sales brethren who are not—that this commission should study that issue. That is one of the concerns that those of us who have been negotiating on this matter want to see achieved.

But there is really a larger issue at stake here, Mr. President. Many of our States, including my own, are very heavily dependent upon the sales tax as the means for financing their basic responsibilities, and the most basic responsibility of State government is education. In my State, some 35 to 40 percent of its tax collections, which are predominantly sales tax, are used to finance education.

What is happening is that as the new forms of commerce, particularly electronic commerce, become more attractive and more available and more familiar, they are gathering a larger and larger share of all retail sales in the United States. If we adopt the policy that they should not be subject to tax, as we have adopted the policy by inaction that postal long distance sales should not be subject to tax, we are going to substantially erode the ability of State government to carry out its most fundamental responsibility, which is to educate the next generation of Americans.

That is the fundamental issue which I think is at stake here. The idea of having a short pause so that we can arrive at a rational way to deal with all of these issues is appealing. I think the idea of this bill, as reported by the Finance Committee, to have a 2-year pause in any discriminatory taxation relative to Internet sales or charges to have access to the Internet, and during that period to have a commission that would look at all of this interrelated set of issues, is a proposition that I can support.

I just want to be personally satisfied that, in fact, that is going to be the result and that the result will not be a skewed study that will exclude some of the most important aspects of this and which, by saying that we are going to treat Internet commerce the same way as we do other remote commerce, answers the question before it is asked, because we know how other forms of remote commerce are dealt with; i.e., they are exempt from State sales taxes. If we say the Internet shall be treated in an equivalent manner, we have preordained how it is going to be treated; i.e., exempt from State sales taxes, and we have further preordained that the States' fiscal capacity to carry out their important functions, particularly education, will be eroded.

Mr. President, that is why I have had this degree of disagreement with some

of my best friends and colleagues in this Chamber, the Senator from Oregon and the Senator from Arizona. I don't believe that we are that far apart in terms of finding the set of words and phrases that will carry out our joint intention, and I hope that between now and Tuesday we can achieve that goal and be able to have a consideration. I recognize that once this bill is up, there will be policy differences among the different parties. The National Governors' Association feels very strongly about this legislation as it impacts the ability of the States to meet their responsibilities, and those views deserve to get a proper airing.

I also recognize that the House has already passed a companion bill to this but which is somewhat different from the bill that is before the Senate. So there will be a conference committee. There will be further reforms on this matter.

My concerns are fairness in the marketplace and the ability of the States to be able to carry out their responsibilities, especially the responsibility which I think the American people feel is the principal national challenge today, which is to properly educate the next generation of Americans so that they will be able to compete in a world of electronic commerce.

Mr. President, I appreciate the opportunity to have made those clarifying remarks and yield the floor.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

THREE ITEMS OF CONCERN ON THE SENATE'S AGENDA

Mr. DORGAN. Mr. President, I want to make some comments on three items that are left on the Senate's agenda that I am very concerned about. The Senate is going to continue, for apparently 2 additional weeks, and try to adjourn for the year and finish the 105th Congress on October 9th or October 10th. In the 2 short weeks that remain, I am told that we will consider H.R. 10, the financial modernization bill, fast-track trade authority for new trade treaties, and a substantial tax cut.

I want to describe how easy it is, with a small amount of time left, to make big mistakes. I am mindful there will be much disagreement about these three items. And I am also mindful back in my hometown one of the older fellas who was the wise sage said, ''It's hard to tell the difference between the open minded and the empty headed. They dress alike.''

Let me describe these three issues and tell you what I think is empty headed about the attempt to try to pass these three pieces of legislation in the final 2 weeks of a legislative session.

FINANCIAL MODERNIZATION

First, H.R. 10, the Financial Services Act of 1998. H.R. 10 is a huge piece of legislation that deals with the financial institutions of this country and the methods by which they are involved in various kinds of activities.

We have had some experience in this country with the mixing of different kinds of enterprises—banks whose deposits are insured to $100,000, by the American taxpayer I might say; banks, those who are speculating in real estate, those who are involved in securities activities, those who are selling insurance; those kinds of financial activities.

We have had some experience in this country putting a number of those together in one institution and then seeing, through speculation, one part of the institution weakening and eroding the other part of the institution that caused massive bank failures in our country. The result was in the 1930s and this country said let's not forget what happened here. Let's not allow this to happen again, and let's create certain circumstances that would prevent us from merging banking enterprises whose very existence depends on the perception of safety and soundness—not unsafety and soundness, but on whether people perceive the institution to be safe and sound. Their very existence depends on that.

Let's not threaten again the banking institutions by fusing together financial conglomerates that merge banks with the more speculative enterprises of securities and insurance, or even commerce.

The American public has in this century paid a heavy price for the mistakes in those areas and put together walls in the form of legislation to prevent it from happening again. H.R. 10 is an attempt to bring the walls down. It says, ''Let's create a kind of financial fruit salad here. Let's decide we can merge all of these again. We can put all of these together and we can build firewalls, and you'll never feel the heat in between and it will never threaten bank institutions and the American taxpayer will not be put at risk.''

I guarantee you this, that if this Congress passes in the final hours, H.R.10, financial modernization legislation, it will result almost immediately in exacerbating the orgy of mergers that now exists in this country with big banks, and an orgy of mergers that will not only include banks, but will continue to include, at a greater pace, banks with the other kinds of financial enterprises I just described.

And 20 years or 30 years from now they will look back at this Congress and this period and say, ''How on Earth could they have thought that that made sense? How could they have possibly thought that was in the public interest? How could they have forgotten the lessons that they learned in the 1920s and 1930s that resulted in the legislation that had protected us?''

I know that there are some big interests around this town who want this bill to pass. There is a great deal of lobbying on its behalf. But I feel so strongly that to do this in the final 2 weeks of a legislative session would have such enormous consequences and pose such substantial risks for our country that I am going to resist with all of my effort the motion to proceed and in every other way to see if we cannot slow this train down on behalf of the American citizens.

I know it sounds attractive. I know some say, ''This is creating a new financial blueprint for our institutions for the future, allowing them to compete at home and abroad. It's now a global economy.'' What it is is forgetting the lessons of the past. It will be a replay, in some ways, of the Garn-St Germain bill of the early 1980s in which they unhitched the S&Ls and said, It is OK. You go broker deposits. You load up with risky junk bonds. You can become Roman candles. Take a small S&L and turn it into a giant S&L with broker deposits, and you can do a whole range of other things, and it is fine—and the American taxpayer got stuck with a nearly $500 billion bailout for that fiasco.

If this bill passes, there will be massive, massive mergers once again. And they have already been going on at an unprecedented and unhealthy pace in the banking industry and other related financial industries. So that is one big mistake I hope this Congress will avoid in the remaining days of this session. And to the extent I have the energy to be able to help them avoid it, I intend to try to do that.

FAST TRACK

Second is fast track. I know that also has a lot of support, fast-track trade authority. Just the very words ''fast track'' connote lack of preparation. Fast track, fast food—you just go down the line on what ''fast'' precedes, and it describes well ''fast track.''

Fast track means you create a trade agreement negotiated in secret, behind locked doors someplace, probably in most cases overseas, and bring it to Congress and say to Congress, ''You weren't there when we negotiated this trade agreement, but you have no right to offer amendments to it.''

The last three trade agreements under fast track have been incompetent. I voted against all three. In each case we have, as a result of it, had higher and higher trade deficits—Canada, Mexico, GATT—record trade deficits. This country is choking on trade deficits. I think to bring fast track to the floor of the House and the Senate in the final 2 weeks is regrettable.

I will, again, to the extent I have any capability of slowing this down, there will be nothing fast about it. If I can create a legislative bog through which they cannot pull this fast track, I guarantee you I will object to every circumstance that allows anybody to short-circuit any amount of time to try to get fast track through this Congress. It is not in this country's interest to continue that kind of trade policy.

A TAX CUT AND THE SOCIAL SECURITY TRUST FUNDS

The third item is an $80 billion tax cut paid for with Social Security trust funds. Some say, ''Well, that's not the way it's paid for.'' Show me the money. Where do you get the money? You get the money for a big tax cut by taking Social Security trust funds that are in a fund that is preceded by the word ''trust.'' Taking those trust funds and saying these now represent the resources by which we can offer a tax cut is not the way to do this country's business.

When we have that debate—and I expect we will next week or the week after—it will be an aggressive debate because some of us are fiercely determined never to let that happen. I recall when we had the constitutional amendment to balance the budget on the floor of the Senate, I voted against it. In fact, it lost by one vote. Had some folks pretty upset with that vote. I said, ''It's not that I don't want to balance the budget, I do.'' I helped play a role in balancing or nearly balancing this country's budget, not by writing something in the Constitution, but by doing the kinds of things you need to do on a day-to-day basis, to do things on taxing and spending that really does balance the budget. But to write into the Constitution a proviso that says, ''Let's balance the budget by describing all revenue coming in as operating revenue'' is to mistreat the Social Security trust funds once again. And to actually write it in the Constitution of the United States, that does not make any sense to me.

It does not make any sense to me in the final 2 weeks of a legislative session coming up to an election for anybody to say we are going to package up $80 billion in tax cuts so we can say to the American people we are offering tax cuts, when in fact the money by which they offer these tax cuts is to take the money out of the Social Security trust funds and make them available for tax cuts.

Those moneys are not available. Those moneys were collected from paychecks in this country. The paychecks are a result of the work of the American people, and they are told ''We're going to take some money from that paycheck to put into a trust fund because it is needed when you retire to make Social Security viable.''

Then somebody comes along and says we are changing the words ''trust fund''; we will just drop ''trust.'' Maybe we should amend that to the extent they want to bring $80 billion in tax cuts to the floor, paid for by Social Security trust funds. Perhaps we ought to require them to take the ''trust'' out of the trust fund name. That will, in my judgment, certainly abridge the trust that is supposed to exist with those trust funds.

Those are three big mistakes in a very short time. The potential, in a small amount of time, to make big mistakes is very substantial: H.R. 10, fast track, and tax cuts.

I have a lot of things I want to get done, others have a lot of things they want to do, and in most cases we work closely together and have good relationships, but on large public policy issues like this it seems to me we ought to be very careful. I feel very strongly about all three of these areas. All three, in my judgment, would be a mistake.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

PATIENTS' BILL OF RIGHTS

Mr. KENNEDY. Mr. President, here we are, Friday at 11 o'clock. Most Americans are out working the fifth day of the week, and the Senate is in a quorum call while we have important business to attend to. None is more important, I think, than the consideration of the Patients' Bill of Rights. I took time yesterday on the floor of the Senate when we had a long quorum call, asking why we weren't debating the Patients' Bill of Rights, as I did the day before. And here we are midmorning on a Friday—a workday for most Americans—just going through the motions before recessing, with a cloture vote scheduled late Monday afternoon.

We could debate this issue all day today, could debate the issue all day on Monday, and we could have some resolution to the kinds of protections that we are talking about in the Patients' Bill of Rights. We have written these protections into legislation and we have described these protections on the floor. We have challenged our friends on the other side, the Republican leadership, to permit us an opportunity to debate and vote on the kind of protections that are outlined in the legislation introduced by Senator DASCHLE.

However, we have been denied the opportunity to bring up this legislation, and to debate these various protections. Instead, we have continued in the Senate to move forward on other pieces of legislation which, as important as they are, don't measure up to what I think most families are concerned with—and that is ensuring the protection of the health of themselves, their children, and their parents.

Endorsements of various groups and individuals are important in some instances, less so in other instances. But I daresay that in this particular instance virtually all of the leaders in the health debate—certainly the doctors, nurses, and patient coalitions—have endorsed our proposal. We have been asking the Republican leadership for the names of the organizations that endorse their program. And we are still waiting to hear from the other side which medical professional groups have endorsed or supported the Republicans in this debate. I do not think there are any leading groups that support their plan, while virtually all support our legislation. Still, we are denied the opportunity to debate these issues.

Now, yesterday Senator GRAMM took the floor for an extended period of time to attack our plan. He said that the Republican solution was a new kind of insurance policy called medical savings accounts. The fact is that our bill takes medical decisionmaking out of the hands of the insurance company accountants and puts it back where it belongs, with the patients and the doctors. The Republican program is a sham and it gives the appearance of reform without the reality.

I was struck by the fact that my friend, Senator GRAMM, accuses the American people of wanting something for nothing, of wanting a ''free lunch.'' I object to this characterization of the patients who want protections from the health insurance company abuses. That is what we are basically talking about. What is at the heart of the legislation that we support is ensuring that medical professionals—doctors, nurses, and the trained medical professionals—make medical decisions. Those who are opposed want to maintain the status quo. They want to permit, in too many instances, insurance company accountants to make medical decisions.

Now, a number of HMOs work well. Managed care in its best form can be good for patients. There are even a number of HMOs that support our particular proposal. And portions of our legislation are drawn from standards adopted voluntarily by some plans. But the problem is the bad apples that reach their medical decisions not on the basis of what is necessary from a medical point of view, but what is necessary from a bottom line point of view or the profit point of view of the HMO. That is the fundamental, basic issue. That is it.

The good HMOs are complying with the kinds of protections that we have here. But a great many of other HMOs are not. We want to make sure that the patients are going to get what they pay for and what they are entitled to, and that their medical decisions are made by medical personnel and not accountants for insurance companies.

Now, that fact is not understood by the Senator from Texas. What he has basically done in his presentation yesterday is accuse the American people of wanting something for nothing—I use his words: ''a free lunch.'' Those are the words the Senator used. Mr. President, I object to the characterization of patients who want protection from health insurance company abuse as patients who want a free lunch.

I don't think a cancer patient who needs access to a specialist or a cancer treatment center wants a free lunch. I don't think that a family with a child experiencing seizures is asking for a

free lunch when they want to rush their child to the nearest emergency room, and their HMO, in an emergency, requires instead that they go all the way across town to another emergency room. That type of response can risk the life and the health of that particular child. I don't think those parents who are saying, ''Why can't I take my child to the nearest emergency room?'' are asking for a free lunch. I don't think a woman whose doctors say she needs to stay in the hospital after a mastectomy, even though her insurance company wants to send her home in pain, with tubes still dangling from her body, is asking for a free lunch.

All of these examples I am using are examples we have presented to the U.S. Senate day in and day out over the period of the past many months. All of those particular situations are addressed in our Patients' Bill of Rights.

I would have hoped that the Senator from Texas at least would have urged the Republican leadership to permit us to debate this and let the Senate resolve these particular issues. That is where we would have the opportunity to make our respective presentations and call the roll on these matters, as to whether these requests amount to ''free lunches.'' Let him make his presentation, and those of us who are strong supporters of the Patients' Bill of Rights can respond and make a presentation to the Senate. Then let the Senate make a decision as to whether those individuals are trying to have a free lunch.

I don't think a doctor who is penalized for telling patients about the best available treatment is asking for a free lunch. In too many HMOs, when doctors make that kind of judgment and tell that patient they ought to have a treatment that is not on the plan's list, is that they are effectively fired, or they are not rehired at the end of the year. The insurance companies and Republicans can say this isn't a gag rule. But the fact that they are not hired back when they are dismissed is effectively a gag rule. That is what is happening in too many circumstances. I don't think that the patient who is getting the best advice from that doctor, at the risk of that doctor's employment, is asking for a free lunch.

I don't think an individual suffering from terrible mental illness, like schizophrenia or clinical depression, who wants effective pharmaceutical products to treat the illness rather than the older, ineffective, but cheaper medication that happened to be on the plan listing, is asking for a free lunch. That is happening in America today and will continue today and tomorrow, and it will continue day after day in the future unless we address that issue here.

This isn't just my opinion or the opinion of our cosponsors. We have the strong support of the leaders of the medical organizations, doctors, psychiatrists, psychologists, social workers, nurses, and others who know firsthand that the various HMOs are doing these things. We have heard from countless patients who have been told, ''You can't get the good kind of medications that are necessary to meet your particular health care needs until you use these other ones and demonstrate to us, not just once, but twice, that they just don't work.'' This puts a patient's health at risk. That is happening today. Look right here on the chart, Mr. President—''access to the doctor prescribed drugs.'' But the Senator from Texas says, well, that particular patient is just looking for a free lunch. These Americans don't want something for nothing, and it is insulting of the Senator from Texas to suggest that they do. They have faithfully paid their premiums and they deserve quality care.

These companies don't mind going out and representing that they have a whole range of different quality programs to get individuals into their HMO. But, too often, insurance companies then deny the individuals the kind of health quality protections they need when they get ill. That is what is happening.

That is where there is bureaucracy; the bureaucracy is in that HMO that refuses to give the best in terms of health care to the patient. All we are requiring is that they just give the patient what they paid for, what HMO represented in terms of quality health care. They are not doing it. They are not doing it in the ways listed on this chart, Mr. President.

These are not just made up categories of care; these have been recommended by the President's nonpartisan commission, and by Congress for the Medicare program. These are recommendations that have come from State insurance commissioners. These are recommendations that have been made by the health plans themselves. They are the ones who made these recommendations. We didn't just pull this out of the blue.

These are protections that those who know the condition of what is happening in America have recommended to us. That is what this debate ought to be about.

Mr. President, the American consumer has faithfully paid for their premiums. They deserve quality care. The characterization of it by the Senator from Texas is typical of the attitude that the Republican leadership has taken toward this issue. They want to allow insurance companies to continue to put the profits first and patients last—all driven by the bottom line.

You can solve these issues and problems by having the decisions affecting the quality made by the doctors. There is not a great mystery about what the solution is.

But no. We do not hear that from the opponents. They want to allow the insurance companies to continue to put the profits first. That is why they have offered a sham bill. That is why they won't allow the Senate to have a chance to debate and vote on this issue. That is why they are trying to change the subject to medical savings accounts. They don't want to debate this issue. They refuse to debate this issue. They want to debate another issue and divert attention away from the real issues in this discussion.

They do not want to talk about clinical trials and their importance for women with breast cancer. They do not want to talk about the ability to have the pediatric specialist for children with dread diseases. They don't want to debate those issues. They don't want to debate the question about giving the family the right to be able to go to the nearest emergency room rather than across town. They don't want to debate that issue. Which of these do they not want to debate? We challenge the Republican leadership to tell us.

But day after day we go on with the charade of trying to get cloture to prohibit any kind of amendments and any kind of debate on these issues—day after day, issue after issue. That is wrong. It is absolutely categorically wrong.

We are committed to trying to have this kind of debate and discussion on, as Senator DASCHLE has said on many occasions, a reasonable way to proceed. But, quite frankly, we see day in and day out the Republican leadership attempting to do to the U.S. Senate what many of these HMOs are doing to their patients—gagging their doctors so they can't give them the right kind of health advice. The Republican leadership is gagging the Senate by saying: We will only permit you to bring this up if we have one vote—one vote—and do it now with no debate.

Why aren t we debating this on Friday at 11 o'clock this morning, or this afternoon, or on Monday when millions of Americans are going back to work? Why aren't we debating these issues? Why aren't we, Mr. President? It is silence on the other side. It is silence on the other side. They are trying to gag us from debating these issues. They are trying to protect the profits of those HMOs that refuse to provide the right kind of treatment by refusing us the opportunity to address these issues. They are basically protecting those various special interests and denying to virtually every major consumer group, and every major medical professional group their voice here in the Senate on these points. They refuse to let us even debate these issues. And the American people understand it.

The American people want Congress to pass strong and effective legislation to end the abuses of HMOs, managed care plans, and health insurance companies. They want us to pass the Patients' Bill of Rights, which was introduced by Senator DASCHLE and Senate Democrats, to provide the needed and long overdue antidote to these festering and growing abuses.

Our goal is to protect the patients and to see that insurance plans provide the quality plan they promise but, too

often, fail to deliver. Our bill has been on the Senate calendar since March. An earlier version of the legislation was introduced more than a year and a half ago, but the Senate has taken no action because the Republican leadership has been compounding the HMO abuses by abusing the rules of the Senate to block meaningful reform. This record of abuse should be unacceptable to the Senate. It is certainly unacceptable to the American people.

We held a forum Wednesday in which a letter was released from 36 groups representing patients, families, psychiatrists, psychologists, social workers, and others concerned about quality health care for people with mental illness. As I discussed in a floor statement yesterday, these groups begged the Senate to act to pass a patients' bill of rights, because with every day that passes, patients and their families suffer needlessly because of abuses by managed care plans.

The stories they told were tragic—they involved suicide, spousal abuse, anxiety attacks inflicted on a Vietnam veteran, successful courses of treatment cruelly interrupted—all because insurance companies are putting the bottom line first and their obligations to patients last.

This forum was just the most recent one in which we have heard patients and doctors and nurses pleading with the Republican leadership to act on real managed care reform. In my statement yesterday, I reported on an earlier forum in which we heard from Dr. Charlotte Yeh, an emergency room doctor representing the American College of Emergency Physicians. Dr. Yeh described tragic cases in which patients had been denied the care they needed because of managed care penny-pinching.

On behalf of the college, she endorsed our legislation, and she denounced the Republican leadership alternative as worse than inadequate. Only with a full and fair floor debate can we pass real protection for patients who need emergency care or who should be allowed to go to the nearest emergency room when the symptoms of serious illness strike.

On July 24, we heard from cancer patients and their doctors who explained how critical the provision of the Patients' Bill of Rights was in assuring patients access to quality clinical trials. These trial are often the only hope for patients with incurable cancer or other diseases where conventional treatments are ineffective. They are the best hope for learning to cure these dread diseases. Insurance used to routinely pay the doctor and hospital costs associated with clinical trials—but managed care plans are refusing to allow their patients to participate or to pay these costs.

We understand. When patients are in a clinical trial there isn't a significant increase in terms of the costs to the HMO. It is just the routine doctor costs and hospital costs that they would pay anyway. The trial itself pays for the kinds of additional attention and prescription drugs that are given to these patients. But the insurance companies won't even cover the minimal payments.

Our bill requires them to respond to this need—but the Republican bill does not, and the Senate leadership does not want a debate on this issue.

Fourteen leading organizations of cancer patients, representing the eight million Americans surviving with cancer and the 1.5 million Americans who will be newly diagnosed with cancer this year, have spoken out strongly on the need for this amendment. These are organizations that patients and physicians alike look to for guidance on cancer issues. They include the National Coalition for Cancer Survivorship, Cancer Care, Incorporated, the Candlelighters Childhood Cancer Foundation, the Susan G. Komen Breast Cancer Foundation, the National Alliance of Breast Cancer Organizations, the North American Brain Tumor Coalition, US TOO International, the Y-ME National Breast Cancer Society, the American Society of Clinical Oncology, the Alliance for Lung Cancer Advocacy, Support and Education, the Friends of Cancer Research, the Leukemia Society of America, and the Oncology Nursing Society—all groups that speak out for patients who have cancer. They have made their recommendations. They support our legislation. But we are being refused and denied the opportunity to even debate it.

Here is what the combined cancer groups say about this:

> Clinical trials represent the standard of care for cancer patients. Patient care in clinical trials is no more important than standard therapy. Cancer will strike roughly one in three Americans during their lifetimes. Even those who escape the diagnosis will have friends and family touched by the disease. Any patient rights or quality care legislation will be a shallow promise for people with cancer if it does not include provisions ensuring access to clinical trials.

That is what we are talking about—clinical trials for individuals who have cancer. Why can't we debate that on the floor of the U.S. Senate on a Friday at noontime? Why can't we call the roll for those who believe, as the cancer organizations do, that clinical trials are a critical aspect of treatment, and that most Americans believe when they sign those HMO contracts that they are going to get the best in terms of American health care? And they do with a better HMO. But there are too many that are denying that care. Too many that are risking their lives because they are being denied the opportunity for clinical trials that may offer new hope and opportunity of survival for an individual member of a family. That is unbelievable. But that is happening—denial. Too often the insurance companies offer a shallow promise. But our program ensures these protections. The Republican plan does not.

Mr. President, we see that not one, not a single group that is concerned about the survival of cancer has supported the Republican program. But virtually every major cancer group supports our legislation and believes it is essential to protect American families.

Why can't we debate that on the floor of the U.S. Senate? What is it about? Hard-working Americans—more than 160 million working Americans who are going to work today on Friday at noontime.

Why aren't we debating that in the Senate? Why aren't we debating it at 2 o'clock or 5 o'clock or on this coming Monday morning or afternoon? We are prepared to debate these issues. But, no, the Republican leadership refuses to debate them. We are effectively seeing the manipulation of the Senate rules in such a way as to deny the opportunity for full consideration of something that is of core concern and importance to every American family, and that is the quality of their health care.

So, Mr. President, I just want to again reiterate my strong support for our Democratic leader, Senator DASCHLE, who has indicated that we are going to still, even in the final days of this session, continue to pursue this. There are those who say, well, we haven't got enough time. But our Republican friends must think we do have enough time because they are continuing to resist our efforts. They must assume we do have enough time. It is amazing how quickly this body can act when we want to act on important pieces of legislation, and we do have time. So, Mr. President, we will continue to press these issues forward.

I see other of my friends and colleagues in this Chamber. I will continue to address this issue at another time, but it is important to note that we have seen one more week go by and a denial of the request of our Democratic leader to at least have a reasonable period of time to debate these issues and resolve them in a way that would respond to the central concerns of every major medical professional group and society in our country. I am not aware of a single medical society or patient group that supports the Republican plan—not one. We have been waiting to hear one. They can't come up with one. In contrast, more than 180 groups support our particular proposal.

Now, we may not have it all right, and we are interested in discussing adjustments that we may have to make. But 187 groups in our country, representing the cancer societies, the medical professionals, the nurses, the patient groups, working families, and others effectively support our proposal.

Every major children's health organization in our society has endorsed this proposal because they know how important this is for children. Every major breast cancer group in our society that cares about women and understands the enormous possibilities of breakthroughs in terms of the new

modern miracle drugs supports our proposal. Every major group that represents persons with disabilities in our country—individuals who are challenged mentally and physically every single day—supports our proposal. And still, because of the manipulation of the Senate rules, we are denied a full debate and discussion and ultimate resolution as to what this body would say to families of this country on such a matter. It is wrong, and we are going to continue to press our case.

I yield the floor.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. KENNEDY. I am glad to yield.

Mr. BYRD. Mr. President, the distinguished Senator from Massachusetts can always be counted upon to stand up for the things in which he believes. He is constantly supporting legislation that is calculated and dedicated to bring better health care to the American people. I support his Patients' Bill of Rights. ''Constancy, thou art the jewel.'' He is always constant in this efforts.

I have been hearing some ads on the radio, and these ads are talking about the ''Kennedy Bill of Rights.'' I don't recall their ever telling us what is wrong with it. They may have been doing it; I have missed that. But I continually see these ads on the television: ''Write your Congressman, write your Senator, write your representative, and urge them to defeat the Kennedy Bill of Rights, the health care bill of rights.''

Tell me, has the Senator seen those ads, and what are we talking about?

Mr. KENNEDY. Mr. President, it is very interesting. I have seen those ads, but I believe they are going to be pulled very soon because what has happened, according to the most recent study by Bob Blendon at Harvard and the Kaiser Family Foundation, is that support for our bill has gone up, quite in conflict with the intentions of those who sponsored the ads that have been critical of the Patients' Bill of Rights. And so now the insurance companies and corporations that oppose the Patients' Bill of Rights are reviewing their television strategy because their campaign has had the reverse effect. They are sort of going back to the drawing board.

But quite clearly, as the Senator implies, their ads certainly were not a fair representation of the legislation that we have introduced. As I mentioned, virtually every one of these proposals in our bill has either been suggested by the President's commission—which was bipartisan and reported its recommendations unanimously—as important for all patients, or included in Medicare at the present time and used in protecting our seniors, or have been embraced by the state insurance commissioners—which are the 50 commissioners around this country, Republicans and Democrats—or adopted voluntarily by the HMOs themselves through their trade association.

This legislation reflects the best judgment of those groups that know this issue best. That is why we have a sense of confidence in this legislation. It has the strong support of those professionals who treat families and understand the kinds of protections that are necessary to give the best of health care to American families.

Mr. BYRD. Mr. President, I thank the Senator for enlightening this Senator in response to the question I asked. I again commend him for his unceasing effort in behalf of this legislation, the Patients' Bill of Rights.

Mr. KENNEDY. I thank the Senator.

MORNING BUSINESS

Mr. MURKOWSKI. Mr. President, on behalf of the leadership, I ask unanimous consent that there be a period for the transaction of morning business until 12:30 with Senators permitted to speak for up to 10 minutes each.

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

CLOTURE MOTION CORRECTION—S. 442

Mr. MURKOWSKI. Mr. President, on behalf of the leader, I ask unanimous consent that the name of Senator BURNS be added to the cloture motion in place of the Senator from Wyoming, Mr. ENZI, whose name was inadvertently added to the motion in error.

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

NATIONAL CANCER AWARENESS

Mr. MURKOWSKI. Mr. President, I rise to address two matters that are of importance to me. The first is the issue of national cancer awareness.

Mr. President, for the next 3 days, hundreds of thousands of cancer survivors, families, care givers, and friends, whose lives have been affected by cancer will join together in this city for an event called ''The March: Coming Together to Conquer Cancer.''

Yesterday, other Members of this body and I had an opportunity to place a large star on our respective States to represent special persons in our lives who have been touched by cancer.

I had the pleasure and honor on behalf of my wife, Nancy, to place a star on my State of Alaska for the late Judge Lester Gore, my wife's father. He was a remarkable pioneer in our State. In 1912, Judge Gore moved to Juneau after graduating from law school and established an impressive record as a young deputy district attorney. He was recognized in that effort in 1932 by President Hoover's appointment to serve as a Federal judge for the Territory of Alaska, serving the first judicial district in Nome.

In serving as a Federal judge in the far reaches of western Alaska in the aftermath of the gold rush, Judge Gore traveled from village to village hearing various cases and judging on the merits. He used every mode of transportation from dog team to the former cutter *Bear*, bringing justice to rural Alaska. He was instrumental in both creating legal precedent and shaping the legal history of our State. Later in his career he worked as an attorney in Ketchikan, and died in 1965 of cancer. He had many accomplishments but none more important to me than fathering a daughter, Nancy, who later was good enough to accept my proposal of marriage.

In addition, I was pleased in my own personal case to recognize my mother, who died of cancer, leukemia, in Alaska in 1956, having spent her entire career in the area of education. She was the longest standing sixth grade teacher in Ketchikan, Alaska.

To move on, for more than 20 years now, my wife, Nancy, has worked with Alaskan women to encourage the establishment of a breast cancer center starting in Fairbanks, Alaska. She and a group of women initiated the Breast Cancer Detection Center for the purpose of offering free mammograms to women in the remote areas of Alaska, regardless of their ability to pay. I am proud to say that the center now serves about 2,500 women a year and provided screenings to more than 25,000 Alaska women in 81 villages throughout the State.

To help fund these efforts of the Fairbanks center, each year my wife has sponsored a fishing tournament to raise money for the operation of the facility and to purchase units. Interestingly enough, over the last 5 years they have raised over $1 million in this effort. They now operate a permanent facility in Fairbanks, as well as a mobile mammogram unit that travels the highways of Alaska providing free breast cancer examinations for the women along the highway system. It looks like a big armored car. More recently, they have purchased a smaller unit called Molly. Molly is designed to go in aircraft to fly out to the villages that are not connected by any road, and by river barge down the rivers of the interior.

So I commend those who are responsible for this effort in my State, a group of women who have taken it upon themselves to do something about this disease, this killer disease which affects all of us. It is anticipated that 40 percent of us will get some form of cancer during our lifetimes. We have had a figure of about 1.5 million Americans being diagnosed this year.

Mr. President, I ask my colleagues to join with me in taking part in the activities here in Washington, D.C., with The march, thereby demonstrating our commitment to end cancer forever.

NORTH KOREA MISSILE TEST

Mr. MURKOWSKI. Mr. President, I would like to address one more issue, with the agreement of my colleagues. I see a number of them on the floor—

Senator BYRD—so I will try to be very brief. But I want to talk a little bit about our national security interests and what is occurring in North Korea. It does not just affect my State of Alaska, although this recent three-stage rocket did generate a little interest in my State because on August 31, 1998, the North Koreans fired a rocket which we now believe is a three-stage rocket carrying a satellite over the sovereign territory of Japan and it evidently came down very close to my home State of Alaska.

Although initial reports indicated that this was a two-stage rocket with a range of approximately 1,200 miles, now there is acknowledgment in the U.S. intelligence community that it was likely a three-stage rocket carrying a satellite. The third stage malfunctioned, consequently the satellite was not launched. But the point is that it has been identified that, indeed, the North Koreans have the rocket capability to carry some type of armament to the shores of the United States.

The Asian press reported that the rocket traveled 3,700 miles, or 6,000 kilometers, and landed in the ocean near Alaska. On September 17, the U.S. Department of Defense spokesman Kenneth Bacon responded to this report by saying:

> The only way to track this is by radar tapes and there's considerable disagreement among experts on how to interpret this.

Let's think about what this really means. The only way we have to track this is by radar tapes; in other words, after the fact. But intelligence sources have been quoted as acknowledging that a three-stage rocket could have a range three times that of the two-stage Taepo Dong I rocket. Particularly concerned about this latest missile test, a number of us have recognized that there seems to be a breakdown on whether the administration was either caught off guard by the sophistication of the North Korean technology, or was reluctant to share this information with lawmakers.

I am reminded of President Clinton's comments last year, when he said ''[t]he possibility of a long-range missile attack on U.S. soil by a rogue state is more than a decade away.''

That does not appear to be the case—as a consequence of the occurrence in August, the last day of August, relative to the North Korean missile which did land within shouting distance of my State of Alaska.

This would ignore the testimony in 1994 by John Deutch, then-Deputy Secretary of Defense:

> If North Koreans field the Taepo Dong 2 missile, Guam, Alaska and parts of Hawaii would potentially be at risk.

It appears the North Koreans have gone beyond even what Mr. Deutch envisioned by launching a three-stage rocket carrying a satellite.

There is truly an immediate need for missile defense, Mr. President. MIT professor Daniel Fine has an interesting take on why we need immediate action on a National Missile Defense System which protects all of the United States, including Hawaii, Alaska and our territories. He conclusion is that:

> If the $32 billion infrastructure [associated with oil production in my State] in Prudhoe Bay—which produces 1.6 million barrels of oil . . . is subjected to a credible missile threat . . . then the cost to the American economy of a missile threat as economic blackmail would reach $4 billion—$6 billion in the first ten days.

Well Mr. President, I for one do not think it is far fetched to think of Prudhoe Bay as a potential target. After all, it accounts for approximately 20 percent of the total domestic production of crude oil in the United States. While I have not reviewed how the professor reaches the $4 to 6 billion figure, I think it should serve as a wake-up call to those who continue to oppose a National Missile Defense System. It is not just Alaskans, Hawaiians and those in Guam who should be concerned about the launch. Monday's test was the first of a multistage missile. According to experts, the ability to build rockets in stages opens the doors to intercontinental missiles that would have virtually unlimited range and which would carry payloads capable of nuclear, chemical or biological weapons. Such missiles, and the threat of them, certainly puts U.S. citizens at risk as a consequence of any attack coming from North Korea or any other area with a missile that carries weapons of mass destruction.

I think we have to reflect a little bit on the North Koreans. Some would dismiss the threat from North Korea because that country is on the verge of an economic collapse. But I remind my colleagues that North Korea has a history.

Mr. President, we have seen in the past, irrational actions by the North Koreans. You recall this is a country that in 1950 launched an invasion on South Korea, resulting in the deaths of 3 million of her countrymen and 54,000 American troops.

Recall the detonation of a bomb in Rangoon killing 16 South Korean officials; a country whose agents blew up a Korean Airlines flight killing 115 passengers and crew; and a country whose military hacked U.S. personnel to death in the DMZ.

I think we have to recognize there is still a great deal of uncertainty relative to the objectives of North Korea.

Furthermore, as we look at the crisis on the Korean peninsula, the United States has given over $250 million in combined food aid and support for KEDO. The North Koreans have received 1.3 million metric tons of heavy fuel oil.

While the United States has provided humanitarian assistance from time to time, as well as technical assistance, we have also promised large contributions to the $5 billion light water reactor program and also have given food and aid and contributed over $50 million to KEDO.

What have the North Koreans done in return for this assistance? They launched a missile in August. Intelligence photos show work on vast underground construction complexes.

In July of 1998, GAO reported that North Korea has taken actions to hinder work of international inspectors sent to monitor North Korea's nuclear program.

It goes on and on.

As a consequence, I think it is fair to say the administration has treated each of these incidents as if North Korea is merely an innocent child throwing a harmless tantrum, not a terrorist nation home to the world's fourth largest army, just miles away from the 37,000 American troops.

Incident after incident is dismissed by this administration as ''not intentional'' or not ''serious'' enough to derail U.S. assistance under the Agreed Framework.

The administration called latest missile launch '' a matter of deep concern to the U.S. because of its destabilizing impact in Northeast Asia and beyond,'' but reiterated its commitment to provide funds under the Agreed Framework.

The administration refuses to say that newly disclosed evidence of underground facility would violate the 1994 accord because ''concrete has not been poured.''

When a sub full of North Korean commandos landed in South Korea, the administration asked both sides to ''show restraint''—as if South Korea was in the wrong.

The administration responded to violations of the Military Armistice Agreement by asking that the issue not be ''blown out of proportion.''

Issuing polite reprimands from the State Department, while the Administration continues to seek increased funds for activities that benefit North Korea, only encourages bad behavior.

Mr. President, enough is enough. Congress should block further funding for KEDO until the President can certify that North Korea's nuclear program is, indeed, frozen and not simply an ongoing clandestine operation. The United States is a global power with vested interests both politically and commercially all over the world. We simply cannot allow policy to be determined by those who practice missile blackmail.

Mr. President, I yield the floor, and wish the President a good day and a good weekend.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I ask unanimous consent to proceed as in morning business for 25 minutes.

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

Mr. BYRD. Mr. President, reserving the right to object.

The PRESIDING OFFICER. A reservation of the right to object is heard.

Mr. BYRD. Mr. President, I will not object. I have been waiting here and

am very happy to wait longer. I understood the Chair wanted to be recognized for 2 or 3 minutes, also.

The PRESIDING OFFICER. The Chair did, but it has gotten too late and he has abandoned that desire.

Mr. GRAMM. Is the Senator from West Virginia waiting to speak? I will be glad to withhold and let him speak and then I will speak.

Mr. BYRD. Mr. President, the Senator is very kind and considerate. I was waiting to speak, but the Senator from Texas may have to go farther, a greater distance than I would have to go if I were going to West Virginia today. I ask unanimous consent that I may be recognized at the completion of the remarks by the distinguished Senator from Texas, Mr. GRAMM.

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

Mr. BYRD. I am delighted to listen to what the distinguished Senator from Texas has to say.

Mr. GRAMM. Mr. President, let me reiterate, in fact, when the Senator from Alaska finished his speech, Senator BYRD and I were having a conversation. I had thought as I left my office that he had spoken. I assumed that he was simply here listening to the Senator from Alaska.

Again, I reiterate, if the Senator from West Virginia had come over to speak, he was on the floor before I was, and I believe he should be recognized.

Mr. BYRD. No, no, Mr. President, I hope he will not be under the burden of thinking that I have a feeling about this. I am perfectly agreeable to wait a little longer, just so I can get in line immediately after the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas has the floor.

Mr. GRAMM. Mr. President, this reminds me of the time when I was on the elevator for the first time with Senator THURMOND, and Senator THURMOND insisted that I get off the elevator before he did. I determined when I was on the elevator with Senator THURMOND again that I would not get off the elevator before Senator THURMOND did. But I was wrong. I stood there for almost 2 minutes insisting that Senator THURMOND get off the elevator before I did. In the end, Senator THURMOND had more patience. I got off the elevator first.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. GRAMM. I will be happy to.

Mr. BYRD. I like to try to live according to the Scriptures, which say that the first should be last and the last should be first. I thank the Senator.

The PRESIDING OFFICER (Mr. SESSIONS). The Senator from Texas.

HEALTH CARE

Mr. GRAMM. Mr. President, our dear colleague from Massachusetts came over today and responded to a speech I gave yesterday. As he always does—and I think it is one of the things we admire about him—he spoke with great passion because I think he clearly is one of our Members who cares deeply about these issues. Whether he is right or whether he is wrong, I think we all respect that in one of our fellow Members.

What I would like to try to do is to briefly respond and make the key points that I made yesterday, given that so much reference has been made to the speech of yesterday, and try to make all these points in such a way as to deviate from my background as a former schoolteacher and be brief so that Senator BYRD can give his speech and we can both go home for the weekend.

Yesterday, I made the point, which I am continually struck by, that 5 years ago in the Senate, we were debating a proposal to have the Government take over and run the health care system. A substantial majority of the Members of the Senate at the beginning of that debate, following the lead of Senator KENNEDY and President Clinton, had decided that the problem we had in American health care was access; that 40 million Americans didn't have health insurance and that a price we should be willing to pay to solve that access problem was to deny people the freedom to choose their health care provider and force every American into a health care purchasing cooperative or health care purchasing collective which would be one giant HMO run by the Government.

I have on this desk—and I want to be careful because one of these bills fell on my foot over there and I want to be sure all of them don't fall—but I have here those bills from 5 years ago. Each one of these bills denied the American people freedom to choose their health care provider, forced them into a Government-run collective in order to deal with the problem of access.

Each one of these bills, this massive pile of bills—Kennedy I, Kennedy II; Moynihan I, Moynihan II; Mitchell I, Mitchell II, Mitchell III and Mitchell IV—each of these bills was about denying Americans the freedom to choose their doctor, choose their health care, choose their hospital, and we had a big debate about it 5 years ago. The argument from the sponsors of these bills was that the denial of this freedom was a small price to pay in order to guarantee access to health care.

I had an alternative then. It was a very modest bill. Here is a copy. I want people to see what freedom looks like. It is simple.

It was a small bill, as these kind of bills go. Basically, what it did was deal with the access problem by helping people who didn't have health insurance to get it without denying freedom to everybody else. It established risk pools at the State level where we would help people with preexisting conditions get health insurance.

But the point is, the same people who are saying today that we should be willing to drive up costs and deny access to people in the name of guaranteeing freedom are the same people who 5 years ago said, ''Let's deny freedom in the name of access.'' Now, 5 years later, after we debated the original Kennedy-Clinton bill—and I am very proud to have played a small role in seeing that effort defeated—5 years later, now we have the same people saying, ''The problem is not access—don't worry that by driving up costs millions of Americans might lose their health coverage—the problem now is HMOs.''

Five years ago, the same people were saying, ''HMOs are so wonderful that we ought to have one HMO run by the Government, and it will be great for everybody.'' Now they say HMOs are evil and what we have to do is, we have to regulate HMOs.

What I would like to do is simply explain why the new approach is not the approach that I believe we should follow. Let me first define the real problem with HMOs, then what I believe the solution is. And then I want to say a little bit about the bill, and I will be finished.

Fifteen years ago, almost every American had a low deductible health policy funded by either Medicaid, Medicare, or by themselves and their employer through private health insurance. These were health insurance policies where the person who bought health care, using this coverage, paid relatively little of the cost.

Fifteen years ago, the average American who went to the hospital was responsible personally for paying only about 5 percent of the bill. And this was a wonderful system. It produced the greatest quality health care the world has ever known. It created wonderful new technology, but it had one terrible problem, and that is, we could not afford it. And it is easy to see why we could not afford it.

If you can imagine—imagine you had grocery insurance that, when you went to the grocery store, paid 95 percent of the cost of the food you put in your basket. If we had grocery insurance like we have health insurance, when we went to the grocery store, we would end up eating differently, and so would our dog. The grocery stores we know today would be totally different. You would have 20 or 30 times as many people working at the grocery store. You would have all kinds of precooked foods. You would have all kinds of specialty items. And grocery costs would be exploding. We would all be cussing the cost of grocery insurance.

So it is not surprising that our old fee-for-service medical system, with low deductible insurance where the patient did not care about controlling costs, the physician did not care about controlling costs, and so nobody controlled costs—it is not surprising that that system did not work.

The Government talked about it for 15 years, but we never did anything about it. There are a lot of things we

could have done. We could have let people have tax deductibility to buy their own health insurance, so that if I did not like the health insurance provided by my employer, I could take the employers contribution and with some of my own money, on a tax-deductible basis, choose and buy my own health insurance. We did not do that, have not done it to this day. There are other things we could have done, but we did not do them either.

The private sector started to respond to the problem, and the net result is that we now have over 100 million people who are in HMOs.

HMOs have advantages and disadvantages like anything else in life, with any choice you make. If you buy a Cadillac, the advantage is, you have a good car; the disadvantage is, it costs a lot of money. If you buy a Chevrolet, the advantage is that it does not cost as much as a Cadillac, but generally it is not as good or as fancy. And we should not be surprised that in life, even with the Government, we face these kinds of tradeoffs.

We have over 100 million people in HMOs. The advantage of HMOs is that they are more efficient, they do control costs, they have brought the medical price index down from twice the Consumer Price Index—twice the growth as goods in general—down to the same growth as goods in general.

Fifteen years ago, we would not have believed that it was possible, but it has happened. But there is a disadvantage. And the disadvantage is, when you enter into a contract with an HMO, you are bound by the terms of the contract. It describes what they will cover and what they will not do, and the HMO exercises some control over the amount of health care you consume and from whom you consume it. And everyone knows that when they enter into these contracts.

This creates a problem, which Senator KENNEDY and others have put their finger on, and which is a real problem. The problem is that you have, in these HMOs, gatekeepers whose job it is to try to see that you get good enough health care to meet your needs, so that next year you renew with the HMO, but they also attempt to prevent the consumption of health care that you do not need because such usage drives up costs. The problem is, they are deciding—not you.

So I have likened the problem to, you go to the doctor, you go into the examining room, and instead of being alone with your doctor, you have—not literally—but figuratively, you have a gatekeeper in the examining room with you. And you want him out. You want to be in the examining room with your doctor. You do not want somebody there, who is not a doctor, second-guessing your doctor. That is the problem. On that point, Senator KENNEDY and I are in agreement.

The question is, How do you fix it? How do you get a Cadillac at Chevrolet prices? Well, nobody has, throughout 5,000 years of recorded history, figured out how to do that. Maybe we will. But if we do, we will be the first. But the point I made yesterday was that in reality the solution that is being proposed in the Kennedy bill can be depicted as I've done here, using a Greek invention, the stethoscope.

The problem basically is that here you are with your heart right on the other side of this stethoscope, and what you want is, you want your doctor's ears at the other end trying to be sure that your heart is working right and fixing it if it is not. Senator KENNEDY's complaint is that in a very real sense the HMO has this gatekeeper who is listening in on the stethoscope. You would like to get him out of the examining room.

But in an incredible paradox, the bill that Senator KENNEDY presents not only does not get the HMO gatekeeper out of the examining room but it brings two other people in. It lets the Government hire a bureaucrat, who comes in and he gets his ears to the stethoscope so that he can regulate your HMO and your doctor, and then, under the Kennedy bill, you can also hire a lawyer who can come and listen so that he can join the bureaucrat in listening to your heart with your doctor and with the HMO so that he can sue the HMO and sue the doctor.

The point I made yesterday was that, people are already unhappy about having the HMO gatekeeper in the examining room with them. And we are certainly not going to make them happier by bringing in a Government bureaucrat, who we choose, and by letting them hire a lawyer.

What they want, literally and figuratively, is to be alone with their doctor in their examining room. What they want is a system where their doctor is using this stethoscope; their heart is at this end and their doctor's ears are at this end, and nobody else is involved. That is the ideal that people want.

Now, how can we get it? I believe the best way to get it is to make a dramatic change in the system. Therefore, I and others have proposed what we call medical savings accounts. Here in essence is how it works: Say I currently have a Blue Cross/Blue Shield policy, standard deduction, and it costs about $4,000 a year. It has very low deductibles. If that policy had a $3,000 high deductible, I could buy it for about $2,000. What the bill that I have introduced with Senator NICKLES and others would do is give people the choice. It doesn't make anybody do it. Nobody is forced under our bill to do anything. They can stay in the HMO they are in if they are happy. We set out reasonable things to do to try to deal with the problems that Senator KENNEDY and others have raised, without driving up costs and forcing young working couples out of the health care market and out of their HMO because they can't afford it.

In addition to that, we do something more important; that is, we give people the right to choose a medical savings account. Here is how it would work: I am a young man and I am married to a young woman. We have two little children and we are both working hard and we both have modest incomes. It lets my employer join with me in buying the high deductible policy I've described, with a $3,000 deductible. Then we would take the $2,000 we saved—we bought the high deductible policy for roughly $2,000; we were paying $4,000 for Blue Cross/Blue Shield—and we put the $2,000 into a medical savings account out of which I can pay deductibles. At the end of the year, if I don't spend the money on medicine, I get to keep it. I can use it to get braces for my children or I can get tutors for them or save it and send them to Texas A&M, the University of West Virginia, or the University of Alabama, or wherever they want to go.

Now, that is how this system is different because 90 percent of American families don't spend $3,000 on medicine. If I go to the doctor and he says, ''PHIL, you have a headache. I think it is just a headache. Take two aspirin. If it doesn't go away, come back in 2 days and we will give you a brain scan which costs $1,000, or we can give you the brain scan right now.'' Currently, I might ask, well, does my insurance cover the brain scan? If it does, it is interesting, you get to look at it, I may say let's do the brain scan right now. But if I would get to keep that money for my children, and I am a truck driver, my wife is a waitress, I will say, you know, Doc, I will take those two aspirin. If it doesn't go away I will come back.

One of the benefits of the medical savings account is that it provides incentives to be cost conscious. But that is not the most important thing. The most important element is it allows me freedom to choose.

I showed this chart yesterday and I will show it several times in this debate because it is so important to me and I think to the people I represent. I and my staff did a little experiment. We took one column of doctors on one page selected at random from the Yellow Pages. We called up every one of these doctors and we took the most popular, most-participated-in HMO in our region, which is Kaiser HMO. We took the largest participating PPO, preferred provider option, which is Blue Cross/Blue Shield preferred provider. Then we called everybody on this list and said, ''Do you take Kaiser HMO?'' In other words, we called William D. Goldman, pediatric and adolescent medicine, and we said, ''Do you take Kaiser HMO? Do you take Blue Cross, PPO?''

When we did this, 10 of the physicians listed on page 1017, in the left-hand column, took Kaiser payments. If I were a member of Kaiser, I could have gone to 10 of these physicians. If I were a member of Blue Cross/Blue Shield preferred provider, 17 of them would have taken me.

But if I had a medical savings account, and even though the current law doesn't really permit a full-blown system to work, there are several options. One is Golden Rule Insurance in Indiana. They give you the option of a medical savings account checking account. Out of that checking account you pay your deductibles, and above that level they pay for the costs. We have other MSAs that use Mellon Bank with MasterCard. This is your medical savings account. It keeps the record for you as to what you are spending the money on. And then American Health Value Medical Savings Account uses Visa.

Let's just assume that you have a baby and your baby has a fever of 104 and you want to go see William D. Goldman who is in pediatrics and adolescent medicine. You call him. If you are with Kaiser—he may be one of the 10 people on this list that takes it, but he may not be; if you are with Blue Cross PPO you call up, he may be one of the 17, he may not be; but if you have a medical savings account, which I want people to be allowed to choose, you call up and you don't say do you participate in Kaiser HMO? You don't say do you participate in Blue Cross PPO? You simply say, Do you take a check? Or, Do you take MasterCard? Or, Do you take Visa?

The point being, every single person who is a physician on page 1017 in column 1 of the Yellow Pages takes a check, MasterCard and Visa. If my baby is sick I don't have to go to some gatekeeper to get to see a specialist. All I do is take my Visa and go. I make the decision. The medical savings account sets me free. It makes me the decision maker. It gives me the freedom to choose. I believe that is a better way.

Finally, we have had a lot of discussion about trying to get started on this debate. We have 10 days left in the session. We have a lot of things left to do in this session. We have passed to completion, I think, only one appropriations bill which has been signed into law. We know at some point we have to deal with all of those legislative problems. We don't know how they will all work out. It will take lots of time and lots of long nights.

Senator KENNEDY and others have a proposal that they believe is the answer to our health care system. Senator NICKLES, I and others have a proposal that we think should be part of the health care system. Granted, the normal procedure of the Senate would be to bring a bill to the floor, have unlimited debate, and unlimited amendments. We could do that, but I think everybody here knows with 10 days left we will not pass a bill if we do that.

So a proposal has been made to let Senator KENNEDY and others write their bill however they want to write it, make whatever changes they want to make in it, and we will agree to set a time to vote on it—as the Presiding Officer knows, and as many people who follow our debate know, we often operate under what is known as unanimous consent where we agree to a more truncated procedure.

What I have proposed is the following: Let those who have an idea write their bill exactly as they want it written. In the case of Senator KENNEDY, I don't want to change his bill before we vote on it. What often happens in that process is we get something that nobody wants and that doesn't work. The proposal I have made is that we enter into unanimous consent that Senator KENNEDY and others can present their proposal and we will vote on it, up or down, without amendment, however they write it. Then Senator NICKLES, I, and others will present our proposal. If their proposal gets 51 votes, then it will be adopted by the Senate. If our proposal gets 51 votes, it will be adopted by the Senate.

Now, it is true that that is not the normal way we do business. But with 10 days left, if we really want to pass a health care bill, that is the option we are down to. I believe we have written a good bill. I am proud of our bill. I know Senator KENNEDY is proud of his bill, and I am sure he feels at least as passionately about his as I do about mine. But the point is, we are never going to get to choose his bill or choose the bill I and others have worked on, unless we work out some kind of accommodation, because we only have 10 days left in the session.

So we are down to having to make a decision. Do we want to take this into the election and campaign on it and then come back, which is perfectly legitimate? I am not criticizing anybody for wanting to do that. But if we do, then I think we would continue the standoff and then this would be an election year issue and we would decide next year. On the other hand, if we actually want to pass a bill this year—and the House has passed a bill—the only way I can see that we can do it is with an agreement where we simply present the bills and let the Senate vote up or down on the bills. I don't have any desire to amend Senator KENNEDY's bill. I want him to have his best shot, and then we would have ours.

I thank the Senator from West Virginia for withholding and allowing me to speak.

I yield the floor.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I thank the Senator from Texas for a very interesting statement concerning the health bills. I admire the Senator from Texas. I admire his ability. He is one of the most articulate Members that I have ever seen in my 40 years in the Senate. He has one of the best brains, I would say, of any of those that I have seen on both sides of the aisle in those 40 years. I think Darwin's theory of natural selection would not explain how this kind of a brain developed. I take my hat off to people like Senator GRAMM for the extremely high intelligence that is obviously there.

THE UNITED STATES IS A REPUBLIC

Mr. BYRD. Mr. President, Americans, commonly speaking, refer to our form of government as a ''democracy.'' I often try to talk with our little pages—both Republican and Democratic pages—out in the lobby from time to time. I tell them the story, ''Acres of Diamonds,'' Tolstoy wrote, ''How Much Land Does a Man Need,'' and I tell them the story, that Russell Conwell, one of the early chautauqua speakers, said he had given 5,000 times. I tell them various other stories, and I always try to help them to learn some things about the Senate, about our Constitution, and about our form of government. Recently, I said to the little pages, ''Now, is this a democracy? What form of government is ours?'' And I said to them about the same things that I am going to say here with reference to a democracy versus a republic.

Again, Americans, commonly speaking, refer to our form of government as a ''democracy.'' One reason for this is because politicians of all political parties generally refer to our government as a democracy. Politicians generally do that. Glib references are constantly being made anent our democracy. But our form of government, strictly speaking, is not a democracy. It may more properly be called a representative democracy, but, strictly speaking, ours is a republic. ''We pledge allegiance to the flag of the United States of America and to the Republic for which it stands''—not to the democracy for which it stands.

Incidentally, I was a Member of the other body when the House passed the law on June 5, 1954, inserting the words ''under God'' into the Pledge of Allegiance. Exactly 1 year from that day, on June 5, 1955, we passed a law requiring the words ''In God We Trust'' to appear on our currency and coins. There are the words on the wall in this Senate Chamber just below the clock, ''In God We Trust.'' We passed that law in the House on June 5, 1955. I will always be proud that I was a Member of the House of Representatives when we passed those two pieces of legislation.

So we pledge allegiance ''to the flag of the United States of America and to the Republic''—not to the democracy, but to the Republic—''for which it stands.'' We operate by democratic processes. Ours is a democratic society—I have no quarrel with that—but we do not live in a pure democracy. This is a Republic. We ought to get it straight. High rhetorical phrases referring to our form of government as a democracy constitute somewhat idle talk, and we politicians especially ought to know better.

I sent over to the Library and got a civics textbook by R.O. Hughes, vintage 1927. I studied civics in 1927. That was the year Lindbergh flew across the Atlantic and Jack Dempsey fought Gene Tunney to regain the heavyweight title, but he didn't regain it.

That was the year when Babe Ruth, the Sultan of Swat, hit his 60th home run. So this civics textbook was vintage 1927, and it was right on the mark. Here is what it said: ''We call the United States a federal republic.'' The textbook also defined a republic as ''a government in which the sovereign power is in the hands of the people, but is exercised through officials whom they elect.'' Now, there it is. The textbook also defined a democracy: ''A democracy is a government in which all power is exercised directly by the people. It is next to impossible for this to be done except in small communities, but the spirit of democracy prevails in many republics and some monarchies.''

That 1927 civics textbook had it right. In my hometown of Sophia, WV, 1,186 souls—as of the last census—could very well operate as a pure democracy.

All of the people could gather together, and they could pass laws; that would not be difficult at all—like the early city-states of Greece.

The 1927 civics textbook also defined a ''monarchy'' as well as an ''oligarchy'' and an ''aristocracy.''

Curious as to what a modern textbook on civics would have to say on this subject, I picked up a book, copyright 1990 by Prentice-Hall, Inc., and found no reference—none—to republics and monarchies. Instead, the book referred only to dictatorships and democracies. The 1990 civics textbook states that one way to describe government ''is by saying whether it is a dictatorship or a democracy.'' The book defined a democracy as follows: ''Democracies are quite different from dictatorships. In a democracy the final authority rests with the people. Those who govern do so by permission of the people. Government is run, in other words, with the people's consent. The United States of America is an example of a democracy.''

That is really inaccurate, ''The United States of America is an example of a democracy.'' It is not.

Let me quote what I would consider to be the ultimate authority. This definition does not square with Madison's definition. If Senators want an argument about this, don't argue with me, argue with Madison. This definition does not square with Madison's definition, yet this is what students who study from this 1990 civics textbook are being taught.

The same textbook goes on to state: ''Democracies may be either direct or indirect. A direct democracy is one in which the people themselves, usually in a group meeting, make decisions about what the government will do. Direct democracies do not work very well in large communities. It is almost impossible to get all the people together in one place.''

That is what the book says.

Then the book proceeds. It says: ''An indirect democracy is one in which a few people are elected to represent everyone else in the community. For this reason, indirect democracies are also called representative democracies.''

It is kind of a convoluted way of getting around to saying the right thing, referring to a representative democracy.

Continuing to quote from the book: ''These representatives are held responsible by the people for the day-to-day operation of the government. If the people are unhappy with the performance of their representatives, they may vote them out of office during the next election.''

What a profound statement. That is the civics textbook of 1990. Until I opened up that textbook, I had never heard, I have to say, of ''direct'' democracies and ''indirect'' democracies. So now, my Pledge of Allegiance would have to be stated as follows: ''I pledge allegiance to the flag of the United States of America and to the indirect democracy for which it stands,'' and so forth.

Are you confused?

James Madison, one of the principal framers of the Constitution, alluded to ''the confounding of a republic with a democracy'' in the Federalist #14, written on November 30, 1787. He proceeds to delineate a true distinction between these forms: ''. . . in a democracy, the people meet and exercise the government in person; in a republic they assemble and administer it by their representatives and agents. A democracy consequently will be confined to a small spot. A republic may be extended over a large region.''

Madison was confronting the critics of the Constitution, some of whom sought, by the artifice of confusing the terms democracy and republic, to maintain that a republic could never be established except among a small number of people, living within a small territory. As Madison so ably pointed out, this observation was applicable to a democracy only.

Madison describes the territorial limitations of democracies such as the ''turbulent democracies of ancient Greece,'' saying: ''. . . the natural limit of a democracy is that distance from the central point, which would just permit the most remote citizens to assemble as often as their public functions demand; and will include no greater number than can join in those functions; . . .'' He proceeds to say that the natural limit of a republic ''is that distance from the center, which will barely allow the representatives of the people to meet as often as may be necessary for the administration of public affairs.''

Madison argues that the territorial limits of the United States do not exceed the limit within which a republic can operate and effectively administer the affairs of the people. Again, in the Federalist #10, where Madison discusses the sources and causes and dangers of faction, he defines a ''pure'' democracy as being ''a society, consisting of a small number of citizens, who assemble and administer the government in person.''

Let me say that again.

Madison defines a ''pure'' democracy as being ''a society, consisting of a small number of citizens, who assemble and administer the government in person.'' And Madison indicates that such a form of government ''can admit of no cure for the mischiefs of faction.''

Listen to this—Madison again—stating that, ''democracies have ever been spectacles of turbulence and contention,'' Madison proceeds to add that they ''have ever been found incompatible with personal security, or the rights of property.'' He adds: ''Theoretic politicians, who have patronized this species of government, have erroneously supposed, that by reducing mankind to a perfect equality in their political rights, they would, at the same time, be perfectly equalized and assimilated in their possessions, their opinions, and their passions.''

It is quite different with a republic, however. Listen to Madison as he extols this form as a better approach to dealing with faction: ''A republic, by which I mean a government in which the scheme of representation takes place, opens a different prospect, and promises the cure for which we are seeking. Let us examine the points in which it varies from pure democracy, and we shall comprehend both the nature of the cure, and the efficacy which it must derive from the union.''

Again, Madison clearly distinguishes between a democracy and a republic: ''The two great points of difference between a democracy and a republic are, first, the delegation of the government, in the latter, ''—meaning in the republic—'' to a small number of citizens elected by the rest; secondly, the greater number of citizens, and greater sphere of country, over which the latter ''—meaning the republic—'' may be extended.''

Madison in the Federalist #10 then examines whether the public voice pronounced by the representatives of the people will be more consonant to the public good in a small rather than in a large republic, and he comes down in favor of a more extensive republic as being ''most favorable to the election of proper guardians of the public weal.'' Madison clearly decides in favor of the larger territory. But let's let him speak for himself: ''The greater number of citizens and extent of territory which may be brought within the compass of republican, than of democratic government'' is a ''circumstance principally which renders factious combinations less to be dreaded in the former ''—the republic—'' than in the latter.''

In summation, Madison said, ''Hence it clearly appears, that the same advantage, which a republic has over a democracy, in controlling the effects of faction''—George Washington, we will remember, warned us about faction in his farewell address. Madison said, ''Hence it clearly appears, that the same advantage, which a republic has over a democracy, in controlling the effects of faction, is enjoyed by a large

over a small republic—is enjoyed by the Union over the States composing it.''

Hamilton, in Madison's notes on the Constitutional Convention, referred to the ''amazing violence and turbulence of the democratic spirit.'' Madison himself, in his notes, referred to the dangers of a ''leveling spirit,'' when he said: ''No agrarian attempts have yet been made in this country, but symptoms, of a leveling spirit, as we have understood, have sufficiently appeared in a certain quarter to give notice of the future danger. How is this danger to be guarded against on republican principles?''

Madison was probably referring to the Shays' Rebellion which had occurred just the year before the convention, in 1786, when he spoke of the symptoms of a ''leveling spirit.''

Madison was espousing the establishment of a Senate as ''a body in the government sufficiently respectable for its wisdom and virtue, to aid on such emergencies, the preponderance of justice by throwing its weight into that scale.''

Madison went on to observe ''That as it was more than probable we were now digesting a plan which in its operations would decide forever the fate of republican government—talking about the constitution—we ought not only to provide every guard to liberty that its preservation could require, but be equally careful to supply the defects which our own experience had particularly pointed out.''

What a wise, wise man, Madison. What wise men who gathered there in Philadelphia during those hot summer days between May 25, 1787 and September 17 of that year and hammered out the Constitution of the United States. What a document!

In the discussions concerning the mode of selection of members of the first branch of the national legislature, Mr. Sherman opposed election by the people.

We hear a lot about this ''democracy'' of ours. Many of the framers were concerned about democracy. Some of them didn't want any part of it. They didn't want a democracy.

Mr. Sherman opposed election by the people, insisting that it ought to be by the State legislatures. According to Madison's notes, Mr. Sherman expressed himself accordingly: ''The people, he said, immediately should have as little to do as may be about the Government. They want information and are constantly liable to be misled.''

Roger Sherman, a delegate from Connecticut, was joined in this feeling by Elbridge Gerry of Massachusetts who, as Madison explained, averred: ''The evils we experience flow from the excess of democracy. . . . He . . . had been taught by experience the danger of the leveling [sic] spirit.''

George Mason of Virginia favored the election of the larger branch by the people. According to Madison, Mason ''admitted that we had been too Democratic but was afraid we should incautiously run into the opposite extreme.'' They didn't want to go to the extreme on either edge.

Governor Edmund Randolph of Virginia, who had offered the resolves, around which the debates would swirl throughout the Convention. These are Madison notes from which I am quoting Governor Edmund Randolph of Virginia who had presented the resolves on the 29th day of May, 1787. It is so easy for me to remember that day because the 29th day of May is my wedding anniversary. It happens to be my wife's wedding anniversary also, naturally, May 29. We have seen 61 anniversaries already in our lifetime. And so here is the quote of Governor Randolph.

He ''observed that the general object was to provide a cure for the evils under which the United States labored; that in tracing these evils to their origin, every man had found it in the turbulence and follies of democracy.'' He was of the opinion, therefore, that a check ''was to be sought for against this tendency of our government,'' and he believed that a Senate—a Senate would achieve this end.

In speaking of the Senate of Maryland, and the length of Senatorial terms in that State, Hamilton said: ''They suppose seven years a sufficient period to give the Senate an adequate firmness, from not duly considering the amazing violence and turbulence of the democratic spirit. When a great object of government is pursued, which seizes the popular passions, they spread like wildfire, and become irresistible.'' This was Hamilton speaking, referring to the Senate of Maryland.

It is evident from Madison's notes on the Convention that a pure democracy, as a form of government, did not appeal to the delegates at the Convention, and that a fear of the ''leveling spirit'' of democracy was prevalent at the time and leading members of the Convention were aware of this concern.

Therefore, as Alexis de Tocqueville stated in ''Democracy in America,'' ''the Americans have a democratic state of society'', we should be more careful than to allude to our form of government as a ''democracy.'' If we want to say it's a representative democracy, that is one thing. But it is not a ''democracy''. To do so is to use our language loosely. And we all use our language loosely from time to time. I do. But I never refer to this government as a ''democracy.'' I prefer to stick to the strict definition as explained by Madison and refer to ours as a republic—which I proudly do.

The framers were wise men. As Butler of South Carolina said ''We must follow the example of Solon, who gave the Athenians not the best government he could devise, but the best [government that] they would receive.''

Our founding fathers gave us a republic. As DALE BUMPERS reminded me a moment ago—a few minutes ago, when a lady approached Benjamin Franklin at the conclusion of the convention's proceedings on September 17, 1987, she said, ''Dr. Franklin, what form of government have you given us?''

Franklin didn't answer saying, ''A democracy, Madam.'' His answer was, ''A republic, Madam, if you can keep it.''

Our Founding Fathers gave us a republic, and we public officials, politicians and other molders of opinion should formulate our spoken and written language accordingly.

Mr. President, I thank the Chair and I thank Senators for their courtesy in listening. I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Mr. President, I have enjoyed being here and listening to the senior Senator of West Virginia on a subject about which I have had some opinions and to which I have given some thought, and I would like to engage with him at another time about these issues. But I would just share with him and with the Senate this personal experience.

When I lived in California, I discovered that many governmental reformers had put into place in California, initiative, referendum, and recall. This was the cry of political reformers, I think, in the 1920s, and it was supposed to be a demonstration of how forward-looking you were if you were in favor of initiative, referendum and recall. I voted against every single initiative that came in California, whether I agreed with it or not, for precisely the reasons that the Senator from West Virginia has given us. Because, I said, the people should not be legislating directly in the ballot box. We have a republic to do that. The Constitution guarantees every State a republican form of government. And I felt that California was going down the road, away from that constitutional requirement.

I have discovered, since I left California, that whenever the politicians there have a problem now that they find too difficult for them to deal with in the State assembly, they simply say: Well, let's put it on the ballot. And you have legislation going on the ballot that should be fought out in the legislative process of a republic.

Another problem that you have in California, I would say to the Senator from West Virginia, if it passes in an initiative, it becomes part of the State constitution and therefore cannot be amended. And we have seen examples of legislation that could not get through the State assembly being put on the ballot by factions—to use Madison's term; today we would call them special interests—and therefore being embedded in the California State Constitution so that a future legislature cannot repair the mischief that is created by this attempt at pure democracy.

So we have a laboratory here in our own Union of States that demonstrates the wisdom of Madison and his counterparts in creating the Constitution.

As I say, I am proud to say that when I lived in California, as a citizen, as a matter of constitutional conscience, I voted against every single initiative, even those with which I agreed, because I wanted to preserve the concept of a representative republic that is the foundation of our liberties.

I thank the Senator from West Virginia for this most scholarly presentation. I am grateful that I had the opportunity to be here to hear it.

Mr. BYRD. Mr. President, I thank the distinguished Senator for his observations. I am grateful for his presence at this time and grateful for the perceptions that he has expressed to us based on his experiences in living in the great State of California.

I thank him. I think he is a scholar, a real scholar of our form of government and interested in keeping this republic as Benjamin Franklin so wisely admonished the lady. I thank him very much.

Mr. BENNETT. I thank the Senator for his kind words.

FEDERAL VACANCIES REFORM ACT OF 1998—PERMISSION TO FILE AMENDMENTS

Mr. BENNETT. Mr. President, I ask unanimous consent that Members have until 1 p.m. today to file first-degree amendments to the vacancies bill, notwithstanding the adjournment of the Senate.

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

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Thursday, September 24, 1998, the federal debt stood at $5,523,268,372,227.36 (Five trillion, five hundred twenty-three billion, two hundred sixty-eight million, three hundred seventy-two thousand, two hundred twenty-seven dollars and thirty-six cents).

One year ago, September 24, 1997, the federal debt stood at $5,384,225,000,000 (Five trillion, three hundred eighty-four billion, two hundred twenty-five million).

Five years ago, September 24, 1993, the federal debt stood at $4,381,848,000,000 (Four trillion, three hundred eighty-one billion, eight hundred forty-eight million).

Twenty-five years ago, September 24, 1973, the federal debt stood at $459,783,000,000 (Four hundred fifty-nine billion, seven hundred eighty-three million) which reflects a debt increase of more than $5 trillion—$5,063,485,372,227.36 (Five trillion, sixty-three billion, four hundred eighty-five million, three hundred seventy-two thousand, two hundred twenty-seven dollars and thirty-six cents) during the past 25 years.

WE NEED TO RATIFY THE COMPREHENSIVE TEST BAN TREATY NOW

Mr. KENNEDY. Mr. President, yesterday marked the 35th Anniversary of the Senate's ratification of the Limited Test Ban Treaty in 1963. Unfortunately, we still have not achieved the larger goal of ratifying the Comprehensive Test Ban Treaty. In fact, the Treaty has languished in the Senate Foreign Relations Committee for a year with no debate, no action, and no results.

As President KENNEDY said about the Limited Test Ban Treaty in 1963, ''The conclusion of such a treaty * * * would check the spiraling arms race in one of its most dangerous areas. It would place the nuclear powers in a position to deal more effectively with one of the greatest hazards which man faces in 1963, the further spread of nuclear arms.'' Thirty-five years later, those words are truer than ever.

Nuclear proliferation is one of the most serious national security threats we face. Earlier this year, the nuclear tests in India and Pakistan reminded us that we must do all we can to ratify the Comprehensive Test Ban Treaty as soon as possible.

On Wednesday, at the United Nations, Prime Minister Nawaz Sharif of Pakistan announced his intent to sign the test ban treaty within the next year. The Prime Minister linked this decision to the lifting of sanctions imposed in the wake of last May's nuclear tests. Yesterday, India's Prime Minister Vajpayee followed suit and announced to the U.N. General Assembly that his nation would also sign the Treaty within the year.

If both Pakistan and India sign the Comprehensive Test Ban Treaty, only North Korea will remain outside the worldwide group of nations in continuing to develop their nuclear program. Prompt U.S. ratification of the Treaty would not only demonstrate our support for Pakistan and India, but also encourage North Korea to join the world and reject nuclear testing.

The recent tests by India and Pakistan are ominous proof that the greatest threat to humanity is still the danger of nuclear war. The CTBT would give the United States access to a vast worldwide network of nuclear monitoring stations. These additional stations would blanket the globe with sensors that can detect radiation, feel the ground shake from a nuclear test, or hear the sounds emanating underwater from a nuclear explosion. This network is possible only through the cooperative efforts of the CTBT, and it will clearly strengthen our national security.

We face a unique opportunity in the Senate, an opportunity to help the world pull back from the nuclear brink and end nuclear testing once and for all. Other nations look to the United States for international leadership. President Clinton has done his part, in signing the Treaty and submitting it to the Senate for ratification, as the Constitution requires. Now the Senate should do its part, and ratify the Comprehensive Test Ban Treaty.

Treaty ratification is the single most important step we can take today to reduce the dangers of nuclear war.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on Labor and Human Resources.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 10:46 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House disagrees to the amendment of the Senate to the bill (H.R. 2281) to amend title 17, United States Code, to implement the World Intellectual Property Organizational Copyright Treaty and Performances and Phonograms Treaty, and for other purposes, and agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints the following Members as the managers of the conference on the part of the House:

From the Committee on the Judiciary, for consideration of the House bill and the Senate amendment, and modifications committed to conference: Mr. HYDE, Mr. COBLE, Mr. GOODLATTE, Mr. CONYERS, and Mr. BERMAN.

From the Committee on Commerce, for consideration of the House bill and Senate amendment, and modifications committed to conference: Mr. BLILEY, Mr. TAUZIN, and Mr. DINGELL.

At 12:17 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 3736. An act to amend the Immigration and Nationality Act to make changes relating to H–1B nonimmigrants.

The message also announced that the House insists upon its amendment to the bill (S. 2206) to amend the Head Start Act, the Low-Income Home Energy Assistance Act of 1981, and the Community Services Block Grant Act to reauthorize and make improvements to those Acts, to establish demonstration projects that provide an opportunity for persons with limited means to accumulate assets, and for other purposes, disagreed to by the Senate, and agrees to the conference asked by

the Senate on the disagreeing votes of the two Houses thereon; and appoints the following Members as the managers of the conference on the part of the House: Mr. GOODLING, Mr. CASTLE, Mr. SOUDER, Mr. CLAY, and Mr. MARTINEZ.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–7159. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, notice of a payment to Rewards Program Participant 98–21; to the Committee on Foreign Relations.

EC–7160. A communication from the Acting Chief of the Regulations Branch, U.S. Customs Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Anticounterfeiting Consumer Protection Act: Disposition of Merchandise Bearing Counterfeit American Trademarks; Civil Penalties'' (T.D. 98–75) received on September 22, 1998; to the Committee on Finance.

EC–7161. A communication from the Chief of the Programs and Legislation Division, Office of Legislative Liaison, Department of the Air Force, transmitting, notice of a cost comparison of Precision Measurement Equipment Laboratories Air Force-wide; to the Committee on Armed Services.

EC–7162. A communication from the Acting Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Migratory Bird Hunting Regulations on Certain Federal Indian Reservations and Ceded Lands for the 1998–99 Late Season'' (RIN1018–AE93) received on September 24, 1998; to the Committee on Indian Affairs.

EC–7163. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, notice of an allotment of funds made under the Low-Income Home Energy Assistance Act to the State of Alaska; to the Committee on Labor and Human Resources.

EC–7164. A communication from the General Counsel of the National Science Foundation, transmitting, pursuant to law, the report of a rule entitled ''Conservation of Antarctic Animals and Plants'' (RIN3145–AA34) received on September 22, 1998; to the Committee on Labor and Human Resources.

EC–7165. A communication from the Director of the Office of Surface Mining Reclamation and Enforcement, Department of the Interior, transmitting, pursuant to law, the report of two rules entitled ''Indiana Regulatory Program'' (Docket IN–131–FOR) and ''Ohio Regulatory Program'' (Docket OH–218–FOR) received on September 24, 1998; to the Committee on Energy and Natural Resources.

EC–7166. A communication from the Assistant to the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the report of a rule entitled ''Regulation M, Consumer Leasing'' (Docket R–1004) received on September 24, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC–7167. A communication from the Assistant to the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the report of a rule entitled ''Regulation DD, Truth in Savings'' (Docket R–1003) received on September 24, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC–7168. A communication from the Assistant to the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the report of a rule entitled ''Regulation E, Electronic Fund Transfers'' (Docket R–1007) received on September 24, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC–7169. A communication from the Assistant Secretary for Export Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Encryption Items'' (RIN0694–AB80) received on September 24, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC–7170. A communication from the Chairman of the Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled ''Financial Assurance Requirements for Decommissioning Nuclear Power Reactors'' (RIN3150–AF41) received on September 24, 1998; to the Committee on Environment and Public Works.

EC–7171. A communication from the Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Migratory Bird Hunting; Final Frameworks for Late-Season Migratory Bird Hunting Regulations'' (RIN1018–AE93) received on September 24, 1998; to the Committee on Environment and Public Works.

EC–7172. A communication from the Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Migratory Bird Hunting; Late-Seasons and Bag and Possession Limits for Certain Migratory Game Birds'' (RIN1018–AE93) received on September 24, 1998; to the Committee on Environment and Public Works.

EC–7173. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, Bay Area Air Quality Management District'' (FRL6161–8) received on September 24, 1998; to the Committee on Environment and Public Works.

EC–7174. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Land Disposal Restrictions; Treatment Standards for Spent Potliners from Primary Aluminum Reduction (K088)'' (FRL6168–7) received on September 24, 1998; to the Committee on Environment and Public Works.

EC–7175. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Massachusetts: Final Authorization of State Hazardous Waste Management Program Revision'' (FRL6167–9) received on September 24, 1998; to the Committee on Environment and Public Works.

EC–7176. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''National Priorities List for Uncontrolled Hazardous Waste Sites'' (FRL6169–3) received on September 24, 1998; to the Committee on Environment and Public Works.

EC–7177. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Virginia; Final Approval of Underground Storage Tank Program'' (FRL6167–7) received on September 24, 1998; to the Committee on Environment and Public Works.

EC–7178. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule regarding pesticide tolerance exemptions (FRL6032–4) received on September 24, 1998; to the Committee on Environment and Public Works.

EC–7179. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Fluroxypyr; Pesticide Tolerance'' (FRL6033–4) received on September 24, 1998; to the Committee on Environment and Public Works.

EC–7180. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Mepiquat Chloride; Pesticide Tolerances for Emergency Exemptions'' (FRL6032–6) received on September 24, 1998; to the Committee on Environment and Public Works.

EC–7181. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Regulation of Fuels and Fuel Additives: Modification of the Covered Areas Provision for Reformulated Gasoline'' (FRL6169–5) received on September 24, 1998; to the Committee on Environment and Public Works.

EC–7182. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Tebufenozide; Pesticide Tolerances for Emergency Exemptions'' (FRL6033–3) received on September 24, 1998; to the Committee on Environment and Public Works.

EC–7183. A communication from the Chairman of the Federal Maritime Commission, transmitting, pursuant to law, the report of a rule entitled ''Update of Existing and Addition of New Filing and Service Fees'' (Docket 98–09) received on September 24, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7184. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Hazardous Materials Regulations; Editorial Corrections and Clarifications'' (Docket RSPA–98–4404) received on September 24, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7185. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Operation Regulation; Lafourche Bayou, LA'' (Docket 08–98–062) received on September 24, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7186. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Technical Amendments; Organizational Changes; Miscellaneous Editorial Changes and Conforming Amendments'' (Docket 1998–4442) received on September 24, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7187. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; CFM International CFM56–7B and –7B/2 Series Turbofan Engines'' (Docket 98–ANE–55–AD) received on September 24, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7188. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Boeing Model 747 Series Airplanes'' (Docket 98–NM–257–AD) received on September 24, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7189. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airspace Designations; Incorporation By Reference'' (Docket 29334) received on September 24, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7190. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Employment History, Verification and Criminal History Records Check'' (Docket 28859) received on September 24, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7191. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airspace and Flight Operations Requirements for the Kodak Albuquerque International Balloon Fiesta; Albuquerque, NM'' (Docket 29279) received on September 24, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7192. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of the Gulf of Mexico Low Offshore Airspace Area'' (Docket 97–ASW–23) received on September 24, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7193. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Revision of Class D Airspace; San Diego-Gillespie Field, CA'' (Docket 98–AWP–21) received on September 24, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7194. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; British Aerospace (Jetstream) Model 4101 Airplanes'' (Docket 98–NM–152–AD) received on September 24, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7195. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Airbus Model A310 and A300–600 Series Airplanes'' (Docket 97–NM–310–AD) received on September 24, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7196. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Saab Model SAAB 2000 Series Airplanes'' (Docket 98–NM–63–AD) received on September 24, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7197. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Aerospatiale Model ATR42 Series Airplanes'' (Docket 98–NM–44–AD) received on September 24, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7198. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Fokker Model F.28 Mark 1000, 2000, 3000, and 4000 Series Airplanes'' (Docket 98–NM–28–AD) received on September 24, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7199. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Airbus Model A319, A320, and A321 Series Airplanes'' (Docket 98–NM–15–AD) received on September 24, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7200. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; McDonnell Douglass Model DC–9–80 Series Airplanes'' (Docket 96–NM–270–AD) received on September 24, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7201. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Bombardier Model DHC–8–100, –200, and –300 Series Airplanes'' (Docket 98–NM–14–AD) received on September 24, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7202. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Airbus Model A300, A310, and A300–600 Series Airplanes'' (Docket 97–NM–307–AD) received on September 24, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7203. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Boeing Model 747–100 Series Airplanes'' (Docket 98–NM–256–AD) received on September 24, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7204. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Airbus Model A320–111, –211, and –231 Series Airplanes'' (Docket 98–NM–20–AD) received on September 24, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7205. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Dornier Model 328–100 Series Airplanes'' (Docket 98–NM–96–AD) received on September 24, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7206. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Airbus Model A321 Series Airplanes'' (Docket 98–NM–246–AD) received on September 24, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7207. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Bombardier Model DHC–8–102, –103, –106, –201, 202, –301, –311, and –315 Series Airplanes'' (Docket 98–NM–172–AD) received on September 24, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7208. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Saab Model SAAB 340B Series Airplanes'' (Docket 98–NM–176–AD) received on September 24, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7209. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Airbus Model A300 Series Airplanes'' (Docket 98–NM–206–AD) received on September 24, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7210. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Dornier Model 328–100 Series Airplanes'' (Docket 98–NM–162–AD) received on September 24, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7211. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Airbus Model A319, A320, and A321 Series Airplanes'' (Docket 98–NM–61–AD) received on September 24, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7212. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; British Aerospace (Jetstream) Model 4101 Airplanes'' (Docket 97–NM–339–AD) received on September 24, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7213. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; McDonnell Douglas Model DC–9–10, –20, –30, –40, and –50 Series Airplanes and C–9 [Military) Airplanes'' (Docket 96–NM–244–AD) received on September 24, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7214. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Airbus Model A300 Series Airplanes'' (Docket 98–NM–169–AD) received on September 24, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7215. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Rolls-Royce, plc RB211 Trent 800 Series Turbofan Engines'' (Docket 98–ANE–33–AD) received on September 24, 1998; to the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BOND, from the Committee on Small Business, with an amendment in the nature of a substitute and an amendment to the title:

H.R. 3412. A bill to amend and make technical corrections in title III of the Small Business Investment Act (Rept. No. 105–347).

By Mr. BOND, from the Committee on Small Business, with an amendment in the nature of a substitute:

H.R. 3853. A bill to promote drug-free workplace programs (Rept. No. 105–348).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with amendments:

H.R. 2402. A bill to make technical and clarifying amendments to improve management of water-related facilities in the Western United States.

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, without amendment:

H.R. 2411. A bill to provide for a land exchange involving the Cape Cod National Seashore and to extend the authority for the Cape Cod National Seashore Advisory Commission.

By Mr. THOMPSON, from the Committee on Governmental Affairs, without amendment:

H.R. 2623. A bill to designate the United States Post Office located at 16250 Highway 603 in Kiln, Mississippi, as the ''Ray J. Favre Post Office Building.''

H.R. 2798. A bill to redesignate the building of the United States Postal Service located at 2419 West Monroe Street, in Chicago, Illinois, as the ''Nancy B. Jefferson Post Office Building.''

H.R. 2799. A bill to redesignate the building of the United States Postal Service located at 324 South Laramie Street, in Chicago, Illinois, as the ''Reverend Milton R. Brunson Post Office Building.''

H.R. 3630. A bill to redesignate the facility of the United States Postal Service located at 9719 Candelaria Road NE. in Albuquerque, New Mexico, as the ''Steven Schiff Post Office.''

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with an amendment:

H.R. 3687. A bill to authorize prepayment of amounts due under a water reclamation project contract for the Canadian River Project, Texas.

By Mr. THOMPSON, from the Committee on Governmental Affairs, without amendment:

H.R. 3808. A bill to designate the United States Post Office located at 47526 Clipper Drive in Plymouth, Michigan, as the ''Carl D. Pursell Post Office.''

H.R. 3810. A bill to designate the United States Post Office located at 202 Center Street in Garwood, New Jersey, as the ''James T. Leonard, Sr. Post Office.''

H.R. 3939. A bill to designate the United States Postal Service building located at 658 63rd Street, Philadelphia, Pennsylvania, as the ''Edgar C. Campbell, Sr., Post Office Building.''

H.R. 3999. A bill to designate the United States Postal Service building located at 5209 Greene Street, Philadelphia, Pennsylvania, as the ''David P. Richardson, Jr., Post Office Building.''

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, without amendment:

H.R. 4079. A bill to authorize the construction of temperature control devices at Folsom Dam in California.

H.R. 4166. A bill to amend the Idaho Admission Act regarding the sale or lease of school land.

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 736. A bill to convey certain real property within the Carlsbad Project in New Mexico to the Carlsbad Irrigation District.

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with amendments:

S. 744. A bill to authorize the construction of the Fall River Water Users District Rural Water System and authorize financial assistance to the Fall River Water Users District, a non-profit corporation, in the planning and construction of the water supply system, and for other purposes.

S. 777. A bill to authorize the construction of the Lewis and Clark Rural Water System and to authorize assistance to the Lewis and Clark Rural Water System, Inc., a nonprofit corporation, for planning and construction of the water supply system, and for other purposes.

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, without amendment:

S. 991. A bill to make technical corrections to the Omnibus Parks and Public Lands Management Act of 1996, and for other purposes.

S. 1175. A bill to reauthorize the Delaware Water Gap National Recreation Area Citizen Advisory Commission for 10 additional years.

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with an amendment:

S. 1641. A bill to direct the Secretary of the Interior to study alternatives for establishing a national historic trail to commemorate and interpret the history of women's rights in the United States.

S. 1960. A bill to allow the National Park Service to acquire certain land for addition to the Wilderness Battlefield, as previously authorized by law, by purchase or exchange as well as by donation.

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, without amendment:

S. 2041. A bill to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the design, planning, and construction of the Willow Lake Natural Treatment System Project for the reclamation and reuse of water, and for other purposes.

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 2086. A bill to revise the boundaries of the George Washington Birthplace National Monument.

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with amendments:

S. 2117. A bill to authorize the construction of the Perkins County Rural Water System and authorize financial assistance to the Perkins County Rural Water System, Inc., a nonprofit corporation, in the planning and construction of the water supply system, and for other purposes.

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 2133. A bill to designate former United States Route 66 as ''America's Main Street'' and authorize the Secretary of the Interior to provide assistance.

S. 2136. A bill to provide for the exchange of certain land in the State of Washington.

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, without amendment:

S. 2140. A bill to amend the Reclamation Projects Authorization and Adjustment Act of 1992 to authorize the Secretary of the Interior to participate in the design, planning, and construction of the Denver Water Reuse project.

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 2142. A bill to authorize the Secretary of the Interior to convey the facilities of the Pine River Project, to allow jurisdictional transfer of lands between the Department of Agriculture, Forest Service, and the Department of the Interior, Bureau of Reclamation, and the Bureau of Indian Affairs, and for other purposes.

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, without amendment:

S. 2239. A bill to revise the boundary of Fort Matanzas Monument and for other purposes.

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with amendments:

S. 2240. A bill to establish the Adams National Historical Park in the Commonwealth of Massachusetts, and for other purposes.

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, without amendment:

S. 2241. A bill to provide for the acquisition of lands formerly occupied by the Franklin D. Roosevelt family at Hyde Park, New York, and for other purposes.

S. 2246. A bill to amend the Act which established the Frederick Law Olmsted National Historic Site, in the Commonwealth of Massachusetts, by modifying the boundary and for other purposes.

S. 2247. A bill to permit the payment of medical expenses incurred by the U.S. Park Police in the performance of duty to be made directly by the National Park Service, and for other purposes.

S. 2248. A bill to allow for waiver and indemnification in mutual law enforcement agreements between the National Park Service and a state or political subdivision, when required by state law, and for other purposes.

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with amendments:

S. 2257. A bill to reauthorize the National Historic Preservation Act.

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 2284. A bill to establish the Minuteman Missle National Historic Site in the State of South Dakota, and for other purposes.

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, without amendment:

S. 2285. A bill to establish a commission, in honor of the 150th Anniversary of the Seneca Falls Convention, to further protect sites of importance in the historic efforts to secure equal rights for women.

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 2297. A bill to provide for the distribution of certain publications in units of the National Park System under a sales agreement between the Secretary of the Interior and a private contractor.

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, without amendment:

S. 2309. A bill to authorize the Secretary of the Interior to enter into an agreement for the construction and operation of the Gateway Visitor Center at Independence National Historical Park.

By Mr. THOMPSON, from the Committee on Governmental Affairs, without amendment:

S. 2310. A bill to designate the United States Post Office located at 297 Larkfield Road in East Northport, New York, as the ''Jerome Anthony Ambro, Jr. Post Office Building.''

S. 2370. A bill to designate the facility of the United States Postal Service located at Tall Timbers Village Square, United States Highway 19 South, in Thomasville, Georgia, as the ''Lieutenant Henry O. Flipper Station.''

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 2401. A bill to authorize the addition of the Paoli Battlefield site in Malvern, Pennsylvania, to Valley Forge National Historical Park.

By Mr. THOMPSON, from the Committee on Governmental Affairs, without amendment:

S. 2404. A bill to establish designations for United States Postal Service buildings located in Coconut Grove, Opa Locka, Carol City, and Miami, Florida.

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with an amendment:

S. 2468. A bill to designate the Biscayne National Park visitor center as the Dante Fascell Visitor Center at Biscayne National Park.

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 2500. A bill to protect the sanctity of contracts and leases entered into by surface patent holders with respect to coalbed methane gas.

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. MOYNIHAN (for himself, Mr. BURNS, Mr. BAUCUS, and Mr. D'AMATO):

S. 2520. A bill to exclude from Federal taxation any portion of any reward paid to David R. Kaczynski and Linda E. Patrik which is donated to the victims in the Unabomber case or their families or which is used to pay Mr. Kaczynski's and Ms. Patrik's attorneys' fees; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MOYNIHAN (for himself, Mr. BURNS, Mr. BAUCUS, and Mr. D'AMATO):

S. 2520. A bill to exclude from Federal taxation any portion of any reward paid to David R. Kaczynski and Linda E. Patrik which is donated to the victims in the Unabomber case or their families or which is used to pay Mr. Kaczynski's and Ms. Patrik's attorneys' fees; to the Committee on Finance.

TAX EXEMPTION OF REWARDS

• Mr. MOYNIHAN. Mr. President, three years ago, a quiet, law-abiding American family found itself suddenly and unavoidably caught up in the story of one of the most notorious criminal manhunts of the last quarter century in the United States. At this time, my constituents David R. Kaczynski and his wife Linda E. Patrik were confronted with a terrible dilemma. Published news reports led them to suspect they knew the identity of the ''Unabomber,'' the elusive criminal whose letter bombs had killed three people and injured several others over a 17-year period.

Upon reading the Unabomber's ''manifesto'' published in the New York Times and Washington Post in September of 1995, Mr. Kaczynski and Ms. Patrik, residents of Schenectady, New York, came to the awful realization that the Unabomber might be David's brother, Theodore J. Kaczynski, whose letters they believed closely resembled the Unabomber's ''manifesto.'' David Kaczynski, a social worker, and Ms. Patrik, a professor of philosophy at Union College, understandably feared that disclosure of their suspicions might ultimately lead to the execution of David's brother for the crime of murder. Even so—and as painful as it was for them—they considered it their duty to notify the Federal Bureau of Investigation, which they did.

Soon thereafter, Theodore Kaczynski was arrested in a small cabin in Montana, bringing to an end the Unabomber's long reign of violence. In January 1998, Theodore Kaczynski entered a plea agreement with federal prosecutors resulting in his sentence of life in prison without parole.

Earlier this year, David Kaczynski and Linda Patrik received a $1 million reward from the FBI for the information they supplied. And it was characteristic of these fine citizens that they immediately pledged, after taxes and attorneys' fees, to pay every cent of the reward to the Unabomber's victims and their families.

For over two years, David Kaczynski, his family, and his attorney spent countless hours involved in efforts associated with the investigation, capture, and trial of Theodore Kaczynski. Now they are attempting to do the right and noble thing by pledging the reward money to help those injured by a deeply troubled member of their family. It would be ironic and I believe unjust if the federal government were to diminish this selfless act by taxing the Kaczynskis or those to whom they have agreed to pay the reward monies. Therefore we are introducing a bill today to increase the amount available to the Unabomber's victims and their families by exempting from federal taxation all amounts donated to the victims, as well as attorney's fees incurred in the matter.

Mr. President, surely this is the least we can do to express our gratitude to David Kaczynski and Linda Patrik, and our sorrow and condolences to the victims and their families. I hope all Senators will support this simple but much-needed measure.•

ADDITIONAL COSPONSORS

S. 1868

At the request of Mr. NICKLES, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S. 1868, a bill to express United States foreign policy with respect to, and to strengthen United States advocacy on behalf of, individuals persecuted for their faith worldwide; to authorize United States actions in response to religious persecution worldwide; to establish an Ambassador at Large on International Religious Freedom within the Department of State, a Commission on International Religious Persecution, and a Special Adviser on International Religious Freedom within the National Security Council; and for other purposes.

S. 2180

At the request of Mr. LOTT, the name of the Senator from Wisconsin (Mr. KOHL) was added as a cosponsor of S. 2180, a bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to clarify liability under that Act for certain recycling transactions.

S. 2288

At the request of Mr. WARNER, the names of the Senator from Rhode Island (Mr. REED), the Senator from Nevada (Mr. REID), the Senator from Kansas (Mr. ROBERTS), and the Senator from Hawaii (Mr. INOUYE) were added as cosponsors of S. 2288, a bill to provide for the reform and continuing legislative oversight of the production, procurement, dissemination, and permanent public access of the Government's publications, and for other purposes.

S. 2295

At the request of Mr. MCCAIN, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 2295, a bill to amend the Older Americans Act of 1965 to extend the authorizations of appropriations for that Act, and for other purposes.

S. 2432

At the request of Mr. JEFFORDS, the name of the Senator from New York (Mr. D'AMATO) was added as a cosponsor of 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.

SENATE JOINT RESOLUTION 56

At the request of Mr. GRASSLEY, the name of the Senator from Georgia (Mr. COVERDELL) was added as a cosponsor of Senate Joint Resolution 56, a joint resolution expressing the sense of Congress in support of the existing Federal legal process for determining the safety and efficacy of drugs, including marijuana and other Schedule I drugs, for medicinal use.

SENATE CONCURRENT RESOLUTION 83

At the request of Mr. WARNER, the name of the Senator from Arizona (Mr. MCCAIN) was added as a cosponsor of Senate Concurrent Resolution 83, a concurrent resolution remembering the life of George Washington and his contributions to the Nation.

SENATE RESOLUTION 257

At the request of Mr. MURKOWSKI, the names of the Senator from Indiana (Mr. COATS), the Senator from South Dakota (Mr. JOHNSON), and the Senator from Wisconsin (Mr. FEINGOLD) were added as cosponsors of Senate Resolution 257, a resolution expressing the sense of the Senate that October 15, 1998, should be designated as ''National Inhalant Abuse Awareness Day.''

AMENDMENTS SUBMITTED

FEDERAL VACANCIES REFORM ACT OF 1998

LEVIN AMENDMENT NO. 3648

(Ordered to lie on the table.)

Mr. LEVIN submitted an amendment intended to be proposed by him to the bill (S. 2176) to amend sections 3345

through 3349 of title 5, United States Code (commonly referred to as the ''Vacancies Act'') to clarify statutory requirements relating to vacancies in and appointments to certain Federal offices, and for other purposes; as follows:

On page 13, insert between lines 17 and 18 the following:

§ 3349d. Notification of intent to nominate during certain recesses or adjournments

''The submission to the Senate, during a recess or adjournment of the Senate in excess of 15 days, of a written notification by the President of the President's intention to submit a nomination after the recess or adjournment shall be considered a nomination for purposes of sections 3345 through 3349c if—

''(1) such notification contains the name of the proposed nominee and the position for which the person is nominated; and

''(2) the President submits the nomination of such nominee within 3 days after the end of such recess or adjournment.''.

KEMPTHORNE AMENDMENT NO. 3649

(Ordered to lie on the table.)

Mr. KEMPTHORNE submitted an amendment intended to be proposed by him to the bill, S. 2176, supra; as follows:

At the appropriate place in the bill, insert the following:

TITLE ___—ENDANGERED SPECIES RECOVERY

SEC. ___01. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the ''Endangered Species Recovery Act of 1997''.

(b) TABLE OF CONTENTS.—The table of contents of this title is as follows:

(c) REFERENCES TO ENDANGERED SPECIES ACT OF 1973.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to that section or provision of the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

SEC. ___02. LISTING AND DELISTING SPECIES.

(a) BEST SCIENTIFIC AND COMMERCIAL DATA AVAILABLE.—Section 3 (16 U.S.C. 1532) is amended—

(1) by striking the section heading and inserting the following:

''DEFINITIONS AND GENERAL PROVISIONS'';

(2) by striking ''For the purposes of this Act—'' and inserting the following:

''(a) DEFINITIONS.—In this Act:''; and

(3) by adding at the end the following:

''(b) GENERAL PROVISIONS.—

''(1) BEST SCIENTIFIC AND COMMERCIAL DATA AVAILABLE.—Where this Act requires the Secretary to use the best scientific and commercial data available, the Secretary, when evaluating comparable data, shall give greater weight to scientific or commercial data that is empirical or has been field-tested or peer-reviewed.''.

(b) CONFORMING AMENDMENT.—The table of contents in the first section (16 U.S.C. prec. 1531) is amended by striking the item relating to section 3 and inserting the following: ''Sec. 3. Definitions and general provisions.''.

(c) LISTING AND DELISTING.—

(1) FACTORS CONSIDERED FOR LISTING.—Section 4(a)(1) (16 U.S.C. 1533(a)(1)) is amended—

(A) in subparagraph (C), by inserting ''introduced species, competition,'' before ''disease or predation''; and

(B) in subparagraph (D), by inserting ''Federal, State, and local government and international'' before ''regulatory mechanisms''.

(2) CRITICAL HABITAT.—Section 4(a) (16 U.S.C. 1533(a)) is amended by striking paragraph (3).

(3) DELISTING.—Section 4(b)(2) (16 U.S.C. 1533(b)(2)) is amended to read as follows:

''(2) DELISTING.—The Secretary shall, in accordance with section 5 and on a determination that the goals of the recovery plan for a species have been met, initiate the procedures for determining, in accordance with subsection (a)(1), whether to remove the species from a list published under subsection (c).''

(4) RESPONSE TO PETITIONS.—

(A) IN GENERAL.—Section 4(b)(3) (16 U.S.C. 1533(b)(3)) is amended to read as follows:

''(3) RESPONSE TO PETITIONS.—

''(A) ACTION MAY BE WARRANTED.—

''(i) IN GENERAL.—To the maximum extent practicable, not later than 90 days after receiving the petition of an interested person under section 553(e) of title 5, United States Code, to—

''(I) add a species to;

''(II) remove a species from; or

''(III) change the status of a species from a previous determination with respect to;

either of the lists published under subsection (c), the Secretary shall make a finding as to whether the petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted. If a petition is found to present such information, the Secretary shall promptly commence a review of the status of the species concerned. The Secretary shall promptly publish each finding made under this subparagraph in the Federal Register.

''(ii) MINIMUM DOCUMENTATION.—A finding that the petition presents the information described in clause (i) shall not be made unless the petition provides—

''(I) documentation that the fish, wildlife, or plant that is the subject of the petition is a species;

''(II) a description of the available data on the historical and current range and distribution of the species;

''(III) an appraisal of the available data on the status and trends of populations of the species;

''(IV) an appraisal of the available data on the threats to the species; and

''(V) an identification of the information contained or referred to in the petition that has been peer-reviewed or field-tested.

''(iii) NOTIFICATION TO THE STATES.—

''(I) PETITIONED ACTIONS.—If the petition is found to present the information described in clause (i), the Secretary shall notify and provide a copy of the petition to the State agency in each State in which the species is believed to occur and solicit the assessment of the agency, to be submitted to the Secretary not later than 90 days after the notification, as to whether the petitioned action is warranted.

''(II) OTHER ACTIONS.—If the Secretary has not received a petition for a species and the Secretary is considering proposing to list such species as either threatened or endangered under subsection (a), the Secretary shall notify the State agency in each State in which the species is believed to occur and solicit the assessment of the agency, to be submitted to the Secretary not later than 90 days after the notification, as to whether the listing would be in accordance with subsection (a).

''(III) CONSIDERATION OF STATE ASSESSMENTS.—Prior to publication of a determination that a petitioned action is warranted or the issuance of a proposed regulation, the Secretary shall consider any State assessments submitted within the comment period established by subclause (I) or (II).

''(B) PETITION TO CHANGE STATUS OR DELIST.—A petition may be submitted to the Secretary under subparagraph (A) to change the status of a species or to remove a species from either of the lists published under subsection (c) in accordance with subsection (a)(1), if—

''(i) the current listing is no longer appropriate because of a change in the factors identified under subsection (a)(1); or

''(ii) with respect to a petition to remove a species from either of the lists—

''(I) new data or a reinterpretation of prior data indicate that removal is appropriate;

''(II) the species is extinct; or

''(III) the recovery goals established for the species in a recovery plan approved under section 5(h) have been achieved.

''(C) DETERMINATION.—Not later than one year after receiving a petition that is found under subparagraph (A)(i) to present substantial information indicating that the petitioned action may be warranted, the Secretary shall make one of the following findings:

''(i) NOT WARRANTED.—The petitioned action is not warranted, in which case the Secretary shall promptly publish the finding in the Federal Register.

''(ii) WARRANTED.—The petitioned action is warranted, in which case the Secretary shall promptly publish in the Federal Register a general notice and the complete text of a proposed regulation to implement the action in accordance with paragraph (5).

''(iii) WARRANTED BUT PRECLUDED.—The petitioned action is warranted, but—

''(I) the immediate proposal and timely promulgation of a final regulation implementing the petitioned action in accordance with paragraphs (5) and (6) is precluded by pending proposals to determine whether any species is an endangered species or a threatened species; and

''(II) expeditious progress is being made to add qualified species to either of the lists published under subsection (c) and to remove from the lists species for which the protections of this Act are no longer necessary;

in which case the Secretary shall promptly publish the finding in the Federal Register, together with a description and evaluation of the reasons and data on which the finding is based.

''(D) SUBSEQUENT DETERMINATION.—A petition with respect to which a finding is made under subparagraph (C)(iii) shall be treated as a petition that is resubmitted to the Secretary under subparagraph (A) on the date of the finding and that presents substantial scientific or commercial information that the petitioned action may be warranted.

''(E) JUDICIAL REVIEW.—Any negative finding described in subparagraph (A)(i) and any finding described in clause (i) or (iii) of subparagraph (C) shall be subject to judicial review.

''(F) MONITORING AND EMERGENCY LISTING.—The Secretary shall implement a system to monitor effectively the status of each species with respect to which a finding is made under subparagraph (C)(iii) and shall make prompt use of the authority under paragraph (7) to prevent a significant risk to the well-being of the species.''.

(B) CONFORMING AMENDMENT.—Section 6(d)(1) (16 U.S.C. 1535(d)(1)) is amended in the first sentence by striking ''subparagraph (C)'' and inserting ''subparagraph (F)''.

(5) PROPOSED REGULATIONS.—Section 4(b)(5) (16 U.S.C. 1533(b)(5)) is amended—

(A) by striking ''(5) With respect to any regulation'' and inserting the following:

''(5) PROPOSED REGULATIONS AND REVIEW.—With respect to any regulation'';

(B) by striking ''a determination, designation, or revision'' and inserting ''a determination or change in status'';

(C) by striking ''(a)(1) or (3),'' and inserting ''(a)(1),'';

(D) by striking ''in the Federal Register,'' and inserting ''in the Federal Register as provided by paragraph (8),''; and

(E) by striking subparagraph (E) and inserting the following:

''(E) at the request of any person not later than 45 days after the date of publication of general notice, promptly hold at least one public hearing in each State that would be affected by the proposed regulation (including at least one hearing in an affected rural area, if any) except that the Secretary shall not be required to hold more than five hearings under this subparagraph.''.

(6) FINAL REGULATIONS.—

(A) SCHEDULE.—Section 4(b)(6) (16 U.S.C. 1533(b)(6)) is amended by striking ''(6)(A)'' and all that follows through the end of subparagraph (A) and inserting the following:

''(6) FINAL REGULATIONS.—

''(A) IN GENERAL.—Within the one-year period beginning on the date on which general notice is published in accordance with paragraph (5)(A)(i) regarding a proposed regulation, the Secretary shall publish in the Federal Register—

''(i) a final regulation to implement the determination;

''(ii) notice that the one-year period is being extended under subparagraph (B)(i); or

''(iii) notice that the proposed regulation is being withdrawn under subparagraph (B)(ii), together with the finding on which the withdrawal is based.''.

(B) CONFORMING AMENDMENTS.—Section 4(b)(6) (16 U.S.C. 1533(b)(6)) is amended—

(i) in subparagraph (B)(i), by striking ''or revision'';

(ii) in subparagraph (B)(iii), by striking ''or revision concerned, a finding that the revision should not be made,''; and

(iii) by striking subparagraph (C).

(7) PUBLICATION OF DATA AND INFORMATION.—Section 4(b)(8) (16 U.S.C. 1533(b)(8)) is amended—

(A) by striking ''a summary by the Secretary of the data'' and inserting ''a summary by the Secretary of the best scientific and commercial data available'';

(B) by striking ''is based and shall'' and inserting ''is based, shall''; and

(C) by striking ''regulation; and if such regulation designates or revises critical habitat, such summary shall, to the maximum extent practicable, also include a brief description and evaluation of those activities (whether public or private) which, in the opinion of the Secretary, if undertaken may adversely modify such habitat, or may be affected by such designation.'' and inserting ''regulation, and shall provide, to the degree that it is relevant and available, information regarding the status of the affected species, including current population, population trends, current habitat, food sources, predators, breeding habits, captive breeding efforts, governmental and nongovernmental conservation efforts, or other pertinent information.''.

(8) SOUND SCIENCE.—Section 4(b) (16 U.S.C. 1533(b)) is amended by adding at the end the following:

''(9) ADDITIONAL DATA.—

''(A) IN GENERAL.—The Secretary shall identify and publish in the Federal Register with the notice of a proposed regulation pursuant to paragraph (5)(A)(i) a description of additional scientific and commercial data that would assist in the preparation of a recovery plan and—

''(i) invite any person to submit the data to the Secretary; and

''(ii) describe the steps that the Secretary plans to take for acquiring additional data.

''(B) RECOVERY PLANNING.—Data identified and obtained under subparagraph (A) shall be considered by the recovery team and the Secretary in the preparation of the recovery plan in accordance with section 5.

''(C) NO DELAY AUTHORIZED.—Nothing in this paragraph waives or extends any deadline for publishing a final rule to implement a determination (except for the extension provided in paragraph (6)(B)(i)) or any deadline under section 5.

''(10) INDEPENDENT SCIENTIFIC REVIEW.—

''(A) IN GENERAL.—In the case of a regulation proposed by the Secretary to implement a determination under subsection (a)(1) that any species is an endangered species or a threatened species or that any species currently listed as an endangered species or a threatened species should be removed from any list published pursuant to subsection (c), the Secretary shall provide for independent scientific peer review by—

''(i) selecting independent referees pursuant to subparagraph (B);

''(ii) providing the referees with all studies, reports, comments, and other documents submitted for the record on the proposed regulation within the public comment period on the proposed regulation, except that, if the comment period is longer than 60 days, the studies, reports, comments, or other documents submitted for the record on the proposed regulation during the comment period after the 60th day shall be provided to the referees on request; and

''(iii) requesting the referees to conduct the review, considering the studies, reports, comments, and other documents provided under clause (ii), and any other relevant information, and make recommendations to the Secretary in accordance with this paragraph not later than 150 days after the general notice is published pursuant to paragraph (5)(A)(i).

''(B) SELECTION OF REFEREES.—For each independent scientific review to be conducted pursuant to subparagraph (A), the Secretary shall select three independent referees from a list provided by the National Academy of Sciences, who—

''(i) through publication of peer-reviewed scientific literature or other means, have demonstrated scientific expertise on the species or a similar species or other scientific expertise relevant to the decision of the Secretary under subsection (a);

''(ii) do not have, or represent any person with, a conflict of interest with respect to the determination that is the subject of the review; and

''(iii) are not participants in a petition to list, change the status of, or remove the species under paragraph (3)(A)(i), the assessment of a State for the species under paragraph (3)(A)(iii), or the proposed or final determination of the Secretary.

''(C) FINAL DETERMINATION.—The Secretary shall take one of the actions under paragraph (6)(A) not later than one year after the date of publication of the general notice of the proposed determination. If the referees have made recommendations in accordance with subparagraph (A)(iii), the Secretary shall evaluate and consider the information that results from the independent scientific review and include in the final determination—

''(i) a summary of the results of the independent scientific review; and

''(ii) in a case in which the recommendation of a majority of the referees who conducted the independent scientific review under subparagraph (A) is not followed, an explanation as to why the recommendation was not followed.

''(D) FEDERAL ADVISORY COMMITTEE ACT.—The selection and activities of referees selected pursuant to this Act shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.). The Secretary shall make available to the public, on request, the studies, reports, comments, and other documents provided to the independent referees under subparagraph (A)(ii).''.

(9) LISTS.—Section 4(c)(1) (16 U.S.C. 1533(c)(1)) is amended—

(A) in the second sentence, by inserting ''designated'' before ''critical habitat''; and

(B) in the third sentence, by striking ''determinations, designations, and revisions'' and inserting ''determinations''.

(10) PROTECTIVE REGULATION.—Section 4(d) (16 U.S.C. 1533(d)) is amended—

(A) by striking ''Whenever any species is listed'' and inserting the following:

''(1) IN GENERAL.—Whenever any species is listed''; and

(B) by adding at the end the following:

''(2) NEW LISTINGS.—With respect to each species listed as a threatened species after the date of enactment of this paragraph, regulations applicable under paragraph (1) to the species shall be specific to that species by the date on which the Secretary is required to approve a recovery plan for the species pursuant to section 5(c) and may be subsequently revised.''.

(11) RECOVERY PLANS.—Section 4 (16 U.S.C. 1533) is amended by striking subsection (f) and redesignating subsections (g) through (i) as subsections (f) through (h), respectively.

(12) STATE CONSERVATION AGREEMENTS.—Section 4 (16 U.S.C. 1533) (as amended by paragraph (11)) is amended by adding at the end the following:

''(i) STATE CONSERVATION AGREEMENTS.—The Secretary may enter into a conservation agreement with one or more States for a species that has been proposed for listing, is a candidate species, or is likely to become a candidate species in the near future within the State. The Secretary may approve an agreement if, after notice and opportunity for public comment, the Secretary finds that—

''(1) for species covered by the agreement, the actions taken under the agreement, if undertaken by all States within the range of the species, would produce a conservation benefit that would be likely to eliminate the need to list the species as threatened or endangered under this section for the duration of the agreement;

''(2) the actions taken under the agreement will not adversely affect an endangered species or a threatened species;

''(3) the agreement contains such other measures as the Secretary may require as being necessary or appropriate for the purposes of the agreement;

''(4) the State will ensure adequate funding and enforcement to implement the agreement; and

''(5) the agreement includes such monitoring and reporting requirements as the Secretary considers necessary for determining whether the terms and conditions of the agreement are being complied with.''.

(13) CONFORMING AMENDMENT.—Section 4(g) (as redesignated by paragraph (11)) is amended in paragraph (4) by striking ''subsection (f) of this section'' and inserting ''section 5''.

(d) PUBLIC AVAILABILITY OF DATA.—Section 3(b) (as amended by subsection (a)) is amended by adding at the end the following:

''(2) FREEDOM OF INFORMATION ACT EXEMPTION.—The Secretary, and the head of any other Federal agency on the recommendation of the Secretary, may withhold or limit the availability of data requested to be released pursuant to section 552 of title 5, United States Code, if the data describe or identify the location of an endangered species, a threatened species, or a species that has been proposed to be listed as threatened or endangered, and release of the data would be likely to result in an increased taking of the species, except that data shall not be withheld pursuant to this paragraph in response to a request regarding the presence of those species on private land by the owner of that land.''.

SEC. ___03. ENHANCED RECOVERY PLANNING.

(a) REDESIGNATION.—Section 5 (16 U.S.C. 1534) is redesignated as section 5A.

(b) RECOVERY PLANS.—The Act is amended by inserting before section 5A (as redesignated by subsection (a)) the following:

''RECOVERY PLANS

''SEC. 5. (a) IN GENERAL.—The Secretary, in cooperation with the States, and on the basis of the best scientific and commercial data available, shall develop and implement plans (referred to in this Act as 'recovery plans') for the conservation and recovery of endangered species and threatened species that are indigenous to the United States or in waters with respect to which the United States exercises sovereign rights or jurisdiction, in accordance with the requirements and schedules described in this section, unless the Secretary finds, after notice and opportunity for public comment, that a plan will not promote the conservation of the species or because an existing plan or strategy to conserve the species already serves as the functional equivalent to a recovery plan. The Secretary may authorize a State agency to develop recovery plans pursuant to subsection (m).

''(b) PRIORITIES.—

''(1) CRITERIA.—To the maximum extent practicable, the Secretary, in developing recovery plans, shall give priority, without regard to taxonomic classification, to recovery plans that—

''(A) address significant and immediate threats to the survival of an endangered species or a threatened species, have the greatest likelihood of achieving recovery of the endangered species or the threatened species, and will benefit species that are more taxonomically distinct;

''(B) address multiple species including (i) endangered species, (ii) threatened species, or (iii) species that the Secretary has identified as candidates or proposed for listing under section 4 and that are dependent on the same habitat as the endangered species or threatened species covered by the plan;

''(C) reduce conflicts with construction, development projects, jobs, private property, or other economic activities; and

''(D) reduce conflicts with military training and operations.

''(2) PRIORITY SYSTEM.—To carry out subsection (c) of this section and section 3(e) of the Endangered Species Recovery Act of 1997 in the most efficient and effective manner practicable, the Secretary shall develop and implement a priority ranking system for the preparation of recovery plans based on all of the factors described in subparagraphs (A) through (D) of paragraph (1).

''(c) SCHEDULE.—For each species determined to be an endangered species or a threatened species after the date of enactment of this subsection for which the Secretary is required to develop a recovery plan under subsection (a), the Secretary shall publish—

''(1) not later than 18 months after the date of the publication under section 4 of the final regulation containing the listing determination, a draft recovery plan; and

''(2) not later than 30 months after the date of publication under section 4 of the final regulation containing the listing determination, a final recovery plan.

''(d) APPOINTMENT AND ROLE OF RECOVERY TEAM.—

''(1) IN GENERAL.—Not later than 60 days after the date of the publication under section 4 of the final regulation containing the listing determination for a species, the Secretary, in cooperation with the affected States, shall either appoint a recovery team to develop a recovery plan for the species or publish a notice pursuant to paragraph (3) that a recovery team shall not be appointed. Recovery teams shall include the Secretary and at least one representative from the State agency of each of the affected States choosing to participate and be broadly representative of the constituencies with an interest in the species and its recovery and in the economic or social impacts of recovery including representatives of Federal agencies, tribal governments, local governments, academic institutions, private individuals and organizations, and commercial enterprises. The recovery team members shall be selected for their knowledge of the species or for their expertise in the elements of the recovery plan or its implementation.

''(2) DUTIES OF THE RECOVERY TEAM.—Each recovery team shall prepare and submit to the Secretary the draft recovery plan that shall include recovery measures recommended by the team and alternatives, if any, to meet the recovery goal under subsection (e)(1). The recovery team may also be called on by the Secretary to assist in the implementation, review, and revision of recovery plans. The recovery team shall also advise the Secretary concerning the designation of critical habitat, if any.

''(3) EXCEPTION.—

''(A) IN GENERAL.—Notwithstanding paragraph (1), the Secretary may, after notice and opportunity for public comment, establish criteria to identify species for which the appointment of a recovery team would not be required under this subsection, taking into account the availability of resources for recovery planning, the extent and complexity of the expected recovery activities, and the degree of scientific uncertainty associated with the threats to the species.

''(B) STATE OPTION.—If the Secretary elects not to appoint a recovery team, the Secretary shall provide notice to each affected State and shall provide the affected States the opportunity to appoint a recovery team and develop a recovery plan, in accordance with subsection (m).

''(C) SECRETARIAL DUTY.—If a recovery team is not appointed, the Secretary shall perform all duties of the recovery team required by this section.

''(4) TRAVEL EXPENSES.—The Secretary is authorized to provide travel expenses (including per diem in lieu of subsistence at the same level as authorized by section 5703 of title 5, United States Code) to recovery team members.

''(5) FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the selection or activities of a recovery team appointed pursuant to this subsection or subsection (m).

''(e) CONTENTS OF RECOVERY PLANS.—Each recovery plan shall contain:

''(1) BIOLOGICAL RECOVERY GOAL.—

''(A) IN GENERAL.—Not later than 180 days after the appointment of a recovery team under this section, those members of the recovery team with relevant scientific expertise shall establish and submit to the Secretary a recommended biological recovery goal to conserve and recover the species that, when met, would result in the determination, in accordance with section 4, that the species be removed from the list. The goal shall be based solely on the best scientific and commercial data available. The recovery goal shall be expressed as objective and measurable biological criteria. When the goal is met, the Secretary shall initiate the procedures for determining whether, in accordance with section 4(a)(1), to remove the species from the list.

''(B) PEER REVIEW.—The recovery team shall promptly obtain independent scientific review of the recommended biological recovery goal.

''(2) RECOVERY MEASURES.—The recovery plan shall incorporate recovery measures that will meet the recovery goal.

''(A) MEASURES.—The recovery measures may incorporate general and site-specific measures for the conservation and recovery of the species such as—

''(i) actions to protect and restore habitat;

''(ii) research;

''(iii) establishment of refugia, captive breeding, and releases of experimental populations;

''(iv) actions that may be taken by Federal agencies, including actions that use, to the maximum extent practicable, Federal lands; and

''(v) opportunities to cooperate with State and local governments and other persons to recover species, including through the development and implementation of conservation plans under section 10.

''(B) DRAFT RECOVERY PLANS.—

''(i) IN GENERAL.—In developing a draft recovery plan, the recovery team or, if there is no recovery team, the Secretary, shall consider alternative measures and recommend measures to meet the recovery goal and the benchmarks. The recovery measures shall achieve an appropriate balance among the following factors—

''(I) the effectiveness of the measures in meeting the recovery goal;

''(II) the period of time in which the recovery goal is likely to be achieved, provided that the time period within which the recovery goal is to be achieved will not pose a significant risk to recovery of the species; and

''(III) the social and economic impacts (both quantitative and qualitative) of the measures and the distribution of the impacts across regions and industries.

''(ii) DESCRIPTION OF ALTERNATIVES.—The draft plan shall include a description of any alternative recovery measures considered, but not included in the recommended measures, and an explanation of how any such measures considered were assessed and the reasons for their selection or rejection.

''(iii) DESCRIPTION OF ECONOMIC EFFECTS.—If the recommended recovery measures identified in clause (i) would impose significant costs on a municipality, county, region, or industry, the recovery team shall prepare a description of the overall economic effects on the public and private sectors including, as appropriate, effects on employment, public revenues, and value of property as a result of the implementation of the recovery plan.

''(3) BENCHMARKS.—The recovery plan shall include objective, measurable benchmarks expected to be achieved over the course of the recovery plan to determine whether progress is being made toward the recovery goal. To the extent possible, current and historical population estimates, along with other relevant factors, should be considered in determining whether progress is being made toward meeting the recovery goal.

''(4) FEDERAL AGENCIES.—Each recovery plan for an endangered species or a threatened species shall identify Federal agencies

that authorize, fund, or carry out actions that are likely to have a significant impact on recovery of the species.

''(f) PUBLIC NOTICE AND COMMENT.—

''(1) IN GENERAL.—If the Secretary makes a preliminary determination that the draft recovery plan meets the requirements of this section, the Secretary shall publish in the Federal Register and a newspaper of general circulation in each affected State a notice of availability and a summary of, and a request for public comment on, the draft recovery plan including a description of the economic effects prepared under subsection (e)(2)(B)(iii) and the recommendations of the independent referees on the recovery goal.

''(2) HEARINGS.—At the request of any person, the Secretary shall hold at least one public hearing on each draft recovery plan in each State to which the plan would apply (including at least one hearing in an affected rural area, if any), except that the Secretary may not be required to hold more than five hearings under this paragraph.

''(g) PROCUREMENT AUTHORITY.—In developing and implementing recovery plans, the Secretary may procure the services of appropriate public and private agencies and institutions and other qualified persons.

''(h) REVIEW AND SELECTION BY THE SECRETARY.—

''(1) REVIEW AND APPROVAL.—The Secretary shall review each plan submitted by a recovery team, including a recovery team appointed by a State pursuant to the authority of subsection (m), to determine whether the plan was developed in accordance with the requirements of this section. If the Secretary determines that the plan does not satisfy such requirements, the Secretary shall notify the recovery team and give the team an opportunity to address the concerns of the Secretary and resubmit a plan that satisfies the requirements of this section. After notice and opportunity for public comment on the recommendations of the recovery team, the Secretary shall adopt a final recovery plan that is consistent with the requirements of this section.

''(2) SELECTION OF RECOVERY MEASURES.—In each final plan the Secretary shall select recovery measures that meet the recovery goal and the benchmarks. The recovery measures shall achieve an appropriate balance among the factors described in subclauses (I) through (III) of subsection (e)(2)(B)(i).

''(3) MEASURES RECOMMENDED BY RECOVERY TEAM.—If the Secretary selects measures other than the measures recommended by the recovery team, the Secretary shall publish with the final plan an explanation of why the measures recommended by the recovery team were not selected for the final recovery plan.

''(4) PUBLICATION OF NOTICE ON FINAL PLANS.—The Secretary shall publish in the Federal Register a notice of availability, and a summary, of the final recovery plan, and include in the final recovery plan a response to significant comments that the Secretary received on the draft recovery plan.

''(i) REVIEW.—

''(1) EXISTING PLANS.—Not later than five years after date of enactment of this subsection, the Secretary shall review recovery plans published prior to such date.

''(2) SUBSEQUENT PLANS.—The Secretary shall review each recovery plan first approved or revised under this section after the date of enactment of this subsection, not later than ten years after the date of approval or revision of the plan and every ten years thereafter.

''(j) REVISION OF RECOVERY PLANS.—Notwithstanding any other provision of this section, the Secretary shall revise a recovery plan if the Secretary finds that substantial new information, which may include failure to meet the benchmarks included in the plan, based on the best scientific and commercial data available, indicates that the recovery goal contained in the recovery plan will not achieve the conservation and recovery of the endangered species or threatened species covered by the plan. The Secretary shall convene a recovery team to develop the revisions required by this subsection, unless the Secretary has established an exception for the species pursuant to subsection (d)(3).

''(k) EXISTING PLANS.—Nothing in this section shall require the modification of—

''(1) a recovery plan approved;

''(2) a recovery plan on which public notice and comment has been initiated; or

''(3) a draft recovery plan on which significant progress has been made;

prior to the date of enactment of this subsection until the recovery plan is revised by the Secretary in accordance with this section.

''(l) IMPLEMENTATION OF RECOVERY PLANS.—

''(1) IMPLEMENTATION AGREEMENTS.—The Secretary is authorized to enter into agreements with Federal agencies, affected States, Indian tribes, local governments, private landowners, and organizations to implement specified conservation measures identified by an approved recovery plan that promote the recovery of the species with respect to land or water owned by, or within the jurisdiction of, each such party. The Secretary may enter into such agreements, if the Secretary, after notice and opportunity for public comment, determines that—

''(A) each non-Federal party to the agreement has the legal authority and capability to carry out the agreement;

''(B) the agreement will be reviewed and revised as necessary on a regular basis (which shall be not less often than every five years) by the parties to the agreement to ensure that it meets the requirements of this section; and

''(C) the agreement establishes a mechanism for the Secretary to monitor and evaluate implementation of the agreement.

''(2) DUTY OF FEDERAL AGENCIES.—Each Federal agency identified under subsection (e)(4) shall enter into an implementation agreement with the Secretary not later than two years after the date on which the Secretary approves the recovery plan for the species. For purposes of satisfying this section, the substantive provisions of the agreement shall be within the sole discretion of the Secretary and the head of the Federal agency entering into the agreement.

''(3) OTHER REQUIREMENTS.—

''(A) AGENCY ACTIONS.—Any action authorized, funded, or carried out by a Federal agency that is specified in a recovery plan implementation agreement between the Federal agency and the Secretary to promote the recovery of the species and for which the agreement provides sufficient information on the nature, scope, and duration of the action to determine the effect of the action on any endangered species, threatened species, or critical habitat shall not be subject to the requirements of section 7(a)(2) for that species, if the action is to be carried out during the term of the agreement and the Federal agency is in compliance with the agreement.

''(B) COMPREHENSIVE AGREEMENTS.—If a non-Federal person proposes to include in an implementation agreement a site-specific action that the Secretary determines meets the requirements of subparagraph (A) and that action would require authorization or funding by one or more Federal agencies, the agencies authorizing or funding the action shall participate in the development of the agreement and shall identify, at that time, all measures for the species that would be required under this Act as a condition of the authorization or funding.

''(4) FINANCIAL ASSISTANCE.—

''(A) IN GENERAL.—In cooperation with the States and subject to the availability of appropriations under section 15(f), the Secretary may provide a grant of up to $25,000 to a private landowner to assist the landowner in carrying out a recovery plan implementation agreement under this subsection.

''(B) PROHIBITION ON ASSISTANCE FOR REQUIRED ACTIVITIES.—Financial assistance provided under this paragraph may be used to fund only those activities in an implementation agreement to implement specified conservation measures identified in a recovery plan that are not required by this Act, a permit issued under this Act, or any other Federal law.

''(C) OTHER PAYMENTS.—A grant provided to an individual private landowner under this paragraph shall be in addition to, and not affect, the total amount of payments the landowner is otherwise eligible to receive under the conservation reserve program established under subchapter B of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.), the wetlands reserve program established under subchapter C of that chapter (16 U.S.C. 3837 et seq.), or the Wildlife Habitat Incentives Program established under section 387 of the Federal Agriculture Improvement and Reform Act of 1996 (16 U.S.C. 3836a).

''(m) STATE AUTHORITY FOR RECOVERY PLANNING.—

''(1) IN GENERAL.—At the request of the Governor of a State, or the Governors of several States in cooperation, the Secretary may authorize the respective State agency to develop the recovery plan for an endangered species or a threatened species in accordance with the requirements and schedules of subsections (c), (d)(1), (d)(2), and (e) and this subsection if the Secretary finds that—

''(A) the State or States have entered into a cooperative agreement with the Secretary pursuant to section 6(c); and

''(B) the State agency has submitted a statement to the Secretary demonstrating adequate authority and capability to carry out the requirements and schedules of subsections (c), (d)(1), (d)(2), and (e) and this subsection.

''(2) STANDARDS AND GUIDELINES.—The Secretary, in cooperation with the States, shall publish standards and guidelines for the development of recovery plans by a State agency under this subsection, including standards and guidelines for interstate cooperation and for the grant and withdrawal of authorization by the Secretary under this subsection.

''(3) DUTIES OF RECOVERY TEAM.—The recovery team shall prepare a draft recovery plan in accordance with this section and shall transmit the draft plan to the Secretary through the State agency authorized to develop the recovery plan.

''(4) REVIEW OF DRAFT PLANS.—Prior to publication of a notice of availability of a draft recovery plan, the Secretary shall review each draft recovery plan developed pursuant to this subsection to determine whether the plan meets the requirements of this section. If the Secretary determines that the plan does not meet such requirements, the Secretary shall notify the State agency and, in cooperation with the State agency, develop a recovery plan in accordance with this section.

''(5) REVIEW AND APPROVAL OF FINAL PLANS.—On receipt of a draft recovery plan transmitted by a State agency, the Secretary shall review and approve the plan in accordance with subsection (h).

''(6) WITHDRAWAL OF AUTHORITY.—

''(A) IN GENERAL.—The Secretary may withdraw the authority from a State that has been authorized to develop a recovery plan pursuant to this subsection if the actions of the State agency are not in accordance with the substantive and procedural requirements of subsections (c), (d)(1), (d)(2), and (e) and this subsection. The Secretary shall give the State agency an opportunity to correct any deficiencies identified by the Secretary and shall withdraw the authority from the State unless the State agency within 60 days has corrected the deficiencies identified by the Secretary. On withdrawal of State authority pursuant to this subsection, the Secretary shall have an additional 18 months to publish a draft recovery plan and an additional 12 months to publish a final recovery plan under subsection 5(c).

''(B) PETITIONS TO WITHDRAW.—Any person may submit a petition requesting the Secretary to withdraw the authority from a State on the basis that the actions of the State agency are not in accordance with the substantive and procedural requirements described in subparagraph (A). If the Secretary has not acted on the petition pursuant to subparagraph (A) within 90 days, the petition shall be deemed to be denied and the denial shall be a final agency action for the purposes of judicial review.

''(7) DEFINITION OF STATE AGENCY.—For purposes of this subsection, the term 'State agency' means—

''(A) a State agency (as defined in section 3) of each State entering into a cooperative request under paragraph (1); and

''(B) for fish and wildlife, including related spawning grounds and habitat, on the Columbia River and its tributaries, the Pacific Northwest Electric Power and Conservation Planning Council established under the Pacific Northwest Electric Power Planning and Conservation Act (16 U.S.C. 839 et seq.).

''(n) CRITICAL HABITAT DESIGNATION.—

''(1) RECOMMENDATION OF THE RECOVERY TEAM.—Not later than nine months after the date of publication under section 4 of a final regulation containing a listing determination for a species, the recovery team appointed for the species shall provide the Secretary with a description of any habitat of the species that is recommended for designation as critical habitat pursuant to this subsection and any recommendations for special management considerations or protection that are specific to the habitat.

''(2) DESIGNATION BY THE SECRETARY.—The Secretary, to the maximum extent prudent and determinable, shall by regulation designate any habitat that is considered to be critical habitat of an endangered species or a threatened species that is indigenous to the United States or waters with respect to which the United States exercises sovereign rights or jurisdiction.

''(A) DESIGNATION.—

''(i) PROPOSAL.—Not later than 18 months after the date on which a final listing determination is made under section 4 for a species, the Secretary, after consultation and in cooperation with the recovery team, shall publish in the Federal Register a proposed regulation designating critical habitat for the species.

''(ii) PROMULGATION.—The Secretary shall, after consultation and in cooperation with the recovery team, publish a final regulation designating critical habitat for a species not later than 30 months after the date on which a final listing determination is made under section 4 for the species.

''(B) OTHER DESIGNATIONS.—If a recovery plan is not developed under this section for an endangered species or a threatened species, the Secretary shall publish a final critical habitat determination for the endangered species or threatened species not later than three years after making a determination that the species is an endangered species or a threatened species.

''(C) ADDITIONAL AUTHORITY.—The Secretary may publish a regulation designating critical habitat for an endangered species or a threatened species concurrently with the final regulation implementing the determination that the species is endangered or threatened if the Secretary determines that designation of such habitat at the time of listing is essential to avoid the imminent extinction of the species.

''(3) FACTORS TO BE CONSIDERED.—The designation of critical habitat shall be made on the basis of the best scientific and commercial data available and after taking into consideration the economic impact, impacts to military training and operations, and any other relevant impact, of specifying any particular area as critical habitat. The Secretary shall describe the economic impacts and other relevant impacts that are to be considered under this subsection in the publication of any proposed regulation designating critical habitat.

''(4) EXCLUSIONS.—The Secretary may exclude any area from critical habitat for a species if the Secretary determines that the benefits of the exclusion outweigh the benefits of designating the area as part of the critical habitat, unless the Secretary determines that the failure to designate the area as critical habitat will result in the extinction of the species.

''(5) REVISIONS.—The Secretary may, from time-to-time and as appropriate, revise a designation. Each area designated as critical habitat before the date of enactment of this subsection shall continue to be considered so designated, until the designation is revised in accordance with this subsection.

''(6) PETITIONS.—

''(A) DETERMINATION THAT REVISION MAY BE WARRANTED.—To the maximum extent practicable, not later than 90 days after receiving the petition of an interested person under section 553(e) of title 5, United States Code, to revise a critical habitat designation, the Secretary shall make a finding as to whether the petition presents substantial scientific or commercial information indicating that the revision may be warranted. The Secretary shall promptly publish the finding in the Federal Register.

''(B) NOTICE OF PROPOSED ACTION.—Not later than one year after receiving a petition that is found under subparagraph (A) to present substantial information indicating that the requested revision may be warranted, the Secretary shall determine how to proceed with the requested revision, and shall promptly publish notice of the intention in the Federal Register.

''(7) PROPOSED AND FINAL REGULATIONS.—Any regulation to designate critical habitat or implement a requested revision shall be proposed and promulgated in accordance with paragraphs (4), (5), and (6) of section 4(b) in the same manner as a regulation to implement a determination with respect to listing a species.

''(o) REPORTS.—The Secretary shall report every two years to the Committee on Environment and Public Works of the Senate and the Committee on Resources of the House of Representatives on the status of efforts to develop and implement recovery plans for all species listed pursuant to section 4 and on the status of all species for which the plans have been developed.''.

(c) CITIZEN SUITS.—Section 11(g)(1)(C) (16 U.S.C. 1540(g)(1)(C)) is amended by inserting ''or section 5'' after ''section 4''.

(d) CONFORMING AMENDMENTS FOR RECOVERY PLANNING.—

(1) Section 6(d)(1) (16 U.S.C. 1535(d)(1)) is amended in the first sentence by striking ''section 4(g)'' and inserting ''section 4(f)''.

(2) Section 10(f)(5) (16 U.S.C. 1539(f)(5)) is amended by striking the last sentence.

(3) Section 7(a)(1) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–9) is amended in the undesignated paragraph relating to the National Wildlife Refuge System by striking ''section 5(a)'' and inserting ''section 5A(a)''.

(4) Section 5(b) of Public Law 103–64 (16 U.S.C. 460iii–4(b)) is amended by striking ''section 5(b) of the Endangered Species Act of 1973 (16 U.S.C. 1534(b))'' and inserting ''section 5A(b) of the Endangered Species Act of 1973''.

(5) Section 104(c)(4)(A)(ii)(I) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1347(c)(4)(A)(ii)(I)) is amended by striking ''section 4(f)'' and inserting ''section 5''.

(6) Section 115(b)(2) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1383(b)(2)) is amended by striking ''section 4(f) of the Endangered Species Act of 1973 (16 U.S.C. 1533(f))'' and inserting ''section 5 of the Endangered Species Act of 1973''.

(7) Section 118(f)(11) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1387(f)(11)) is amended by striking ''section 4'' and inserting ''section 5''.

(8) The table of contents in the first section (16 U.S.C. prec. 1531) is amended—

(A) by striking the item relating to section 5 and inserting the following:

''Sec. 5. Recovery plans.

''Sec. 5A. Land acquisition.'';

and

(B) by adding at the end the following:

''Sec. 18. Annual cost analysis by the Fish and Wildlife Service.''.

(e) PLANS FOR PREVIOUSLY LISTED SPECIES.—In the case of species included in the list published under section 4(c) before the date of enactment of this Act, and for which no recovery plan was developed before that date, the Secretary of the Interior or the Secretary of Commerce, as appropriate, shall develop a final recovery plan in accordance with the requirements of section 5 (including the priorities of section 5(b)) of the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) (as amended by this section) for not less than one-half of the species not later than 36 months after the date of enactment of this Act and for all species not later than 60 months after such date.

SEC. ___04. INTERAGENCY CONSULTATION AND COOPERATION.

(a) REASONABLE AND PRUDENT ALTERNATIVES.—

(1) DEFINITION.—Subsection (a) of section 3 (16 U.S.C. 1532) (as amended by section ___02(a)(2)) is amended by inserting the following after the paragraph defining the term ''plant'' and redesignating the subsequent paragraphs accordingly:

''(15) REASONABLE AND PRUDENT ALTERNATIVES.—The term 'reasonable and prudent alternatives' means alternative actions identified during consultation that can be implemented in a manner consistent with the intended purpose of the action, that can be implemented consistent with the scope of the legal authority and jurisdiction of the Federal agency, that are economically and technologically feasible, and that the Secretary believes would avoid the likelihood of jeopardizing the continued existence of listed species or resulting in the destruction or adverse modification of critical habitat.''.

(2) CONFORMING AMENDMENT.—Section 7(n) (16 U.S.C. 1536(n)) is amended in the first sentence by striking '', as defined by section 3(13) of this Act,''.

(b) INVENTORY OF SPECIES ON FEDERAL LANDS.—Section 7(a)(1) (16 U.S.C. 1536(a)(1)) is amended—

(1) by striking ''CONSULTATIONS.—(1) The'' and inserting:''CONSULTATIONS.—

''(1) IN GENERAL.—

''(A) OTHER PROGRAMS.—The''; and

(2) by adding at the end the following:

''(B) INVENTORY OF SPECIES ON FEDERAL LANDS.—The head of each Federal agency that is responsible for the management of land and water—

''(i) shall, to the maximum extent practicable, by not later than December 31, 2003, prepare and provide to the Secretary an inventory of the presence or occurrence of endangered species, threatened species, species that have been proposed for listing, and species that the Secretary has identified as candidates for listing under section 4, that are located on land or water owned or under the control of the agency; and

''(ii) shall, at least once every ten years thereafter, update the inventory required by clause (i) including newly listed species, species proposed for listing, and candidate species.''.

(c) CONSULTATION.—Section 7(a)(3) (16 U.S.C. 1536(a)(3)) is amended to read as follows:

''(3) CONSULTATION.—

''(A) NOTIFICATION OF ACTIONS.—Prior to commencing any action, each Federal agency shall notify the Secretary if the agency determines that the action may affect an endangered species or a threatened species, or critical habitat.

''(B) AGENCY DETERMINATION.—

''(i) IN GENERAL.—Each Federal agency shall consult with the Secretary as required by paragraph (2) on each action for which notification is required under subparagraph (A) unless—

''(I) the Federal agency makes a determination based on the opinion of a qualified biologist that the action is not likely to adversely affect an endangered species, a threatened species, or critical habitat;

''(II) the Federal agency notifies the Secretary that it has determined that the action is not likely to adversely affect any listed species or critical habitat and provides the Secretary, along with the notice, a copy of the information on which the agency based the determination; and

''(III) the Secretary does not object in writing to the agency's determination within 60 days after the date such notice is received.

''(ii) PUBLIC ACCESS TO INFORMATION.—The Secretary shall maintain a list of notices received from Federal agencies under clause (i)(II) and shall make available to the public the list and, on request (subject to the exemptions specified in section 552(b) of title 5, United States Code), the information received by the Secretary on which the agency based its determination.

''(iii) ACTIONS EXCLUDED.—The Secretary may by regulation identify categories of actions with respect to specific endangered species or threatened species that the Secretary determines are likely to have an adverse effect on the species or its critical habitat and, for which, the procedures of clause (i) shall not apply.

''(iv) BASIS FOR OBJECTION.—The Secretary shall object to a determination made by a Federal agency pursuant to clause (i), if—

''(I) the Secretary determines that the action may have an adverse effect on an endangered species, a threatened species or critical habitat;

''(II) the Secretary finds that there is insufficient information in the documentation accompanying the determination to evaluate the impact of the proposed action on endangered species, threatened species, or critical habitat; or

''(III) the Secretary finds that, because of the nature of the action and its potential impact on an endangered species, a threatened species, or critical habitat, review cannot be completed in 60 days.

''(v) REPORTS.—The Secretary shall report to the Congress not less often than biennially with respect to the implementation of this subparagraph including in the report information on the circumstances that resulted in the Secretary making any objection to a determination made by a Federal agency under clause (i) and the availability of resources to carry out this section.

''(C) CONSULTATION AT REQUEST OF APPLICANT.—Subject to such guidelines as the Secretary may establish, a Federal agency shall consult with the Secretary on any prospective agency action at the request of, and in cooperation with, the prospective permit or license applicant if the applicant has reason to believe that an endangered species or a threatened species may be present in the area affected by the applicant's project and that implementation of the action will likely affect the species.''.

(d) GAO REPORT.—The Comptroller General of the United States shall report to the Committee on Environment and Public Works of the Senate and to the Committee on Resources of the House of Representatives not later than three years after the date of enactment of this Act, and two years thereafter, on the cost of formal consultation to Federal agencies and other persons carrying out actions subject to the requirements of section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1536), including the costs of reasonable and prudent measures imposed.

(e) NEW LISTINGS.—Section 7(a) (16 U.S.C. 1536(a)) is amended by adding at the end the following:

''(5) EFFECT OF LISTING ON EXISTING PLANS.—

''(A) DEFINITION OF ACTION.—For the purposes of paragraph (2) and this paragraph, the term 'action' includes land use plans under the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) and land and resource management plans under the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1600 et seq.), as amended by the National Forest Management Act of 1976 (16 U.S.C. 1600 (note)).

''(B) REINITIATION OF CONSULTATION.—Whenever a determination to list a species as an endangered species or a threatened species or designation of critical habitat requires reinitiation of consultation under paragraph (2) on an already approved action as defined under subparagraph (A), the consultation shall commence promptly, but not later than 90 days after the date of the determination or designation, and shall be completed not later than one year after the date on which the consultation is commenced.

''(C) SITE-SPECIFIC ACTIONS DURING CONSULTATION.—Notwithstanding subsection (d), the Federal agency implementing the land use plan or land and resource management plan under subparagraph (B) may authorize, fund, or carry out a site-specific ongoing or previously scheduled action within the scope of the plan on the lands prior to completing consultation on the plan under subparagraph (B) pursuant to the consultation procedures of this section and related regulations, if—

''(i) no consultation on the action is required; or

''(ii) consultation on the action is required, the Secretary issues a biological opinion and the action satisfies the requirements of this section.''.

(f) IMPROVED FEDERAL AGENCY COORDINATION.—Section 7(a) (16 U.S.C. 1536(a)) (as amended by subsection (e)) is amended by adding at the end the following:

''(6) CONSOLIDATION OF CONSULTATION AND CONFERENCING.—

''(A) CONSULTATION WITH A SINGLE AGENCY.—Consultation and conferencing under this subsection between the Secretary and a Federal agency may, with the approval of the Secretary, encompass a number of related or similar actions by the agency to be carried out within a particular geographic area.

''(B) CONSULTATION WITH SEVERAL AGENCIES.—The Secretary may consolidate requests for consultation or conferencing from various Federal agencies the proposed actions of which may affect the same endangered species, threatened species, or species that have been proposed for listing under section 4, within a particular geographic area.''.

(g) USE OF INFORMATION PROVIDED BY STATES.—Section 7(b)(1) (16 U.S.C. 1536(b)(1)) is amended by adding at the end the following:

''(C) USE OF STATE INFORMATION.—In conducting a consultation under subsection (a)(2), the Secretary shall actively solicit and consider information from the State agency in each affected State.''.

(h) OPPORTUNITY TO PARTICIPATE IN CONSULTATIONS.—Section 7(b)(1) (16 U.S.C. 1536(b)(1)) (as amended by subsection (g)) is amended by adding at the end the following:

''(D) OPPORTUNITY TO PARTICIPATE IN CONSULTATIONS.—

''(i) IN GENERAL.—In conducting a consultation under subsection (a)(2), the Secretary shall provide any person who has sought authorization or funding from a Federal agency for an action that is the subject of the consultation, the opportunity to—

''(I) prior to the development of a draft biological opinion, submit and discuss with the Secretary and the Federal agency information relevant to the effect of the proposed action on the species and the availability of reasonable and prudent alternatives (if a jeopardy opinion is to be issued) that the Federal agency and the person can take to avoid violation of subsection (a)(2);

''(II) receive information, on request, subject to the exemptions specified in section 552(b) of title 5, United States Code, on the status of the species, threats to the species, and conservation measures, used by the Secretary to develop the draft biological opinion and the final biological opinion, including the associated incidental taking statements; and

''(III) receive a copy of the draft biological opinion from the Federal agency and, prior to issuance of the final biological opinion, submit comments on the draft biological opinion and discuss with the Secretary and the Federal agency the basis for any finding in the draft biological opinion.

''(ii) EXPLANATION.—If reasonable and prudent alternatives are proposed by a person under clause (i) and the Secretary does not include the alternatives in the final biological opinion, the Secretary shall explain to the person why those alternatives were not included in the opinion.

''(iii) PUBLIC ACCESS TO INFORMATION.—Comments and other information submitted to, or received from, any person (pursuant to clause (i)) who seeks authorization or funding for an action shall be maintained in a file for that action by the Secretary and shall be made available to the public (subject to the exemptions specified in section 552(b) of title 5, United States Code).''.

(i) INCIDENTAL TAKING STANDARDS FOR FEDERAL AGENCIES.—Section 7(b)(4) (16 U.S.C. 1536(b)(4)) is amended—

(1) in clause (ii), by inserting ''and mitigate'' after ''to minimize''; and

(2) by adding at the end the following: ''For purposes of this subsection, reasonable and

prudent measures shall be related both in nature and extent to the effect of the proposed activity that is the subject of the consultation.''.

(j) EMERGENCY CONSULTATIONS.—Section 7 (16 U.S.C. 1536) is amended by adding the following:

''(q) EMERGENCY CONSULTATIONS.—In response to a natural disaster or other emergency, consultation under subsection (a)(2) may be deferred by a Federal agency for the emergency repair of a natural gas pipeline, hazardous liquid pipeline, or electrical transmission facility, if the repair is necessary to address an imminent threat to human lives or an imminent and significant threat to the environment. Consultation shall be initiated as soon as practicable after the threat to human lives or the environment has abated.''.

(k) REVISION OF REGULATIONS.—Not later than one year after the date of enactment of this Act, the Secretary of the Interior and the Secretary of Commerce shall promulgate modifications to part 402 of title 50, Code of Federal Regulations, to implement this section and the amendments made by this section.

SEC. ___05. CONSERVATION PLANS.

(a) PERMIT FOR TAKING ON THE HIGH SEAS.—Section 10(a)(1)(B) (16 U.S.C. 1539(a)(1)(B)) is amended by striking ''section 9(a)(1)(B)'' and inserting ''subparagraph (B) or (C) of section 9(a)(1)''.

(b) MONITORING.—Section 10(a)(2)(B) (16 U.S.C. 1539(a)(2)(B)) is amended in the last sentence by striking ''reporting'' and inserting ''monitoring and reporting''.

(c) OTHER PLANS.—Section 10(a) (16 U.S.C. 1539(a)) is amended by striking paragraph (2)(C) and inserting the following:

''(3) MULTIPLE SPECIES CONSERVATION PLANS.—

''(A) IN GENERAL.—In addition to one or more listed species, a conservation plan developed under paragraph (2) may, at the request of the applicant, include species proposed for listing under section 4(c), candidate species, or other species found on lands or waters owned or within the jurisdiction of the applicant covered by the plan.

''(B) APPROVAL CRITERIA.—The Secretary shall approve an application for a permit under paragraph (1)(B) that includes species other than species listed as endangered species or threatened species if, after notice and opportunity for public comment, the Secretary finds that the permit application and the related conservation plan satisfy the criteria of subparagraphs (A) and (B) of paragraph (2) with respect to listed species, and that the permit application and the related conservation plan with respect to other species satisfy the following requirements—

''(i) the impact on non-listed species included in the plan will be incidental;

''(ii) the applicant will, to the maximum extent practicable, minimize and mitigate such impacts;

''(iii) the actions taken by the applicant with respect to species proposed for listing or candidates for listing included in the plan, if undertaken by all similarly situated persons within the range of such species, are likely to eliminate the need to list the species as an endangered species or a threatened species for the duration of the agreement as a result of the activities conducted by those persons;

''(iv) the actions taken by the applicant with respect to other non-listed species included in the plan, if undertaken by all similarly situated persons within the range of such species, would not be likely to contribute to a determination to list the species as an endangered species or a threatened species for the duration of the agreement; and

''(v) the criteria of subparagraphs (A)(iv), (B)(iii), and (B)(v) of paragraph (2);

and the Secretary has received such other assurances as the Secretary may require that the plan will be implemented. The permit shall contain such terms and conditions as the Secretary deems necessary or appropriate to carry out the purposes of this paragraph, including such monitoring and reporting requirements as the Secretary deems necessary for determining whether the terms and conditions are being complied with. The Secretary shall not include as a term or condition of a plan or a permit under this paragraph any provisions for a species proposed for listing under section 4(c), candidate species, or other species not listed under section 4(c) unless the applicant voluntarily includes that species in the plan or application for a permit.

''(C) TECHNICAL ASSISTANCE AND GUIDANCE.—To the maximum extent practicable, the Secretary and the heads of other Federal agencies, in cooperation with the States, are authorized and encouraged to provide technical assistance or guidance to States and property owners to develop conservation plans. Technical assistance and guidance provided under this subparagraph may include providing scientific and other information regarding the species included in a conservation plan, assistance in preparing the conservation plan, and information regarding alternative means to comply with this Act, including the availability of conservation plans for low effect activities.

''(D) DEADLINES.—A conservation plan developed under this paragraph shall be reviewed and approved or disapproved by the Secretary not later than one year after the date of submission, or within such other period of time as is mutually agreeable to the Secretary and the applicant.

''(E) STATE AND LOCAL LAW.—

''(i) OTHER SPECIES.—Nothing in this paragraph shall limit the authority of a State or local government with respect to fish, wildlife, or plants that have not been listed as an endangered species or a threatened species under section 4.

''(ii) COMPLIANCE.—An action by the Secretary, the Attorney General, or a person under section 11(g) to ensure compliance with a multiple species conservation plan and permit under this paragraph may be brought only against a permittee or the Secretary.

''(F) EFFECTIVE DATE OF PERMIT FOR NONLISTED SPECIES.—In the case of any species not listed as an endangered species or a threatened species, but covered by an approved multiple species conservation plan, the permit issued under paragraph (1)(B) shall take effect without further action by the Secretary at the time the species is listed pursuant to section 4(c), and to the extent that the taking is otherwise prohibited by subparagraph (B) or (C) of section 9(a)(1).

''(4) LOW EFFECT ACTIVITIES.—

''(A) IN GENERAL.—Notwithstanding paragraph (2)(A), the Secretary may issue a permit for a low effect activity authorizing any taking referred to in paragraph (1)(B), if the Secretary determines that the activity will have no more than a negligible effect, both individually and cumulatively, on the species, any taking associated with the activity will be incidental, and the taking will not appreciably reduce the likelihood of the survival and recovery of the species in the wild. The permit shall require, to the extent appropriate, actions to be taken by the permittee to offset the effects of the activity on the species.

''(B) APPLICATIONS.—The Secretary shall minimize the costs of permitting to the applicant by developing, in cooperation with the States, model permit applications that will constitute conservation plans for low effect activities.

''(C) PUBLIC COMMENT; EFFECTIVE DATE.—On receipt of a permit application for an activity that meets the requirements of subparagraph (A), the Secretary shall provide notice in a newspaper of general circulation in the area of the activity not later than 30 days after receipt and provide an opportunity for comment on the permit. If the Secretary does not receive significant adverse comment by the date that is 30 days after the notice is published, the permit shall take effect without further action by the Secretary 60 days after the notice is published.

''(5) NO SURPRISES.—

''(A) IN GENERAL.—Each conservation plan developed under this subsection shall include a no surprises provision, as described in this paragraph.

''(B) NO SURPRISES.—A person who has entered into, and is in compliance with, a conservation plan under this subsection may not be required to undertake any additional mitigation measures for species covered by such plan if such measures would require the payment of additional money, or the adoption of additional use, development, or management restrictions on any land, waters, or water-related rights that would otherwise be available under the terms of the plan without the consent of the permittee. The Secretary and the applicant, by the terms of the conservation plan, shall identify—

''(i) other modifications to the plan; or

''(ii) other additional measures;

if any, that the Secretary may require under extraordinary circumstances.

''(6) PERMIT REVOCATION.—After notice and an opportunity for correction, as appropriate, the Secretary shall revoke a permit issued under this subsection if the Secretary finds that the permittee is not complying with the terms and conditions of the permit or the conservation plan.''.

(d) CANDIDATE CONSERVATION AGREEMENTS.—

(1) PERMITS.—Section 10(a)(1) (16 U.S.C. 1539(a)(1)) is amended—

(A) by striking ''or'' at the end of subparagraph (A);

(B) by striking the period at the end of subparagraph (B) and inserting ''; or''; and

(C) by adding at the end the following:

''(C) any taking incidental to, and not the purpose of, the carrying out of an otherwise lawful activity pursuant to a candidate conservation agreement entered into under subsection (k).''.

(2) AGREEMENTS.—Section 10 (16 U.S.C. 1539) is amended by adding at the end the following:

''(k) CANDIDATE CONSERVATION AGREEMENTS.—

''(1) IN GENERAL.—At the request of any non-Federal person, the Secretary may enter into a candidate conservation agreement with the person for a species that has been proposed for listing under section 4(c)(1), is a candidate species, or is likely to become a candidate species in the near future on property owned or under the jurisdiction of the person requesting such an agreement.

''(2) REVIEW BY THE SECRETARY.—

''(A) SUBMISSION TO THE SECRETARY.—A non-Federal person may submit a candidate conservation agreement developed under paragraph (1) to the Secretary for review at any time prior to the listing described in section 4(c)(1) of a species that is the subject of the agreement.

''(B) CRITERIA FOR APPROVAL.—The Secretary may approve an agreement and issue a permit under subsection (a)(1)(C) for the agreement if, after notice and opportunity for public comment, the Secretary finds that—

''(i) for species proposed for listing, candidates for listing, or species that are likely to become a candidate species in the near future, that are included in the agreement, the actions taken under the agreement, if undertaken by all similarly situated persons, would produce a conservation benefit that would be likely to eliminate the need to list the species under section 4(c) as a result of the activities of those persons during the duration of the agreement;

''(ii) the actions taken under the agreement will not adversely affect an endangered species or a threatened species;

''(iii) the agreement contains such other measures that the Secretary may require as being necessary or appropriate for the purposes of the agreement;

''(iv) the person will ensure adequate funding to implement the agreement; and

''(v) the agreement includes such monitoring and reporting requirements as the Secretary deems necessary for determining whether the terms and conditions of the agreement are being complied with.

''(3) EFFECTIVE DATE OF PERMIT.—A permit issued under subsection (a)(1)(C) shall take effect at the time the species is listed pursuant to section 4(c), if the permittee is in full compliance with the terms and conditions of the agreement.

''(4) ASSURANCES.—A person who has entered into a candidate conservation agreement under this subsection, and is in compliance with the agreement, may not be required to undertake any additional measures for species covered by such agreement if the measures would require the payment of additional money, or the adoption of additional use, development, or management restrictions on any land, waters, or water-related rights that would otherwise be available under the terms of the agreement without the consent of the person entering into the agreement. The Secretary and the person entering into a candidate conservation agreement, by the terms of the agreement, shall identify—

''(A) other modifications to the agreement; or

''(B) other additional measures;

if any, that the Secretary may require under extraordinary circumstances.''.

(e) PUBLIC NOTICE.—Section 10(c) (16 U.S.C. 1539(c)) is amended—

(1) by striking ''thirty'' each place that it appears and inserting ''60''; and

(2) by inserting before the final sentence the following: ''The Secretary may, with approval of the applicant, provide an opportunity, as early as practicable, for public participation in the development of a multiple species conservation plan and permit application. If a multiple species conservation plan and permit application have been developed without an opportunity for public participation, the Secretary shall extend the public comment period for an additional 30 days for interested parties to submit written data, views, or arguments on the plan and application.''.

(f) SAFE HARBOR AGREEMENTS.—Section 10 (16 U.S.C. 1539) (as amended by subsection (d)(2)) is amended by adding at the end the following:

''(1) SAFE HARBOR AGREEMENTS.—

''(1) AGREEMENTS.—

''(A) IN GENERAL.—The Secretary may enter into agreements with non-Federal persons to benefit the conservation of endangered species or threatened species by creating, restoring, or improving habitat or by maintaining currently unoccupied habitat for endangered species or threatened species. Under an agreement, the Secretary shall permit the person to take endangered species or threatened species included under the agreement on lands or waters that are subject to the agreement if the taking is incidental to, and not the purpose of, carrying out of an otherwise lawful activity, except that the Secretary may not permit through an agreement any incidental taking below the baseline requirement specified pursuant to subparagraph (B).

''(B) BASELINE.—For each agreement under this subsection, the Secretary shall establish a baseline requirement that is mutually agreed on by the applicant and the Secretary at the time of the agreement that will, at a minimum, maintain existing conditions for the species covered by the agreement on lands and waters that are subject to the agreement. The baseline may be expressed in terms of the abundance or distribution of endangered or threatened species, quantity or quality of habitat, or such other indicators as appropriate.

''(2) STANDARDS AND GUIDELINES.—The Secretary shall issue standards and guidelines for the development and approval of safe harbor agreements in accordance with this subsection.

''(3) FINANCIAL ASSISTANCE.—

''(A) IN GENERAL.—In cooperation with the States and subject to the availability of appropriations under section 15(d), the Secretary may provide a grant of up to $10,000 to any individual private landowner to assist the landowner in carrying out a safe harbor agreement under this subsection.

''(B) PROHIBITION ON ASSISTANCE FOR REQUIRED ACTIVITIES.—Financial assistance provided under this paragraph may be used to fund only those activities identified in a safe harbor agreement to benefit the conservation of threatened species or endangered species that are not required by this Act, a permit issued under this Act, or any other Federal law.

''(C) OTHER PAYMENTS.—A grant provided to an individual private landowner under this paragraph shall be in addition to, and not affect, the total amount of payments that the landowner is otherwise eligible to receive under the conservation reserve program established under subchapter B of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.), the wetlands reserve program established under subchapter C of that chapter (16 U.S.C. 3837 et seq.), or the Wildlife Habitat Incentives Program established under section 387 of the Federal Agriculture Improvement and Reform Act of 1996 (16 U.S.C. 3836a).''.

(g) HABITAT RESERVE AGREEMENTS.—Section 10 (16 U.S.C. 1539) (as amended by subsection (f)) is amended by adding at the end the following:

''(m) HABITAT RESERVE AGREEMENTS.—

''(1) PROGRAM.—The Secretary shall establish a habitat reserve program to be implemented through contracts or easements of a mutually agreed on duration to assist non-Federal property owners to preserve and manage suitable habitat for endangered species and threatened species.

''(2) AGREEMENTS.—The Secretary may enter into a habitat reserve agreement with a non-Federal property owner to protect, manage, or enhance suitable habitat on private property for the benefit of endangered species or threatened species. Under an agreement, the Secretary shall make payments in an agreed on amount to the property owner for carrying out the terms of the habitat reserve agreement, if the activities undertaken pursuant to the agreement are not otherwise required by this Act.

''(3) STANDARDS AND GUIDELINES.—The Secretary shall issue standards and guidelines for the development and approval of habitat reserve agreements in accordance with this subsection. Agreements shall, at a minimum, specify the management measures, if any, that the property owner will implement for the benefit of endangered species or threatened species, the conditions under which the property may be used, the nature and schedule for any payments agreed on by the parties to the agreement, and the duration of the agreement.

''(4) PAYMENTS.—Any payment received by a property owner under a habitat reserve agreement shall be in addition to and shall not affect the total amount of payments that the property owner is otherwise entitled to receive under the Agricultural Market Transition Act (7 U.S.C. 7201 et seq.) or the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.).

''(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of the Interior $27,500,000 and the Secretary of Commerce $13,333,333 for each of fiscal years 1998 through 2003 to assist non-Federal property owners to carry out the terms of habitat reserve programs under this subsection.''.

(h) HABITAT CONSERVATION PLANNING LOAN PROGRAM.—Section 10(a) (16 U.S.C. 1539(a)) (as amended by subsection (c)) is amended by adding at the end the following:

''(7) HABITAT CONSERVATION PLANNING LOAN PROGRAM.—

''(A) ESTABLISHMENT.—There is established a 'Habitat Conservation Planning Loan Program' (referred to in this paragraph as the 'Program') under which the Secretary may make no-interest loans to assist in the development of a conservation plan under this section.

''(B) ELIGIBILITY.—Any State, county, municipality, or other political subdivision of a State shall be eligible to receive a loan under the Program.

''(C) LOAN LIMITS.—The amount of any loan may not exceed the total financial contribution of the other parties participating in the development of the plan.

''(D) CRITERIA.—In determining whether to make a loan, the Secretary shall consider—

''(i) the number of species covered by the plan;

''(ii) the extent to which there is a commitment to participate in the planning process from a diversity of interests (including local governmental, business, environmental, and landowner interests);

''(iii) the likely benefits of the plan; and

''(iv) such other factors as the Secretary considers appropriate.

''(E) TERM OF THE LOAN.—

''(i) IN GENERAL.—Except as provided in clause (ii), a loan made under this paragraph shall be for a term of ten years.

''(ii) ADVANCED REPAYMENTS.—If no conservation plan is developed within three years after the date of the loan, the loan shall be for a term of four years. If no permit is issued under paragraph (1)(B) with respect to the conservation plan within four years after the date of the loan, the loan shall be for a term of five years.''.

(i) EFFECT ON PERMITS AND PROPOSED PLANS.—No amendment made by this section requires the modification of—

(1) a permit issued under section 10 of the Endangered Species Act of 1973 (16 U.S.C. 1539); or

(2) a conservation plan submitted for approval pursuant to such section;

prior to the date of enactment of this Act.

(j) RULEMAKING.—Not later than 1 year after the date of enactment of this Act, the Secretary of the Interior and the Secretary of Commerce shall, after consultation with the States and notice and opportunity for public comment, publish final regulations implementing the provisions of section 10(a) of the Endangered Species Act of 1973 (16 U.S.C. 1539(a)), as amended by this section.

(k) NAS REPORT.—Not later than two years after the date of enactment of this Act, the

Secretary of the Interior and the Secretary of Commerce shall enter into appropriate arrangements with the National Academy of Sciences to conduct a review of and prepare a report on the development and implementation of conservation plans under section 10(a) of the Endangered Species Act of 1973 (16 U.S.C. 1539(a)). The report shall assess the extent to which those plans comply with the requirements of that Act, the role of multiple species conservation plans in preventing the need to list species covered by those plans, and the relationship of conservation plans for listed species to implementation of recovery plans. The report shall be transmitted to the Congress not later than five years after the date of enactment of this Act.

(l) SCIENTIFIC PERMITS.—Section 10(d) (16 U.S.C. 1539(d)) is amended—

(1) by striking ''POLICY.—The'' and inserting ''POLICY.—

''(1) IN GENERAL.—The''; and

(2) by adding at the end the following:

''(2) SCIENTIFIC PERMITS.—In granting permits for scientific purposes or to enhance the propagation or survival of an endangered species or a threatened species listed under section 4(c), the Secretary may authorize a single transaction, a series of transactions, or a number of activities over a specific period of time. In issuing or modifying such a permit, the Secretary shall take into consideration the expertise and facilities of the permit applicant and, consistent with the conservation of the affected species, maximize the efficiency of the permitting process.''.

(m) HABITAT CONSERVATION INSURANCE PROGRAM.—Section 10 (16 U.S.C. 1539) (as amended by subsection (g)) is amended by adding at the end the following:

''(n) HABITAT CONSERVATION INSURANCE PROGRAM.—

''(1) ESTABLISHMENT.—There is established a Habitat Conservation Insurance Program.

''(2) USE.—The Program shall be used to pay the cost of additional mitigation measures not otherwise required under an existing conservation plan under subsection (a) or a candidate conservation agreement under subsection (k) to minimize or mitigate adverse effects to a species covered by the plan or agreement, to the extent that the adverse effects were not anticipated and addressed at the time the plan or agreement was approved by the Secretary.

''(3) GRANTS.—In carrying out the Program, the Secretary may make grants to any person who is a party to a conservation plan under subsection (a) or a candidate conservation agreement under subsection (k).''.

SEC. ___06. ENFORCEMENT.

(a) ENFORCEMENT FOR INCIDENTAL TAKING.—Section 11 (16 U.S.C. 1540) is amended by adding after subsection (g) the following new subsection and redesignating the subsequent subsection accordingly:

''(h) INCIDENTAL TAKING.—In any action under subsection (a), (b), or (e)(6) against any person for an alleged taking incidental to the carrying out of an otherwise lawful activity, the Secretary or the Attorney General must establish, using pertinent evidence based on scientifically valid principles, that the acts of such person have caused, or will cause, the taking, of—

''(1) an endangered species; or

''(2) a threatened species the taking of which is prohibited pursuant to a regulation issued under section 4(d).''.

(b) CITIZEN SUIT FOR INCIDENTAL TAKING.—Section 11(g) (16 U.S.C. 1540(g)) is amended by adding the following new paragraph after paragraph (2) and redesignating the subsequent paragraphs accordingly:

''(3) INCIDENTAL TAKING.—In any action under this subsection against any person for an alleged taking incidental to the carrying out of an otherwise lawful activity, the person commencing the action must establish, using pertinent evidence based on scientifically valid principles, that the acts of the person alleged to be in violation of section 9(a)(1) have caused, or will cause, the taking, of—

''(A) an endangered species; or

''(B) a threatened species the taking of which is prohibited pursuant to a regulation issued under section 4(d).''.

SEC. ___07. EDUCATION AND TECHNICAL ASSISTANCE.

(a) IN GENERAL.—Section 13 is amended to read as follows:

''PRIVATE PROPERTY OWNERS EDUCATION AND TECHNICAL ASSISTANCE PROGRAM

''SEC. 13. (a) IN GENERAL.—In cooperation with the States and other Federal agencies, the Secretary shall develop and implement a private property owners education and technical assistance program to—

''(1) inform the public about this Act;

''(2) respond to requests for technical assistance from the private property owners interested in conserving species listed or proposed for listing under section 4(c)(1) and candidate species on the property of the property owners; and

''(3) recognize exemplary efforts to conserve species on private land.

''(b) ELEMENTS OF THE PROGRAM.—Under the program, the Secretary shall—

''(1) publish educational materials and conduct workshops for private property owners and other members of the public on the role of this Act in conserving endangered species and threatened species, the principal mechanisms of this Act for achieving species recovery, and potential sources of technical and financial assistance;

''(2) assist field offices in providing timely advice to property owners on how to comply with this Act;

''(3) provide technical assistance to State and local governments and private property owners interested in developing and implementing recovery plan implementation agreements, conservation plans, and safe harbor agreements;

''(4) serve as a focal point for questions, requests, and suggestions from property owners and local governments concerning policies and actions of the Secretary in the implementation of this Act;

''(5) provide training for Federal personnel responsible for implementing this Act on concerns of private property owners, to avoid unnecessary conflicts, and improving implementation of this Act on private property; and

''(6) nominate for national recognition by the Secretary property owners that are exemplary managers of land for the benefit of species listed or proposed for listing under section 4(c)(1) or candidate species.''.

(b) CONFORMING AMENDMENT.—The table of contents in the first section (16 U.S.C. prec. 1531) is amended by striking the item related to section 13 and inserting the following:

''Sec. 13. Private property owners education and technical assistance program.''.

(c) EFFECT ON PRIOR AMENDMENTS.—Nothing in this section or the amendments made by this section affects the amendments made by section 13 of the Endangered Species Act of 1973 (87 Stat. 902), as in effect on the day before the date of enactment of this Act.

SEC. ___08. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Section 15(a) (16 U.S.C. 1542(a)) is amended—

(1) in paragraph (1), by striking ''and $41,500,000 for fiscal year 1992'' and inserting ''$41,500,000 for fiscal year 1992, $90,000,000 for fiscal year 1998, $120,000,000 for fiscal year 1999, $140,000,000 for fiscal year 2000, $160,000,000 for fiscal year 2001, $165,000,000 for fiscal year 2002, and $165,000,000 for fiscal year 2003'';

(2) in paragraph (2)—

(A) by striking ''and $6,750,000'' and inserting ''$6,750,000''; and

(B) by inserting after ''and 1992'' the following: '', $35,000,000 for fiscal year 1998, $50,000,000 for fiscal year 1999, $60,000,000 for fiscal year 2000, $65,000,000 for fiscal year 2001, $65,000,000 for fiscal year 2002, and $70,000,000 for fiscal year 2003''; and

(3) in paragraph (3)—

(A) by striking ''and $2,600,000'' and inserting $2,600,000''; and

(B) by inserting '', and $4,000,000 for each of fiscal years 1998 through 2003'' after ''and 1992''.

(b) EXEMPTIONS FROM ACT.—Section 15(b) (16 U.S.C. 1542(b)) is amended by inserting ''and $625,000 for each of fiscal years 1998 through 2003'' after ''and 1992''.

(c) CONVENTION IMPLEMENTATION.—Section 15(c) (16 U.S.C. 1542(c)) is amended—

(1) by striking ''and $500,000'' and inserting ''$500,000,''; and

(2) by inserting ''and $1,000,000 for each fiscal year 1998 through 2003'' after ''and 1992,''.

(d) ADDITIONAL AUTHORIZATIONS.—Section 15 (16 U.S.C. 1542) is amended by adding at the end the following:

''(d) FINANCIAL ASSISTANCE FOR SAFE HARBOR AGREEMENTS.—There are authorized to be appropriated to the Secretary of the Interior $10,000,000 and the Secretary of Commerce $5,000,000 for each of fiscal years 1998 through 2003 to carry out section 10(l).

''(e) HABITAT CONSERVATION PLANNING LOAN PROGRAM.—There is authorized to be appropriated $3,000,000 for each fiscal year for the cost of loans under the Habitat Conservation Planning Loan Program established by section 10(a)(7) to assist in the development of conservation plans.

''(f) FINANCIAL ASSISTANCE FOR RECOVERY PLAN IMPLEMENTATION.—There are authorized to be appropriated to the Secretary of the Interior $30,000,000 and the Secretary of Commerce $15,000,000 for each of the fiscal years 1998 through 2003 to carry out section 5(1)(4).

''(g) HABITAT CONSERVATION INSURANCE PROGRAM.—

''(1) IN GENERAL.—Of the amounts appropriated for a fiscal year under subsections (d) and (f) and section 10(m)(5), five percent shall be available for the Habitat Conservation Insurance Program established under section 10(n).

''(2) LIMITATION.—If, at the end of any fiscal year, the balance allocated for the Habitat Conservation Insurance Program exceeds $15,000,000, paragraph (1) shall not apply during the subsequent fiscal year.

''(h) AVAILABILITY.—Amounts made available under this section shall remain available until expended.

''(i) LIMITATION ON USE OF FUNDS.—Of the funds made available to carry out section 5 for any fiscal year, not less than $32,000,000 shall be available to the Secretary of the Interior and not less than $13,500,000 to the Secretary of Commerce to implement actions to recover listed species. Of the funds made available to the Secretary of the Interior and the Secretary of Commerce in each fiscal year to list species, the Secretary of the Interior and the Secretary of Commerce shall use not less than ten percent of those funds in each fiscal year for delisting species. If any of the funds made available by the previous sentence are not needed in that fiscal year for delisting eligible species, those funds shall be available for listing.

''(j) ACCOUNTING AND STRATEGIC MANAGEMENT PLAN.—Not later than November 30,

1998, the Secretary of the Interior and the Secretary of Commerce shall each submit to the Committee on Environment and Public Works of the Senate and the Committee on Resources of the House of Representatives—

''(1) an accounting for fiscal year 1998 of funds expended by the Department of the Interior and the Department of Commerce, respectively, to carry out the Department's functions and responsibilities under this Act; and

''(2) a management plan describing the projected future uses by the respective Department of authorized funds for fiscal years 1999 through 2003.''.

(e) ASSISTANCE TO STATES FOR CONSERVATION ACTIVITIES.—Section 6(i) (16 U.S.C. 1535(i)) is amended by adding at the end the following:

''(3) ASSISTANCE TO STATES FOR CONSERVATION ACTIVITIES.—There are authorized to be appropriated to the Secretary such sums as are necessary for each of fiscal years 1998 through 2003 to provide financial assistance to State agencies to carry out conservation activities under other sections of this Act, including the provision of technical assistance for the development and implementation of recovery plans.''.

SEC. ___09. OTHER AMENDMENTS.

(a) DEFINITIONS.—

(1) CANDIDATE SPECIES.—Subsection (a) of section 3 (16 U.S.C. 1532) (as amended by section ___02(a)(2)) is amended by redesignating paragraphs (2) through (10) as paragraphs (3) through (11), respectively, and inserting the following after paragraph (1):

''(2) CANDIDATE SPECIES.—The term 'candidate species' means a species for which the Secretary has on file sufficient information on biological vulnerability and threats to support a proposal to list the species as an endangered species or a threatened species, but for which listing is precluded because of pending proposals to list species that are of a higher priority. This paragraph shall not apply to any species defined as a candidate species by the Secretary of Commerce prior to the date of enactment of this sentence.''.

(2) IN COOPERATION WITH THE STATES.—Subsection (a) of section 3 (16 U.S.C. 1532) (as amended by sections ___02(a)(2) and ___04(a)(1) and this subsection) is amended by inserting the following after the paragraph defining the term ''import'' and redesignating the subsequent paragraphs accordingly:

''(12) IN COOPERATION WITH THE STATES.—The term 'in cooperation with the States' means a process under which—

''(A) the State agency in each of the affected States, or the representative of the State agency, is given an opportunity to participate in a meaningful and timely manner in the development of the standards, guidelines, and regulations to implement the applicable provisions of this Act; and

''(B) the Secretary carefully considers all substantive concerns raised by the State agency, or the representative of the State agency, and, to the maximum extent practicable consistent with this Act, incorporates their suggestions and recommendations, while retaining final decision making authority.''.

(3) RURAL AREA.—Subsection (a) of section 3 (16 U.S.C. 1532) (as amended by sections ___02(a)(2) and ___04(a)(1) and this subsection) is amended by inserting the following after the paragraph defining the term ''reasonable and prudent alternatives'' and redesignating the subsequent paragraphs accordingly:

''(17) RURAL AREA.—The term 'rural area' means a county or unincorporated area that has no city or town that has a population of more than 10,000 inhabitants.''.

(4) COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS.—Subsection (a)(20) of section 3 (16 U.S.C. 1532) (as amended by sections ___02(a)(2) and ___04(a)(1) and this subsection) is amended by striking ''Trust Territories of the Pacific Islands'' and inserting ''Commonwealth of the Northern Mariana Islands''.

(5) TERRITORIAL SEA.—Subsection (a) of section 3 (16 U.S.C. 1532) (as amended by sections ___02(a)(2) and ___04(a)(1) and this subsection) is amended by inserting the following after the paragraph defining the term ''take'' and redesignating the subsequent paragraphs accordingly:

''(23) TERRITORIAL SEA.—The term 'territorial sea' means the 12-nautical-mile maritime zone set forth in Presidential Proclamation 5928, dated December 27, 1988.''.

(b) FINDINGS, PURPOSES, AND POLICY.—

(1) COMMERCIAL VALUE.—Section 2(a)(3) (16 U.S.C. 1531(a)(3)) is amended by inserting ''commercial,'' after ''recreational,''.

(2) AGENCY COORDINATION.—Section 2(c) (16 U.S.C. 1531(c)) is amended by adding at the end the following:

''(3) AGENCY COORDINATION.—Federal agencies are encouraged to coordinate and collaborate to further the conservation of endangered species and threatened species.''.

(c) NO TAKING AGREEMENTS.—Section 9 (16 U.S.C. 1538) is amended by adding at the end the following:

''(h) NO TAKING AGREEMENTS.—The Secretary and a non-Federal property owner may, at the request of the property owner, enter into an agreement identifying activities of the property owner that, based on a determination of the Secretary, will not result in a violation of the prohibitions of paragraphs (1)(B), (1)(C), and (2)(B) of subsection (a). The Secretary shall respond to a request for an agreement submitted by a property owner within 90 days after receipt. Nothing in this subsection prevents the Secretary, the Attorney General, or any other person from commencing an enforcement action under section 11.''.

(d) CONFORMING AMENDMENTS.—

(1) SECTION HEADING.—The section heading of section 10 (16 U.S.C. 1539) is amended to read as follows:

''CONSERVATION MEASURES AND EXCEPTIONS''.

(2) TABLE OF CONTENTS.—The table of contents in the first section (16 U.S.C. prec. 1531) is amended with respect to the item relating to section 10 to read as follows:

''Sec. 10. Conservation measures and exceptions.''.

ROCKEFELLER AMENDMENTS NOS. 3650–3651

(Ordered to lie on the table.)

Mr. ROCKEFELLER submitted two amendments intended to be proposed by him to the bill, S. 2176, supra; as follows:

AMENDMENT NO. 3650

On page 2, line 15, after ''resigns,'' add the following: ''whose term expires,'' and

On page 3, after line 4, add:

''(3) notwithstanding paragraph (1), an officer who is nominated by the President for reappointment for an additional term to the same office without a break in service, may continue to serve in that office subject to the time limitations in Section 3346, until such time as the Senate has acted to confirm or reject the nomination, notwithstanding adjournment sine die.''

AMENDMENT NO. 3651

On page 2, line 15, after ''resigns,'' add the following ''whose term expires,'' and

On page 3, after line 4, add:

''(3) notwithstanding paragraph (1), an officer who is nominated by the President for reappointment for an additional term to the same office without a break in service, may continue to serve in that office subject to the time limitations in Section 3346, until such time as the Senate has acted to confirm or reject the nomination, notwithstanding adjournment sine die.''

DASCHLE AMENDMENT NO. 3652

(Ordered to lie on the table.)

Mr. DASCHLE submitted an amendment intended to be proposed by him to the bill, S. 2176, supra; as follows:

On page 4, add after line 24 the following:

''(d)(1) If the President certifies that the vacant position involves critical duties pertaining to national security, criminal law enforcement, public health and safety, or stability of financial markets, the acting officer may serve an additional 150 days after the date of the certification, or until such later time as provided under this section.

''(2) The President shall submit the certification under paragraph (1) to each House of Congress.

THOMPSON AMENDMENT NO. 3653

(Ordered to lie on the table.)

Mr. THOMPSON submitted an amendment intended to be proposed by him to the bill, S. 2176, supra; as follows:

On page 2, line 18, insert ''to the office'' after ''first assistant''.

On page 2, line 20, insert ''until the inability stops'' after ''capacity''.

On page 3, line 3, insert ''until the inability stops'' after ''capacity''.

On page 3, line 5, strike ''3346(a)(2)'' and insert ''3345(a)(1)''.

On page 3, line 5, insert ''(1)'' after ''(b)''.

On page 3, strike lines 8 through 14 and insert the following:

''(A) during the 365-day period preceding the date of the death, resignation, or beginning of inability to serve, such person did not serve in the position of first assistant to the office of such officer or served in the position of first assistant to the office of such officer for less than 90 days; and

On page 3, line 15, strike ''(3)'' and insert ''(B)''.

On page 3, strike lines 18 through 20 and insert the following:

''(2) Paragraph (1) shall not apply to any person if—

''(A) such person is serving as the first assistant to the office of an officer described under subsection (a);

''(B) the office of such first assistant is an office for which appointment is required to be made by the President, by and with the advice and consent of the Senate; and

''(C) the Senate has approved the appointment of such person to such office.

On page 4, line 12, strike ''in the case of a rejection or withdrawal''.

On page 5, line 1, strike ''Application'' and insert ''Exclusivity''.

On page 5, line 2, strike ''applicable to'' and insert ''the exclusive means for temporarily authorizing an acting official to perform the functions and duties of ''.

On page 5, strike lines 8 through 10.

On page 5, line 17, strike ''(2)'' and insert ''(1)''.

On page 5, lines 17, 18, and 19, strike ''in effect on the date of enactment of the Federal Vacancies Reform Act of 1998''.

On page 6, line 4, strike ''(3)'' and insert ''(2)''.

On page 6, line 11, insert ''statutorily vested in that agency head'' after ''duties''.

On page 7, line 8, strike all beginning with the comma through line 15 and insert a period.

On page 7, strike lines 16 through 23 and insert the following:

''(b) Unless an officer or employee is performing the functions and duties in accordance with sections 3345, 3346, and 3347, if an officer of an Executive agency (including the Executive Office of the President, and other than the General Accounting Office) whose appointment to office is required to be made by the President, by and with the consent of the Senate, dies, resigns, or is otherwise unable to perform the functions and duties of the office—

''(1) the office shall remain vacant; and

On page 7, line 24, strike ''(B)'' and insert ''(2)''.

On page 8, line 4, strike the comma and insert a period.

On page 8, strike line 5 through line 11 on page 9.

On page 9, line 14, strike ''first'' and insert ''second''.

On page 9, strike line 17 through line 2 on page 10 and insert the following:

''(d)(1) An action taken by any person who is not acting under section 3345, 3346, or 3347, or as provided by subsection (b), of any function or duty of a vacant office to which this section and sections 3346, 3347, 3349, 3349a, 3349b, and 3349c apply shall have no force or effect.

On page 10, line 5, strike ''(d)'' and insert ''(e)''.

On page 10, line 9, strike ''or''.

On page 10, line 12, strike the period and insert a semicolon.

On page 10, insert between lines 12 and 13 the following:

''(4) any Chief Financial Officer appointed by the President, by and with the advice and consent of the Senate; or

''(5) an office of an Executive agency (including the Executive Office of the President, and other than the General Accounting Office) if a statutory provision expressly prohibits the head of the Executive agency from performing the functions and duties of such office.

On page 10, line 19, insert ''in an office to which this section and sections 3346, 3347, 3348, 3349a, 3349b, and 3349c apply'' after ''vacancy''.

On page 11, line 11, insert ''or section 3349a'' after ''3346''.

On page 12, line 21, beginning with ''relating'' strike all through line 24.

On page 12, line 25, strike ''sections'' and insert ''Sections''.

On page 13, line 15, strike ''or'' after the semicolon.

On page 13, line 17, strike all after ''Commission'' and insert a semicolon and ''or''.

On page 13, insert between lines 17 and 18 the following:

''(3) any judge appointed by the President, by and with the advice and consent of the Senate, to a court constituted under article I of the United States Constitution.''.

On page 14, before line 1, strike the item relating to section 3347 and insert the following:

''3347. Exclusivity.

GLENN AMENDMENTS NOS. 3654–3656

(Ordered to lie on the table.)

Mr. DASCHLE (for Mr. GLENN) submitted three amendments intended to be proposed by him to the bill, S. 2176, supra; as follows:

AMENDMENT NO. 3654

On page 4, insert after line 24 the following:

''(d)(1) Notwithstanding any provision of this section, the President may extend any time limitation under this section by no more than 90 days if the President submits a written certification to Congress, on or before the last day of the period subject to such time limitation, that such extension is necessary and in the national interest based on national security, public health and safety, natural disaster, or economic emergency.

''(2) The President may exercise no more than 1 extension under paragraph (1) with respect to any vacancy.

AMENDMENT NO. 3655

On page 3, line 14, strike ''180'' and insert ''45''.

AMENDMENT NO. 3656

On page 3, strike line 4 and insert the following:

section 3346; or

''(3) notwithstanding paragraph (1), the President (and only the President) may direct an officer or employee of such Executive agency to perform the functions and duties of the office temporarily in an acting capacity, subject to the time limitations of section 3346, if—

''(A) during the 365-day period preceding the date of death, resignation, or beginning of inability to serve of the applicable officer, the officer or employee served in a position in such agency for not less than 180 days; and

''(B) the rate of pay for the position described under subparagraph (A) is equal to or greater than the minimum rate of pay payable for a position at GS–15 of the General Schedule.

DURBIN AMENDMENTS NOS. 3657–3659

(Ordered to lie on the table.)

Mr. DURBIN submitted three amendments intended to be proposed by him to the bill, S. 2176, supra; as follows:

AMENDMENT NO. 3657

On page 3, line 24, strike ''150'' and insert ''210''.

AMENDMENT NO. 3658

On page 13, insert between lines 17 and 18 the following:

''§ 3349d. Nominations reported to Senate

''Any nomination submitted to the Senate that is pending before a committee of the Senate for more than 150 calendar days, shall on the day following such 150th calendar day be discharged from such committee, placed on the Senate executive calendar, and be deemed as reported favorably by such committee.''.

AMENDMENT NO. 3659

On page 13, insert between lines 17 and 18 the following:

''§ 3349d. Consideration of nomination in Senate

''(a) Any nomination remaining on the Senate executive calendar for 150 calendar days shall be considered for a vote by the Senate in executive session within the next 5 calendar days following such 150th day in which the Senate is in session.

''(b) The Senate may waive subsection (a) by unanimous consent.''.

CHAFEE (AND MOYNIHAN) AMENDMENT NO. 3660

(Ordered to lie on the table.)

Mr. CHAFEE (for himself and Mr. MOYNIHAN) submitted an amendment intended to be proposed by them to the bill, S. 2176, supra; as follows:

At the appropriate place in the bill insert the following new section:

SEC.___. CASH REIMBURSEMENT TO FEDERAL EMPLOYEES FOR PARKING SPACES.

Section 7905(b)(2) of title 5, United States Code, is amended—

(1) in subparagraph (B) by striking ''and'' after the semicolon;

(2) in subparagraph (C) by striking the period and inserting a semicolon and ''and''; and

(3) by adding at the end the following:

''(D) taxable cash reimbursement to an employee for the value of an employee parking space.''.

LEAHY AMENDMENTS NOS. 3661–3664

(Ordered to lie on the table.)

Mr. LEAHY submitted four amendments intended to be proposed by him to the bill, S. 2176, supra; as follows:

AMENDMENT NO. 3661

At the appropriate place, insert the following:

SEC. ___. RESPONSIBILITY OF THE SENATE DURING A JUDICIAL EMERGENCY.

Section 46 of title 28, United States Code, is amended by adding at the end the following:

''(e) ACTION BY SENATE REQUIRED.—The Senate shall not recess during a session for more than 9 days without first voting on a judicial nomination in any case in which—

''(1) the nomination to fill the judiciary vacancy in the affected circuit or district court has been pending before the Senate for a period of 60 days or longer; and

''(2) a judicial emergency is declared by the Administrative Office of the United States Courts.''.

AMENDMENT NO. 3662

At the appropriate place, insert the following:

SEC. ___. BILL LAN LEE NOMINATION.

(a) DISCHARGE.—The Bill Lan Lee nomination as Assistant Attorney General for the Civil Rights Division is discharged from the Committee on the Judiciary.

(b) POINT OF ORDER.— It shall not be in order in the Senate to vote on the adjournment of the 105th Congress unless the Senate has voted on Bill Lan Lee nomination as Assistant Attorney General for the Civil Rights Division.

AMENDMENT NO. 3663

At the appropriate place, insert the following:

SEC. ___. RESPONSIBILITY OF THE SENATE DURING A JUDICIAL EMERGENCY.

Section 46 of title 28, United States Code, is amended by adding at the end the following:

''(e) ACTION BY SENATE REQUIRED.—The Senate shall not recess during a session for more than 9 days without first voting on a judicial nomination in any case in which—

''(1) the nomination to fill the judiciary vacancy in the affected circuit court has been pending before the Senate for a period of 60 days or longer; and

''(2) a judicial emergency is declared pursuant to subsection (b) due to vacancies on the affected circuit court.''.

AMENDMENT NO. 3664

At the appropriate place, insert the following:

SEC. ___. CIRCUIT JUDGES FOR THE CIRCUIT COURT OF APPEALS.

(a) IN GENERAL.—The President shall appoint, by and with the advice and consent of the Senate—

(1) 1 additional circuit judge for the first circuit court of appeals;
(2) 2 additional circuit judges for the second circuit court of appeals;
(3) 1 additional circuit judge for the fifth circuit court of appeals;
(4) 2 additional circuit judges for the sixth circuit court of appeals; and
(5) 6 additional circuit judges for the ninth circuit court of appeals.

(b) TEMPORARY JUDGESHIPS.—The President shall appoint, by and with the advice and consent of the Senate—
(1) 2 additional circuit judges for the sixth circuit court of appeals; and
(2) 3 additional circuit judges for the ninth circuit court of appeals.

The first vacancy in the office of circuit judge in each of the circuits named in this section, occurring 7 years or more after the confirmation date of the judge named to fill a temporary judgeship created by this subsection, shall not be filled.

(c) TABLES.—In order that the table contained in section 44 of title 28, United States Code, will, with respect to each judicial circuit, reflect the changes in the total number of permanent circuit judgeships authorized as a result of subsection (a) of this section, such table is amended to read as follows:

"Circuits	Number of Judges
District of Columbia	12
First	7
Second	15
Third	14
Fourth	15
Fifth	18
Sixth	18
Seventh	11
Eighth	11
Ninth	34
Tenth	12
Eleventh	12
Federal	12.''.

SEC. ___. DISTRICT JUDGES FOR THE DISTRICT COURTS.

(a) IN GENERAL.—The President shall appoint, by and with the advice and consent of the Senate—
(1) 1 additional district judge for the middle district of Alabama;
(2) 2 additional district judges for the district of Arizona;
(3) 1 additional district judge for the eastern district of California;
(4) 2 additional district judges for the southern district of California;
(5) 1 additional district judge for the district of Colorado;
(6) 3 additional district judges for the middle district of Florida;
(7) 2 additional district judges for the southern district of Florida;
(8) 2 additional district judges for the district of Nevada;
(9) 1 additional district judge for the district of New Mexico;
(10) 3 additional district judges for the eastern district of New York;
(11) 2 additional district judges for the western district of North Carolina;
(12) 1 additional district judge for the district of Oregon;
(13) 1 additional district judge for the northern district of Texas;
(14) 1 additional district judge for the southern district of Texas; and
(15) 1 additional district judge for the eastern district of Virginia.

(b) TEMPORARY JUDGESHIPS.—The President shall appoint, by and with the advice and consent of the Senate—
(1) 1 additional district judge for the eastern district of California;
(2) 1 additional district judge for the district of Colorado;
(3) 1 additional district judge for the middle district of Florida;
(4) 1 additional district judge for the southern district of Indiana;
(5) 1 additional district judge for the eastern district of Kentucky;
(6) 1 additional district judge for the middle district of Louisiana;
(7) 1 additional district judge for the district of New Mexico;
(8) 1 additional district judge for the northern district of New York;
(9) 1 additional district judge for the western district of New York;
(10) 1 additional district judge for the district of South Carolina;
(11) 1 additional district judge for the eastern district of Tennessee; and
(12) 1 additional district judge for the western district of Washington.

The first vacancy in the office of district judge in each of the judicial districts named in this subsection, occurring 7 years or more after the confirmation date of the judge named to fill a temporary judgeship created by this subsection, shall not be filled.

(c) TABLES.—In order that the table contained in section 133 of title 28, United States Code, will, with respect to each judicial district, reflect the changes in the total number of permanent district judgeships authorized as a result of subsection (a) of this section, such table is amended to read as follows:

"Districts	Judges
Alabama:	
Northern	7
Middle	4
Southern	3
Alaska	3
Arizona	10
Arkansas:	
Eastern	5
Western	3
California:	
Northern	14
Eastern	7
Central	27
Southern	10
Colorado	8
Connecticut	8
Delaware	4
District of Columbia	15
Florida:	
Northern	4
Middle	14
Southern	18
Georgia:	
Northern	11
Middle	4
Southern	3
Hawaii	3
Idaho	2
Illinois:	
Northern	22
Central	3
Southern	3
Indiana:	
Northern	5
Southern	5
Iowa:	
Northern	2
Southern	3
Kansas	5
Kentucky:	
Eastern	4
Western	4
Eastern and Western	1
Louisiana:	
Eastern	13
Middle	2
Western	7
Maine	3
Maryland	10
Massachusetts	13
Michigan:	
Eastern	15
Western	4
Minnesota	7
Mississippi:	
Northern	3
Southern	6
Missouri:	
Eastern	6
Western	5
Eastern and Western	2
Montana	3
Nebraska	3
Nevada	6
New Hampshire	3
New Jersey	17
New Mexico	6
New York:	
Northern	4
Southern	28
Eastern	18
Western	4
North Carolina:	
Eastern	4
Middle	4
Western	5
North Dakota	2
Ohio:	
Northern	11
Southern	8
Oklahoma:	
Northern	3
Eastern	1
Western	6
Northern, Eastern, and Western	1
Oregon	7
Pennsylvania:	
Eastern	22
Middle	6
Western	10
Puerto Rico	7
Rhode Island	3
South Carolina	9
South Dakota	3
Tennessee:	
Eastern	5
Middle	4
Western	5
Texas:	
Northern	13
Southern	19
Eastern	7
Western	10
Utah	5
Vermont	2
Virginia:	
Eastern	10
Western	4
Washington:	
Eastern	4
Western	7
West Virginia:	
Northern	3
Southern	5
Wisconsin:	
Eastern	4
Western	2
Wyoming	3.''.

SEC. ___. ARTICLE III STATUS FOR THE JUDGESHIP AUTHORIZED FOR THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS.

(a) COMPOSITION OF NINTH CIRCUIT.—Section 41 of title 28, United States Code, is amended in the matter relating to the ninth circuit by inserting '', Northern Mariana Islands'' after ''Hawaii''.

(b) ESTABLISHMENT OF JUDICIAL DISTRICT.—
(1) IN GENERAL.—Chapter 5 of title 28, United States Code, is amended by inserting after section 114 the following new section:

''§ 114A. Northern Mariana Islands

''The Northern Mariana Islands constitute 1 judicial district. Court shall be held at Saipan.''.

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 28, United States Code, is amended by inserting after the item relating to section 114 the following:

''114A. Northern Mariana Islands.''.

(c) DISTRICT JUDGE.—Section 133(a) of title 28, United States Code, is amended by inserting after the item relating to North Dakota the following:

''Northern Mariana Islands ..... 1''.

(d) BANKRUPTCY JUDGE.—Section 152(a) of title 28, United States Code, is amended—

(1) in paragraph (2) by inserting after the item relating to North Dakota the following:

''Northern Mariana Islands ..... 0''; and

(2) in paragraph (4) in the first sentence by inserting ''and the Commonwealth of the Northern Mariana Islands'' after ''territories''.

(e) ASSIGNMENT OF JUDGES.—

(1) IN GENERAL.—Chapter 13 of title 28, United States Code, is amended by adding after section 297 the following:

''§ 298. Assignment to the United States District Court for the Northern Mariana Islands

''In addition to the judges authorized to be designated by sections 291 and 292, the Chief Judge of the United States Court of Appeals for the Ninth Circuit may assign judges of courts of record of the Northern Mariana Islands or Guam, including a judge of the District Court of Guam who is appointed by the President or a recalled senior judge of the District Court of Guam, to serve temporarily as a judge in the United States District Court for the Northern Mariana Islands whenever such an assignment is necessary for the proper dispatch of the business of the court. Such designated judges shall have the powers of a magistrate judge under section 636.''.

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 13 of title 28, United States Code, is amended by adding after the item relating to section 297 the following:

''298. Assignment to the United States District Court for the Northern Mariana Islands.''.

(f) JUDICIAL CONFERENCES OF CIRCUITS.—Section 333 of title 28, United States Code, is amended in the third sentence of the first undesignated paragraph by striking ''the District Court of the Virgin Islands, and the District Court of the Northern Mariana Islands'' and inserting ''and the District Court of the Virgin Islands''.

(g) JUDGE IN TERRITORIES AND POSSESSIONS.—Section 373 of title 28, United States Code, is amended—

(1) in subsection (a) by striking ''the District Court of the Northern Mariana Islands,''; and

(2) in subsection (e) by striking ''the District Court of the Northern Mariana Islands,''.

(h) ANNUITIES FOR SURVIVORS OF CERTAIN JUDICIAL OFFICIALS OF THE UNITED STATES.—Section 376(a) of title 28, United States Code, is amended—

(1) in paragraph (1)(B) by striking '', the District Court of the Northern Mariana Islands,''; and

(2) in paragraph (2)(B) by striking '', the District Court of the Northern Mariana Islands,''.

(i) SAVINGS PROVISIONS.—The amendments made by subsections (a) through (h) of this section shall not affect the rights of any judge who may have retired before the effective date of this section. Service as a judge of the District Court of the Northern Mariana Islands shall be included in computing under sections 371, 372, 373, and 376 of title 28, United States Code, the aggregate years of judicial service of any person who is in office as a district judge for the District of the Northern Mariana Islands on the effective date of this section. The term of office of any such judge shall terminate upon a vacancy in the office by expiration of the term or otherwise. Upon such termination, the President shall appoint, by and with the advice and consent of the Senate, a judge for the district who shall hold office during good behavior.

(j) UNITED STATES ATTORNEY.—Section 541 of title 28, United States Code, is amended—

(1) in subsection (a) by inserting before the period the following: '', except that any United States attorney appointed for the Northern Mariana Islands may at the same time serve as United States attorney in another judicial district''; and

(2) by redesignating subsection (c) as subsection (d) and inserting after subsection (b) the following:

''(c) If the President appoints a United States attorney for the Northern Mariana Islands who at that time is serving in the same capacity in another district, the appointment shall, without prejudice to a subsequent appointment, be for the unexpired term of such United States attorney.''.

(k) UNITED STATES MARSHALS SERVICE.—Section 561(d) of title 28, United States Code, is amended by adding after the second sentence the following: ''If the President appoints a marshal for the Northern Mariana Islands who at that time is serving in the same capacity in another district, the appointment shall, without prejudice to a subsequent appointment, be for the unexpired term of such marshal.''.

(l) UNITED STATES MAGISTRATES.—Section 631(b)(1) of title 28, United States Code, is amended by inserting ''the Commonwealth of the Northern Mariana Islands,'' after ''Puerto Rico,''.

(m) INTERLOCUTORY DECISIONS.—Section 1292(d)(4)(A) of title 28, United States Code, is amended by striking '', the District Court of the Virgin Islands, or the District Court for the Northern Mariana Islands,'' and inserting '', or the District Court of the Virgin Islands,''.

(n) JURISDICTION OF THE UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT.—Section 1295(a) of title 28, United States Code, is amended—

(1) in paragraph (1) by striking '', the District Court of the Virgin Islands, or the District Court for the Northern Mariana Islands,'' and inserting '', or the District Court of the Virgin Islands,''; and

(2) in paragraph (2) by striking '', the District Court of the Virgin Islands, or the District Court for the Northern Mariana Islands,'' and inserting '', or the District Court of the Virgin Islands,''.

(o) DIVERSITY JURISDICTION.—Section 1332(d) of title 28, United States Code, is amended by striking '', and the Commonwealth of Puerto Rico'' and inserting '', the Commonwealth of Puerto Rico, and the Commonwealth of the Northern Mariana Islands''.

(p) CIVIL COMMITMENT AND REHABILITATION OF NARCOTICS ADDICTS.—Section 2901(e) of title 28, United States Code, is amended by striking ''or the Commonwealth of Puerto Rico,'' and inserting ''the Commonwealth of Puerto Rico, or the Commonwealth of the Northern Mariana Islands,''.

(q) NORTHERN MARIANA ISLANDS JUDICIAL PROVISIONS.—The Act of November 8, 1977 (Public Law 95–157; 91 Stat. 1265) is amended—

(1) in section 4(a) (48 U.S.C. 1824(a))—

(A) by striking ''(a)'';

(B) by striking all beginning with '', unless those cases are reviewable in the District Court for the Northern Mariana Islands'' through the period and inserting a period; and

(C) by striking subsection (b); and

(2) by striking—

(A) the first section (48 U.S.C. 1821);

(B) section 2 (48 U.S.C. 1822);

(C) section 3 (48 U.S.C. 1823);

(D) section 5 (48 U.S.C. 1825); and

(E) section 6 (48 U.S.C. 1826).

(r) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section, including such sums as may be necessary to provide appropriate space and facilities for the judicial positions created by this section.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. BENNETT. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Friday, September 25, 1998, at 10 a.m. in closed session, to receive a briefing on the worldwide threat and status of U.S. military forces and potential operational requirements.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. BENNETT. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Friday, September 25, 1998, at 9:30 a.m. to hold two hearings.

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

SUBCOMMITTEE ON INVESTIGATIONS

Mr. BENNETT. Mr. President, I ask unanimous consent on behalf of the Permanent Subcommittee on Investigations of the Governmental Affairs Committee to meet on Friday, September 25, 1998, at 9:30 a.m. for a hearing on the topic of ''Improving the Safety of Food Imports.''

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

ADDITIONAL STATEMENTS

RECOGNITION OF DR. MADAN M. BHASIN

• Mr. ROCKEFELLER. Mr. President, I rise today to recognize and congratulate Dr. Madan Bhasin for being awarded the 1999 Industrial Chemistry Award by the American Chemical Society. This honor is annually bestowed to recognize outstanding contributions to industrial chemistry that have resulted in the commercialization of an economically significant new product or process. I am always proud when West Virginians are recognized for their outstanding contributions to society. However, this is an especially nice case since Dr. Bhasin's work also demonstrates how great ideas can improve a company's profit margin and save resources at the same time.

Dr. Bhasin received his B.Sc. from the University of Delhi and his Ph.D. from the University of Notre Dame in 1958 and has been with Union Carbide since 1963. During his 35 year career at the Union Carbide Technical Center in

South Charleston, West Virginia, he has devoted his efforts to researching and applying catalysts to create new production methods and help improve existing industrial processes. His invention and implementation of nine generations of ethylene epoxidation catalysts led to his recognition by the American Chemical Society. The catalysts that Dr. Bhasin invented allow for the more efficient conversion of ethylene epoxidation to ethylene oxide and ethylene glycol, which are components in products such as polyester and anti-freeze. Billions of pounds of ethylene epoxidation are used each year so increasing the conversion efficiency has allowed Union Carbide to remain one of the world leaders in this market as well as save energy and reduce by-products. This is obviously a win for Union Carbide, the environment and the state of West Virginia.

Again I would like to take this opportunity to publically recognize and congratulate Dr. Bhasin for this great accolade and wish him continued success in his future endeavors.●

WIRELESS COMMUNICATIONS AND PUBLIC SAFETY ACT OF 1998

● Mr. BURNS. Mr. President, I am here today to talk about some good news for a change. I want to talk about the Wireless Communications and Public Safety Act of 1998 that Senator MCCAIN is introducing, and I am cosponsoring. The purpose of this legislation is to link some of the amazing innovations in wireless technology to 9–1–1 and emergency response professionals.

All kinds of technologies exist today that can greatly reduce response time to emergencies and help victims get the right kind of medical attention quickly. But right now these technologies are not connected in ways that we can use them for emergencies. That's why this effort to upgrade our 9–1–1 systems across the nation is to so important and necessary.

The National Highway Traffic Safety Administration has conducted studies showing that crash-to-care time for fatal accidents is about a half hour in urban areas. In rural areas, which covers most of my home state of Montana, that crash-to-care time almost doubles. On average, it takes just shy of an hour to get emergency attention to crash victims in rural areas. Almost half of the serious crash victims who do not receive care in that first hour die at the scene of the accident. That's a scary statistic. But it doesn't have to continue that way.

Drew Dawson, who is the Director of the Montana Emergency Medical Services Bureau and president of the National Association of State Emergency Medical Services Directors, strongly supports this legislation. He tells me that the bill will help bring better wireless 9–1–1 coverage to Montana and will enhance our statewide Trauma Care System. Mr. Dawson believes this legislation will help him and his emergency folks do their job better, which means it will help them save more lives than they already do.

Montana unfortunately has a high motor vehicle crash death rate. Part of this bill promotes research on something called Automatic Crash Notification technology or ACN as Mr. Dawson and the trauma and emergency professionals call it. ACN technology takes the sensors in cars, such as airbag sensors and speed sensors, and links them to a wireless phone and a location device. When an ACN-equipped car in a remote area of Montana crashes, the car automatically dials 9–1–1. Not only does the car dial 9–1–1 but it transmits data telling the emergency operator where exactly the crash victim is and the likelihood of the victim's injuries. This ACN system also opens up a voice channel enabling the emergency operator to speak to the crash victim.

ACN technology comes into effect only seconds after the crash. It can be rigged so that the emergency operator gets the crash information as well as the nearest trauma center. ACN would eliminate many drawn out search and rescues that usually have to take place.

In these crash situations, time is of the essence. The emergency medical professionals refer to the first hour after a crash as the ''Golden Hour.'' They say if they can get to victims in that first hour, then they have a good chance of limiting the severity of the injuries. Once the clock ticks over an hour, the chances of medical miracles lessen more and more. Reducing response time means the difference between life and death.

I have to say a word about all of the good work that folks like Drew Dawson in Montana and other emergency professionals do all over the country. The United States has the most skilled and dedicated group of medical and emergency professionals in the world. We just need to give them better tools. There is technology out there that can help these professionals and that can help all of us citizens, if, God forbid, we ever find ourselves in an emergency situation needing this kind of help. The Wireless Communications and Public Safety Act of 1998 will help all of us and will make our emergency services even better than they are today.

Mr. President, I hope all of my colleagues will join me and help pass this important legislation.●

RECOGNIZING THE CITIZENS AGAINST LAWSUIT ABUSE (CALA)

● Mr. ROCKEFELLER. Mr. President, I wish to recognize today the efforts of a group of West Virginia citizens who have joined together to address an important issue affecting our state and the nation. These individuals, who have formed Citizens Against Lawsuit Abuse (CALA), are working to educate the public about how excesses in our civil justice system can be harmful.

CALA volunteer spokespersons are speaking out about how lawsuit abuse means people pay through higher prices for consumer products, higher medical expenses, higher taxes and lost business expansion and product development. I should note that my own concerns relate to abuse of the system which comes in the form of frivolous suits and inappropriate delays—not legitimate use of our tort system.

CALA reports that recent studies of liability costs have found that our State has a high lawsuit and liability cost relative to our economic output measured as gross state product. As another example of the effect of lawsuit abuse, CALA's own survey of all West Virginia municipalities last year found an estimated annual lawsuit-related cost for our municipal taxpayers to be more than $9 million. Nationally, it has been estimated that the costs of our civil justice system averages $1200 per person per year.

Legal reform of any kind is not a simple issue. The legal system is essential to provide justice to every American. But that does not mean that the status quo is perfect. When lawsuits and the courts can be used in excess or result in imposing costs without reason on the other parties, from individuals to not-for-profit agencies to businesses, the system should be reviewed and reformed if possible.

I often have spoken about the problems of our product liability system. We see the terrible consequences of our country's confusing patchwork, slow, and often unfair system of product liability rules that need to be properly and fairly reformed.

The leaders of West Virginia's CALA movement should be commended here today. Volunteers such as Robert Mauk of Huntington; Jim Thomas, Sid Davis and Mac McJunkin of Charleston; Cuz Blake of Bridgeport; Phyllis Garner of Clarksburg; Rick Pruitte of Fairmont; and Sam Chico of Morgantown are all working hard to ensure that our State has a strong, fair and effective civil justice system that will serve all West Virginians and grow our economy and job base. These people give their time to speak to community groups, organize educational activities and distribute materials to help us all be conscious of lawsuit costs and excesses of the system.

Citizens Against Lawsuit Abuse groups have declared September 21 through 26 to be ''Lawsuit Abuse Awareness Week'' in West Virginia. I want to commend these citizens for their dedication and commitment and to acknowledge this week as time of public awareness on the serious issues associated with lawsuit abuse.●

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. BENNETT. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations on the Executive Calendar: Nos. 824

through 850, and all nominations on the Secretary's desk in the Air Force, Army, Marine Corps and Navy. I further ask unanimous consent that the nominations be confirmed, the motions to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

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

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF DEFENSE

James M. Bodner, of Virginia, to be Deputy Under Secretary of Defense for Policy.

Stephen W. Preston, of the District of Columbia, to be General Counsel of the Department of the Navy.

Herbert Lee Buchanan III, of Virginia, to be an Assistant Secretary of the Navy.

Jeh Charles Johnson, of New York, to be General Counsel of the Department of the Air Force.

Richard Danzig, of the District of Columbia, to be Secretary of the Navy.

AIR FORCE

The following named Reserve officer for appointment as Chief of the Air Force Reserve under title 10, U.S.C., section 8038:

To be Chief of the Air Force Reserve, United States Air Force

Maj. Gen. James E. Sherrard, III, 0000

The following named officer for appointment in the United States Air Force to the grade indicated under title 10, U.S.C., section 624:

To be brigadier general

Col. Robert W. Chedister, 0000

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Charles R. Heflebower, 0000

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Lt. Gen. Thomas R. Case, 0000

The following Air National Guard of the United States officer for appointment in the Reserve of the Air Force to the grade indicated under title 10, U.S.C., section 12203:

To be brigadier general

Col. Richard J. Hart, 0000

The following named officer for appointment as The Judge Advocate General of the United States Air Force and for appointment to the grade indicated under title 10, U.S.C., section 8037:

To be major general

Brig. Gen. William A. Moornan, 0000

IN THE ARMY

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be general

Lt. Gen. Montgomery C. Meigs, 0000

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Lt. Gen. William M. Steele, 0000

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. John Costello, 0000

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Ronald E. Adams, 0000

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Lt. Gen. Randolph W. House, 0000

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. David S. Weisman, 0000

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Daniel J. Petrosky, 0000

The following named officer for appointment in the Reserve of the Army to the grade indicated under title 10, U.S.C., section 12203:

To be rear admiral (lower half)

Capt. James S. Allan, 0000
Capt. Maurice B. Hill, Jr., 0000
Capt. Duret S. Smith, 0000
Capt. James M. Walley, Jr., 0000
Capt. Jerry D. West, 0000

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be admiral

Vice Adm. Dennis C. Blair, 0000

The following named officers for appointment in the United States Navy to the grade indicated under title 10, U.S.C., section 6624:

To be rear admiral (lower half)

Capt. David Architzel, 0000
Capt. Jose L. Betancourt, 0000
Capt. Annette E. Brown, 0000
Capt. Brian M. Calhoun, 0000
Capt. Kevin J. Cosgriff, 0000
Capt. Lewis W. Crenshaw, Jr., 0000
Capt. Joseph E. Enright, 0000
Capt. Terrance T. Etnyre, 0000
Capt. Mark P. Fitzgerald, 0000
Capt. Johnathan W. Greenert, 0000
Capt. Charles H. Griffiths, Jr., 0000
Capt. Stephen C. Heilman, 0000
Capt. Curtis A. Kemp, 0000
Capt. Anthony W. Lenderich, 0000
Capt. Walter B. Massenburg, 0000
Capt. Michael G. Mathis, 0000
Capt. James K. Moran, 0000
Capt. Charles L. Munns, 0000
Capt. Richard B. Porterfield, 0000
Capt. Isaac E. Richardson, III, 0000
Capt. James A. Robb, 0000
Capt. Paul S. Schultz, 0000
Capt. Joseph A. Sestaak, Jr., 0000
Capt. David M. Stone, 0000
Capt. Steven J. Tomaszeski, 0000
Capt. John W. Townes, III, 0000
Capt. Thomas E. Zelibor, 0000

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be vice admiral

Vice Adm. Vernon E. Clark, 0000

NOMINATIONS PLACED ON THE SECRETARY'S DESK

IN THE AIR FORCE, ARMY, MARINE CORPS, NAVY

Air Force nominations beginning Jeffrey C. Mabry, and ending Neal A. Thagard, which nominations were received by the Senate and appeared in the Congressional Record of July 30, 1998.

Air Force nominations beginning Hart Jacobsen, and ending Henry S. Jordan, which nominations were received by the Senate and appeared in the Congressional Record of September 2, 1998.

Air Force nominations beginning Charles C. Armstead, and ending Scott A. Zuerlein, which nominations were received by the Senate and appeared in the Congressional Record of September 2, 1998.

Air Force nomination of Larry V. Zettwoch, which was received by the Senate and appeared in the Congressional Record of September 3, 1998.

Army nominations beginning *David W. Acuff, and ending *Michael E. Yarman, which nominations were received by the Senate and appeared in the Congressional Record of July 22, 1998.

Army nominations beginning David W. Brooks, and ending Shelby R. Pearcy, which nominations were received by the Senate and appeared in the Congressional Record of July 30, 1998.

Army nomination of James G. Harris, which was received by the Senate and appeared in the Congressional Record of September 2, 1998.

Army nomination of Carl W. Huff, which was received by the Senate and appeared in the Congressional Record of September 3, 1998.

Army nominations beginning Robert D. Alston, and ending Earl R. Woods, Jr., which nominations were received by the Senate and appeared in the Congressional Record of September 3, 1998.

Marine Corps nomination of Edward R. Cawthon, which was received by the Senate and appeared in the Congressional Record of September 2, 1998.

Navy nominations beginning Ann E.B. Adcook, and ending Thomas J. Yurik, which nominations were received by the Senate and appeared in the Congressional Record of July 22, 1998.

Navy nominations beginning David W. Adams, and ending John R. Anderson, which nominations were received by the Senate and appeared in the Congressional Record of July 30, 1998.

Navy nominations beginning Thomas A. Buterbaugh, and ending Dermot P. Cashman, which nominations were received by the Senate and appeared in the Congressional Record of September 2, 1998.

Navy nominations beginning Dean A. Barsalaeu, and ending James N. Rosenthal, which nominations were received by the Senate and appeared in the Congressional Record of September 2, 1998.

Navy nominations beginning John M. Adams, and ending Maureen J. Zeller, which nominations were received by the Senate and appeared in the Congressional Record of September 10, 1998.

Navy nominations beginning Christopher L. Abbott, and ending Kevin S. Zumbar, which nominations were received by the Senate and appeared in the Congressional Record of September 10, 1998.

Navy nominations beginning Daniel Avenancio, and ending Carl B. Weicksel, which nominations were received by the Senate and appeared in the Congressional Record of September 11, 1998.

Navy nominations beginning Karla M. Abreuolson, ending Glen A. Zurlo, which nominations were received by the Senate and appeared in the Congressional Record of September 11, 1998.

Navy nominations beginning Leanne K. Aaby, and ending Michael J. Zucchero, which nominations were received by the Senate and appeared in the Congressional Record of September 14, 1998.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

FEDERAL MEAT AND POULTRY EMPLOYEES PAY ACT OF 1998

Mr. BENNETT. I ask unanimous consent the Agriculture Committee be discharged from further consideration of S. 2511 and the Senate then proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The bill clerk read as follows:

A bill (S. 2511) to authorize the Secretary of Agriculture to pay employees of the Food Safety and Inspection Service working in establishments subject to the Federal Meat Inspection Act and the Poultry Products Inspection Act for overtime and holiday work performed by the employees.

The Senate proceeded to consider the bill.

Mr. BENNETT. I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill appear at this point in the RECORD.

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

The bill was read the third time and passed, as follows:

S. 2511

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Federal Meat and Poultry Employees Pay Act of 1998''.

SEC. 2. OVERTIME AND HOLIDAY PAY.

(a) IN GENERAL.—The Secretary of Agriculture may—

(1) pay employees of the Department of Agriculture employed in an establishment subject to the Federal Meat Inspection Act (21 U.S.C. 601 et seq.) or the Poultry Products Inspection Act (21 U.S.C. 451 et seq.) for all overtime and holiday work performed at the establishment at rates determined by the Secretary, subject to applicable law relating to minimum wages and maximum hours; and

(2) accept from the establishment reimbursement for any sums paid by the Secretary for the overtime and holiday work, at rates determined under paragraph (1).

(b) AVAILABILITY.—Sums received by the Secretary under this section shall remain available until expended without further appropriation and without fiscal year limitation, to carry out this section.

SEC. 3. CONFORMING AMENDMENTS.

(a) Section 25 of the Poultry Products Inspection Act (21 U.S.C. 468) is amended by striking ''except that the cost'' and all that follows and inserting ''except the cost of overtime and holiday pay paid pursuant to the Federal Meat and Poultry Employees Pay Act of 1998.''.

(b) The Act of June 5, 1948 (21 U.S.C. 695), is amended by striking ''overtime'' and all that follows and inserting ''overtime and holiday pay paid pursuant to the Federal Meat and Poultry Employees Pay Act of 1998.''.

(c) The matter under the heading ''BUREAU OF ANIMAL INDUSTRY'' of the Act of July 24, 1919, is amended by striking the next to the last paragraph (7 U.S.C. 394).

(d) Section 5549 of title 5, United States Code is amended by striking paragraph (1) and inserting the following:

''(1) The Federal Meat and Poultry Employees Pay Act of 1998;''.

MAMMOGRAPHY QUALITY STANDARDS REAUTHORIZATION ACT OF 1998

Mr. BENNETT. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 580, H.R. 4382.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The bill clerk read as follows:

A bill (H.R. 4382) to amend the Public Health Service Act to revise and extend the program for mammography quality standards.

The Senate proceeded to consider the bill.

Mr. BENNETT. Mr. President, I ask unanimous consent that the bill be considered read a third time and passed; that the motion to reconsider be laid upon the table; and that any statements relating to the bill be placed at the appropriate place in the RECORD.

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

The bill (H.R. 4382) was considered read the third time and passed.

LEGISLATIVE BRANCH APPROPRIATIONS ACT, 1999—CONFERENCE REPORT

Mr. BENNETT. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of the conference report to accompany H.R. 4112, the legislative branch appropriations bill.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee on conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4112), have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to consider the conference report.

(The conference report is printed in the House proceedings of the RECORD of September 22, 1998.)

Mr. BENNETT. Mr. President, I ask unanimous consent that the conference report be agreed to; that the motion to reconsider be laid upon the table; and that any statements relating to the conference report be placed at the appropriate place in the RECORD.

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

The conference report was agreed to.

Mr. BENNETT. Mr. President, I must comment as chairman of the legislative branch subcommittee of the Appropriations Committee, I am particularly pleased with the action the Senate has just taken. I am proud of the work we did in conference, and I feel that Members of the Senate, as well as the House, will find the appropriate amount of support allocated for their activities in this conference report.

ORDERS FOR MONDAY, SEPTEMBER 28, 1998

Mr. BENNETT. Mr. President, I now ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 12 noon on Monday, September 28. I further ask unanimous consent that when the Senate reconvenes on Monday, immediately following the prayer, the Journal of proceedings be approved, no resolutions come over under the rule, the call of the calendar be waived, the morning hour be deemed to have expired and that the time for the two leaders be reserved. I further ask that the Senate then begin a period for the transaction of morning business until 2 p.m., with Senators permitted to speak for up to 5 minutes each, with the following exceptions:

Senator ROTH in control of the time until 12:40; Senator DORGAN, or his designee, for 40 minutes thereafter.

The PRESIDING OFFICER (Mr. DEWINE). Without objection, it is so ordered.

PROGRAM

Mr. BENNETT. Mr. President, for the information of all Senators, on Monday, there will be a period for morning business from 12 noon until 2. Following morning business, the motion to proceed to the Internet tax bill will be the pending business. Members are encouraged to come to the floor to discuss the important issue of Internet tax. At 3:30 p.m., under a previous order, the Senate will resume consideration of the so-called Vacancies Act for debate only until 5:30 p.m. Following that debate, at 5:30 p.m., the Senate will proceed to a cloture vote on the vacancies bill. Following that vote, the Senate may consider any other legislative or executive items cleared for action.

Members are reminded that second-degree amendments to the vacancy bill must be filed by 4:30 p.m. on Monday. And as a further reminder, a cloture motion was filed today on the motion to proceed to the Internet tax bill.

That vote will occur on Tuesday morning at a time to be determined by the two leaders.

ORDER FOR ADJOURNMENT

Mr. BENNETT. Mr. President, if there is no further business to come before the Senate, following the remarks of Senator LEAHY, who is expected on the floor momentarily, I ask unanimous consent that the Senate stand in adjournment under the previous order.

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

Mr. BENNETT. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

JUVENILE JUSTICE BILL

Mr. LEAHY. Mr. President, first, I alert my colleagues that I will speak a very short time. I am going to talk about a UC that I would have proposed but will not propose today but will explain why.

Earlier this month, the Republican majority came to the floor, unfortunately without prior warning, to propound a unanimous consent request for consideration of the Hatch-Sessions juvenile justice bill, S. 10. I see the distinguished Senator from Alabama here on the floor now. The UC was proposed late on Thursday afternoon. Unfortunately, it was after Senators had been informed there would be no more votes. In fact, I had already left for home in Vermont. We were unaware that they might want to proceed to S. 10 on Thursday.

My concern is that there had been a year of inaction on the bill. I had tried to propose some additional changes to the bill, which was voted on by the Judiciary Committee in July 1997, but I was unable to get any response from the other side of the aisle in the Judiciary Committee on that. There was also no attempt to get a response from this side of the aisle on the proposed UC.

I mention this because the failure of this Congress to take up and pass responsible juvenile crime legislation does not rest with the Democrats. And it is not going to be cured by any kind of a procedural floor gimmick.

Over the past year, I have spoken on the floor of the Senate and at hearings on several occasions about my concerns with the legislation. At the same time, I have expressed my willingness to work with the chairman of the full committee in a bipartisan manner to improve the juvenile crime bill.

I am not alone in my criticisms and in wanting to see changes in the bill. It has been criticized by virtually every major newspaper in the United States. It has been criticized by national leaders ranging from Chief Justice Rehnquist to Marian Wright Edelman, President of the Children's Defense Fund. The National District Attorneys Association, and other law enforcement agencies have also written me with their concerns about this bill.

I have also heard from numerous State and local officials across the United States, including the National Governors' Association, the Council of State Governments, the U.S. Conference of Mayors, the National Association of Counties, and the National Conference of State Legislatures. All of them have expressed concerns about the restrictions this bill would place on their ability to combat and prevent juvenile crime effectively.

In short, S. 10, as reported by the Judiciary Committee, is a bill laden with problems—in fact, so many that at last count the bill had lost nearly a quarter of the Republicans who signed on as cosponsors since its introduction.

The unanimous consent request that was proposed by the other side of the aisle, I believe, was patently unfair. It would have limited debate of juvenile justice and other crime matters. It would have permitted the Republicans to offer a substitute to their own bill but not allowed Democrats the same opportunity. The only additional amendments in order under their plan would be five on each side.

We just received from the chairman of the Judiciary Committee the day before yesterday, September 23, the latest version of S. 10 which contains over 100 different changes, but the Republicans want to limit us to 5 amendments. That is not a bipartisan effort to improve this bill.

While I appreciate that we are short of time in this Congress, and I understand why the Republican leadership would like to limit the number of amendments the Democrats may offer, of course, the decision to bring the bill up at the end of the Congress is that of the majority. I have no problem with that.

But we have worked diligently to pare down the amendments that the Democrats plan to offer to S. 10 from 64 to the 25 substantive amendments which I would have put in a proposed UC. Keep in mind what I said, also, that just a couple days ago we were handed the latest version from the other side with over 100 changes. We are talking about cutting Democratic amendments from 64 to 25 substantive ones that address the substantial criticisms leveled at this bill. I want to assure that Senate consideration of this legislation is fair, full, and productive. I do not appreciate, frankly, what appears to be almost a procedural ambush to move this bill forward in a way that allows consideration of all changes from the other side but very few from this side.

So, Mr. President, I am not going to make a unanimous consent request, but I ask to put this into the RECORD—not as a unanimous consent request. I ask unanimous consent to have printed in the RECORD what I would recommend should be a unanimous consent request to be asked by the leadership entitled ''Juvenile Justice.''

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

JUVENILE JUSTICE

I ask unanimous consent that it be in order for the majority leader, after consultation with the democratic leader to proceed to Calendar No. 210, S. 10, The Violent and Repeat Juvenile Offender Act and it be considered under the following limitations:

That the only amendments in order be a substitute amendment offered by Senators Hatch and Sessions, a substitute amendment offered by the minority leader or his designee and the following listed amendments, and that if either substitute is agreed to that the substitute continue to be amendable in two degrees:

Leahy—judicial review procedures in certain juveniles cases; preservation of state presumption for prosecution of most juveniles; access to juvenile records; separation standard for juveniles in custody; crime victims assistance.

Kennedy—gun control measure; Hate Crimes Prevention Act; reauthorization of the Juvenile Justice and Delinquency Prevention Act.

Biden—prevention program for afterschool activities; increase funding for prosecutor/courts grant program; modify requirements to qualify for funding from $150 million grant program; gun ban for dangerous teens; preserve the sovereign rights of native Americans by continuing the tribal ''OPT–IN''; extension crime law trust fund.

Kohl—reauthorize title V programs; restoration of the jail removal mandate.

Feingold—improve school safety; allow funds to be used to identify early warning signs of potential juvenile offenders.

Durbin—relevant.

Bingaman—Truancy Prevention and Juvenile Crime Reduction Act; to strike provisions relating to tobacco and alcohol.

Lautenberg—jump mentoring bill, S. 1461.

Wellstone—juvenile mental health protections.

Murray—restorative/community justice.

That there may be a managers package of amendments to be cleared by both the majority and minority manager; and

I finally ask consent that following the disposition of any or all amendments the bill read a third time, the Judiciary Committee be discharged from further consideration of H.R. 1818 and the Senate proceed to its consideration; all after the enacting clause be stricken and the text of S. 10, as amended be inserted in lieu thereof, the bill be read a third time and the Senate proceed to a vote on passage of the bill. I further ask that following the vote the Senate insist on its amendment, request a conference with the House and the Chair be authorized to appoint conferees on the part of the Senate.

Mr. SESSIONS. There was a unanimous consent——

Mr. LEAHY. No, no. I tell my friend from Alabama, this is what I would propose. I already stated that. And I have informed the floor staff on the Republican side that I would not make the unanimous consent request to this proposal at this time. Anyone who has known me for 24 years here knows I would never do this. I would not propose a unanimous consent request on a

day when everybody has taken off already to the various airports or home. But I am putting into the RECORD, so that Senators can read it on Monday, what would have been my proposal if we were able to make it. I would not seek to ambush the other side. I have not done that in 24 years, and I am not about to start now.

Mr. SESSIONS. Thank you.

Mr. LEAHY. Thank you, Mr. President.

I yield the floor.

Mr. SESSIONS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

The Chair advises the Senator, because of the previous order, he will have to seek unanimous consent to speak at this point.

Mr. SESSIONS. I ask unanimous consent, Mr. President, notwithstanding the previous order for adjournment, I be permitted to speak, and the Senate then adjourn under the previous order.

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

Mr. SESSIONS. I really appreciate Senator LEAHY and his leadership as ranking member on the Judiciary Committee. I would suggest, with regard to juvenile justice, that we have not had a year of inaction, as the Senator said. There were 100 changes proposed, and most of those in an apparently futile attempt to gain the support of Democratic Members who have been using procedural tactics to block the consideration of that bill.

The bill came out of the Judiciary Committee on a 12–6 vote, and with bipartisan support. Since that time, we have sought to gain additional support from the Democratic side. I have been a prosecutor for almost 20 years. I believe in this bill. It is not a political bill. It is a bill that provides resources and support and strength right to the local juvenile courts throughout America. It is in those courts where the real progress is being made in fighting juvenile crime.

I see the Presiding Officer, the Senator from Ohio. A few months ago we had the opportunity to meet in Ohio with a juvenile judge, Judge Grossman, who allowed us to witness a model program in action. In this program the judges have the resources and the capacity to confront youngsters when they are first arrested for juvenile crimes, and the judges also have the option to do something effective to confront those children and to change them from the road of destruction on which they are too often headed. A community may have alternative schools. It may have boot camps. It may have intensive probation supervision. In Ohio, Judge Grossman has a truancy program with trials conducted in the schoolroom with the Judge present. These are the kind of programs that can actually deter juvenile crime in America.

That is the heart and soul of this juvenile justice bill. I hope somehow, some way we can get a vote on it this time. It has been frustrating that we have not been able to do that yet. The National Juvenile Judges Association, the Fraternal Order of Police, the Boy's and Girl's Club, and organization after organization have supported this piece of legislation. I don't think there is any group more interested and more professionally concerned than the National Juvenile Judges Association. They have spent a good bit of time analyzing it, and they support it. This bill certainly represents a very important step forward.

I thank this body and I thank the Presiding Officer for his leadership on juvenile crime and juvenile justice. It is a matter close to my heart. The Presiding Officer is a former prosecutor who has given intensive leadership to that issue.

The legislation we have today is a product of bipartisan compromise and a lot of hard work. I think it is an excellent bill and it will be a tragedy, indeed, if for partisan reasons we are not able to bring it forward.

The House has acted on good legislation. If we can get our legislation passed, even in these last few days—I know the time is short—if we can get ours passed and go to conference and work together one more time, we could pass a bill that the people of this country would be proud of and would, in fact, allow us to intervene in the lives of kids who are going wrong and get them on the right track. Sometimes that takes tough intervention. Sometimes they need to go to a boot camp or detention facility or alternative school. We need to help encourage States to do that. Mr. President, I thank the occupant of the Chair for his time and his leadership on this matter.

TENNESSEE VALLEY AUTHORITY

Mr. SESSIONS. Mr. President, I was taken aback this morning after reading statements made by Vice President GORE that appeared in an article detailing the decision made by the Energy and Water Appropriations conference committee to eliminate Federal funding for the Tennessee Valley Administration's non-power programs. Funding for these TVA programs has been going on since TVA's inception. It has been pared down very much, year after year after year, until it has reached an amount that really can fund only the maintenance of the waterway, the dams, the flow of water, and reservoirs contained therein.

The conference committee has determined and has decided that funding for these programs will be eliminated. I am extremely disappointed in that. I want to say a few things about this decision and how it came about, but first I want to comment on what the Vice President said in today's AP story. According to published accounts, Vice President GORE said he was deeply disappointed in these program reductions. Then he said, ''The conference committee's action in zeroing out TVA is completely misguided, unjustified, unfair, and it seriously undermines TVA's important role in enhancing the Tennessee Valley.''

That is what the Vice President said, ''* * * completely misguided, unjustified, unfair, and it seriously undermines TVA's important role in * * * the Tennessee Valley.''

I agree that the decision to eliminate this funding is unfair because for the first time the ratepayer, the Tennessee Valley power payers, will be asked to keep up a waterway, even though every other waterway in America is kept up by taxpayers, through either the Corps of Engineers or other agencies. This is a major change and I think it was an unwise decision.

Mr. President, just 2 years ago this administration took action that directly led to this result. There has been debate for some time as to whether or not we ought to fund the Tennessee Valley Authority in this way. Two years ago this President and this Vice President, working through the Office of Management and Budget, which is a part of this administration, submitted a budget to this Congress that zeroed out nonpower funding for the Tennessee Valley Authority. The last time I checked, the Vice President was a part of this administration.

Now, those of us who opposed the Administration's decision are in trouble. There was a debate about reducing TVA's funding. People took different sides on it. The chairman of the Tennessee Valley Authority is a personal friend of the Vice President. The Vice President helped the current TVA chairman get his appointment and the Vice President consults with him regularly. Initially, the TVA chairman said he thought the Administration's funding reductions were a good idea and he supported the Clinton Administration's position. We asked him to reconsider. Chairman Crowell held hearings and studied the issue and came back and said he didn't think the Administration's position was a good idea after all; he changed his mind.

What I am saying, Mr. President, is that we are ''living in spin'' in this city. It offends me. It is a matter of basic integrity. I am just a former prosecutor from Alabama. I haven't been in this body 2 years. Maybe you are supposed to become immune to these things. I am not immune to it yet. When the Vice President says, ''It is completely misguided, unjustified, unfair,'' and yet 2 years ago he submitted a budget to do the very thing he is now criticizing, it strikes me as somewhat unusual and unfair and unjustified for him to say that.

The reason this funding failed and the reason the conference committee succeeded over my objection and over the objection of Senators THOMPSON, FRIST, SHELBY and others involved in the Tennessee Valley, was because of the impetus given to this effort by this administration when, along with their chairman of TVA, they supported proposed funding reductions 2 years ago.

Once the Administration supported it and said it was a good idea—and were joined in this belief by the TVA leadership itself—it was almost impossible to change the decisionmaking momentum. I am disappointed. I remember that a little over a year ago we held a TVA caucus meeting with the chairman of the Tennessee Valley Authority, Mr. Craven Crowell. During this meeting Mr. Crowell met with Members of the House of Representatives and with Senators who live in the area and who care about the Tennessee Valley. This meeting gave us the opportunity to come together and share information and discuss issues of importance regarding how to make TVA work better. I asked if he had discussed with the President of the United States, President Clinton, the zeroing out of funding for TVA's nonpower resources, and Mr. Crowell said yes. I said, ''Have you talked with the Office of Management and Budget?'' and Mr. Crowell replied, ''Yes, I spend a lot of time with them.'' Then I asked, knowing that the Vice President is from Tennessee and had previously been involved in TVA, ''Did you talk with the Vice President about it,'' and Mr. Crowell said the Vice President ''knew about it.''

So, now we have it. More spin in the Capitol. The President and Vice President personally engaged in recommending the zeroing out of this budget item 2 years ago and now they are coming forward to attack those who carried out what they recommended. In fact, the budget the President submitted has zero dollars for nonpower in the Tennessee Valley.

Whatever happens with this issue and what we will do about it, I don't know. I continue to adhere to the belief that it is unfair to ask the people who live there to fund the waterway maintenance and upkeep—that is what we are talking about—when no other place in the country does it that way. The taxpayers, through the Corps of Engineers or other agencies, do that throughout the country.

It shocks my conscience and doesn't enhance my respect for the credibility, integrity, and the honesty of the Vice President to have him make the kind of comments I quoted earlier. In truth, had the President and Vice President not supported reducing this funding 2 years ago, it would not be passing now. I think most people who keep up with the details of this situation know what I am saying is true.

ADJOURNMENT UNTIL MONDAY, SEPTEMBER 28, 1998

The PRESIDING OFFICER. Under the previous order, the Senate now stands in adjournment until 12 noon, Monday, September 28.

Thereupon, the Senate, at 1:28 p.m., adjourned until Monday, September 28, 1998, at 12 noon.

NOMINATIONS

Executive nominations received by the Senate September 25, 1998:

NATIONAL SCIENCE FOUNDATION

GEORGE M. LANGFORD, OF NEW HAMPSHIRE, TO BE A MEMBER OF THE NATIONAL SCIENCE BOARD, NATIONAL SCIENCE FOUNDATION, FOR A TERM EXPIRING MAY 10, 2004, VICE CHARLES EDWARD HESS, TERM EXPIRED.

JOSEPH A. MILLER, JR. OF DELAWARE, TO BE A MEMBER OF THE NATIONAL SCIENCE BOARD, NATIONAL SCIENCE FOUNDATION, FOR A TERM EXPIRING MAY 10, 2004, VICE JOHN HOPCROFT, TERM EXPIRED.

MAXINE L. SAVITZ, OF CALIFORNIA, TO BE A MEMBER OF THE NATIONAL SCIENCE BOARD, NATIONAL SCIENCE FOUNDATION, FOR A TERM EXPIRING MAY 10, 2004, VICE FRANK H.T. RHODES, TERM EXPIRED.

LUIS SEQUERIA, OF WISCONSIN, TO BE A MEMBER OF THE NATIONAL SCIENCE BOARD, NATIONAL SCIENCE FOUNDATION, FOR A TERM EXPIRING MAY 10, 2004, VICE IAN M. ROSS, TERM EXPIRED.

CHANG-LIN TIEN, OF CALIFORNIA, TO BE A MEMBER OF THE NATIONAL SCIENCE BOARD, NATIONAL SCIENCE FOUNDATION, FOR A TERM EXPIRING MAY 10, 2004, VICE RICHARD NEIL ZARE, TERM EXPIRED.

CONFIRMATIONS

Executive nominations confirmed by the Senate September 25, 1998:

DEPARTMENT OF DEFENSE

JAMES M. BODNER, OF VIRGINIA, TO BE DEPUTY UNDER SECRETARY OF DEFENSE FOR POLICY.

STEPHEN W. PRESTON, OF THE DISTRICT OF COLUMBIA, TO BE GENERAL COUNSEL OF THE DEPARTMENT OF THE NAVY.

HERBERT LEE BUCHANAN III, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF THE NAVY.

JEH CHARLES JOHNSON, OF NEW YORK, TO BE GENERAL COUNSEL OF THE DEPARTMENT OF THE AIR FORCE.

RICHARD DANZIG, OF THE DISTRICT OF COLUMBIA, TO BE SECRETARY OF THE NAVY.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

IN THE AIR FORCE

THE FOLLOWING NAMED RESERVE OFFICER FOR APPOINTMENT AS CHIEF OF THE AIR FORCE RESERVE UNDER TITLE 10, U.S.C., SECTION 8038:

To be Chief of the Air Force Reserve, United States Air Force

MAJ. GEN. JAMES E. SHERRARD, III, 0000.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be brigadier general

COL. ROBERT W. CHEDISTER, 0000.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. CHARLES R. HEFLEBOWER, 0000.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. THOMAS R. CASE, 0000.

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be brigadier general

COL. RICHARD J. HART, 0000.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS THE JUDGE ADVOCATE GENERAL OF THE UNITED STATES AIR FORCE AND FOR APPOINTMENT TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 8037:

To be major general

BRIG. GEN. WILLIAM A. MOORMAN, 0000.

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be general

LT. GEN. MONTGOMERY C. MEIGS, 0000.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. WILLIAM M. STEELE, 0000.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. JOHN COSTELLO, 0000.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. RONALD E. ADAMS, 0000.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. RANDOLPH W. HOUSE, 0000.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be Lieutenant General

MAJ. GEN. DAVID S. WEISMAN, 0000.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be Lieutenant General

MAJ. GEN. DANIEL J. PETROSKY, 0000.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be Major General

BRIG. GEN. DARREL W. MCDANIEL, 0000.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be General

GEN. ERIC K. SHINSEKI, 0000.

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES MARINE CORPS TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be Lieutenant General

LT. GEN. MICHAEL J. BYRON, 0000.

IN THE NAVY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be Rear Admiral

REAR ADM. (LH) KEITH W. LIPPERT, 0000.
REAR ADM. (LH) PAUL O. SODERBERG, 0000.

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES NAVAL RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

CAPT. MARK R. FEICHTINGER, 0000.
CAPT. JOHN A. JACKSON, 0000.
CAPT. SAM H. KUPRESIN, 0000.
CAPT. JOHN P. MCLAUGHLIN, 0000.
CAPT. JAMES B. PLEHAL, 0000.
CAPT. MARKE R. SHELLEY, 0000.

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES NAVAL RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be Rear Admiral (lower half)

CAPT. JAMES S. ALLAN, 0000.
CAPT. MAURICE B. HILL, JR., 0000.
CAPT. DURET S. SMITH, 0000.
CAPT. JAMES M. WALLEY, JR., 0000.
CAPT. JERRY D. WEST, 0000.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be Admiral

VICE ADM. DENNIS C. BLAIR, 0000.

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be Rear Admiral (lower half)

CAPT. DAVID ARCHITZEL, 0000.
CAPT. JOSE L. BETANCOURT, 0000.

CAPT. ANNETTE E. BROWN, 0000.
CAPT. BRIAN M. CALHOUN, 0000.
CAPT. KEVIN J. COSGRIFF, 0000.
CAPT. LEWIS W. CRENSHAW, JR., 0000.
CAPT. JOSEPH E. ENRIGHT, 0000.
CAPT. TERRANCE T. ETNYRE, 0000.
CAPT. MARK P. FITZGERALD, 0000.
CAPT. JONATHAN W. GREENERT, 0000.
CAPT. CHARLES H. GRIFFITHS, JR., 0000.
CAPT. STEPHEN C. HEILMAN, 0000.
CAPT. CURTIS A. KEMP, 0000.
CAPT. ANTHONY W. LENDERICH, 0000.
CAPT. WALTER B. MASSENBURG, 0000.
CAPT. MICHAEL G. MATHIS, 0000.
CAPT. JAMES K. MORAN, 0000.
CAPT. CHARLES L. MUNNS, 0000.
CAPT. RICHARD B. PORTERFIELD, 0000.
CAPT. ISSAC E. RICHARDSON, III, 0000.
CAPT. JAMES A. ROBB, 0000.
CAPT. PAUL S. SCHULTZ, 0000.
CAPT. JOSEPH A. SESTAAK, JR., 0000.
CAPT. DAVID M. STONE, 0000.
CAPT. STEVEN J. TOMASZESKI, 0000.
CAPT. JOHN W. TOWNES, III, 0000.
CAPT. THOMAS E. ZELIBOR, 0000.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

VICE ADM. VERNON E. CLARK, 0000.

IN THE AIR FORCE

AIR FORCE NOMINATIONS BEGINNING JEFFREY C. MABRY, AND ENDING NEAL A. THAGARD, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 30, 1998.

AIR FORCE NOMINATIONS BEGINNING HART JACOBSEN, AND ENDING HENRY S. JORDAN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 2, 1998.

AIR FORCE NOMINATIONS BEGINNING CHARLES C. ARMSTEAD, AND ENDING SCOTT A. ZUERLEIN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 2, 1998.

AIR FORCE NOMINATION OF LARRY V. ZETTWOCH, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 3, 1998.

IN THE ARMY

ARMY NOMINATIONS BEGINNING *DAVID W. ACUFF, AND ENDING *MICHAEL E. YARMAN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 22, 1998.

ARMY NOMINATIONS BEGINNING DAVID W. BROOKS, AND ENDING SHELBY R. PEARCY, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 30, 1998.

ARMY NOMINATION OF JAMES G. HARRIS, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 2, 1998.

ARMY NOMINATION OF CARL W. HUFF, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 3, 1998.

ARMY NOMINATIONS BEGINNING ROBERT D. ALSTON, AND ENDING EARL R. WOODS, JR., WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 3, 1998.

IN THE MARINE CORPS

MARINE CORPS NOMINATION OF EDWARD R. CAWTHON, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 2, 1998.

IN THE NAVY

NAVY NOMINATIONS BEGINNING ANN E.B. ADCOOK, AND ENDING THOMAS J. YURIK, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 22, 1998.

NAVY NOMINATIONS BEGINNING DAVID W. ADAMS, AND ENDING JOHN R. ANDERSON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 30, 1998.

NAVY NOMINATIONS BEGINNING THOMAS A. BUTERBAUGH, AND ENDING DERMOT P. CASHMAN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 2, 1998.

NAVY NOMINATIONS BEGINNING DEAN A. BARSALEAU, AND ENDING JAMES N. ROSENTHAL, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 2, 1998.

NAVY NOMINATIONS BEGINNING JOHN M. ADAMS, AND ENDING MAUREEN J. ZELLER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 10, 1998.

NAVY NOMINATIONS BEGINNING CHRISTOPHER L. ABBOTT, AND ENDING KEVIN S. ZUMBAR, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 10, 1998.

NAVY NOMINATIONS BEGINNING DANIEL AVENANCIO, AND ENDING CARL B. WEICKSEL, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 11, 1998.

NAVY NOMINATIONS BEGINNING KARLA M. ABREUOLSON, AND ENDING GLEN A. ZURLO, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 11, 1998.

NAVY NOMINATIONS BEGINNING LEANNE K. AABY, AND ENDING MICHAEL J. ZUCCHERO, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 14, 1998.