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Senate

The Senate met at 2 p.m. and was called to order by the Honorable CHRISTOPHER A. COONS, a Senator from the State of Delaware.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Immortal, invisible, God only wise, the gift of each day reminds us of Your love. Make us always thankful for Your loving providence and Your gracious goodness. Guide our lawmakers on the road to unity. Beneath the diversities of gifts and of thought, lead them to seek the harmony of common ground. Infuse them, Lord, with a spirit that will make them quick to listen, slow to speak, and slow to anger, forging new alliances of cooperation. Remind them that without You these challenging days are but sound and fury, devoid of meaning, dignity, and beauty, but in Your radiance, bitterness and disappointments are transformed into sweetness and joy.

We pray this prayer in Your holy Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable CHRISTOPHER A. COONS led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. INOUE).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, February 28, 2011.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby

appoint the Honorable CHRISTOPHER A. COONS, a Senator from the State of Delaware, to perform the duties of the Chair.

DANIEL K. INOUE,
President pro tempore.

Mr. COONS thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

READING OF WASHINGTON'S FAREWELL ADDRESS

The ACTING PRESIDENT pro tempore. Pursuant to the order of the Senate of January 24, 1901, as amended by the order of February 17, 2011, the Senator from Georgia, Mr. ISAKSON, will now read Washington's Farewell Address.

Mr. ISAKSON, at the rostrum, read the Farewell Address, as follows:

To the people of the United States:

FRIENDS AND FELLOW-CITIZENS: The period for a new election of a citizen to administer the executive government of the United States being not far distant, and the time actually arrived when your thoughts must be employed in designating the person who is to be clothed with that important trust, it appears to me proper, especially as it may conduce to a more distinct expression of the public voice, that I should now apprise you of the resolution I have formed, to decline being considered among the number of those out of whom a choice is to be made.

I beg you at the same time to do me the justice to be assured that this resolution has not been taken without a strict regard to all the considerations appertaining to the relation which binds a dutiful citizen to his country—and that, in withdrawing the tender of service which silence in my situation might imply, I am influenced by no diminution of zeal for your future in-

terest, no deficiency of grateful respect for your past kindness, but am supported by a full conviction that the step is compatible with both.

The acceptance of, and continuance hitherto in, the office to which your suffrages have twice called me have been a uniform sacrifice of inclination to the opinion of duty and to a deference for what appeared to be your desire. I constantly hoped that it would have been much earlier in my power, consistently with motives which I was not at liberty to disregard, to return to that retirement from which I had been reluctantly drawn. The strength of my inclination to do this, previous to the last election, had even led to the preparation of an address to declare it to you; but mature reflection on the then perplexed and critical posture of our affairs with foreign nations, and the unanimous advice of persons entitled to my confidence, impelled me to abandon the idea.

I rejoice that the state of your concerns, external as well as internal, no longer renders the pursuit of inclination incompatible with the sentiment of duty or propriety and am persuaded, whatever partiality may be retained for my services, that in the present circumstances of our country you will not disapprove my determination to retire.

The impressions with which I first undertook the arduous trust were explained on the proper occasion. In the discharge of this trust, I will only say that I have, with good intentions, contributed towards the organization and administration of the government the best exertions of which a very fallible judgment was capable. Not unconscious in the outset of the inferiority of my qualifications, experience in my own eyes, perhaps still more in the eyes of others, has strengthened the motives to diffidence of myself, and every day the increasing weight of years admonishes me more and more that the shade of retirement is as necessary to me as it will be welcome. Satisfied that if

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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any circumstances have given peculiar value to my services, they were temporary, I have the consolation to believe that, while choice and prudence invite me to quit the political scene, patriotism does not forbid it.

In looking forward to the moment which is intended to terminate the career of my public life, my feelings do not permit me to suspend the deep acknowledgment of that debt of gratitude which I owe to my beloved country for the many honors it has conferred upon me, still more for the steadfast confidence with which it has supported me and for the opportunities I have thence enjoyed of manifesting my inviolable attachment by services faithful and persevering, though in usefulness unequal to my zeal. If benefits have resulted to our country from these services, let it always be remembered to your praise and as an instructive example in our annals that, under circumstances in which the passions agitated in every direction were liable to mislead, amidst appearances sometimes dubious, vicissitudes of fortune often discouraging, in situations in which not unfrequently want of success has countenanced the spirit of criticism, the constancy of your support was the essential prop of the efforts and a guarantee of the plans by which they were effected. Profoundly penetrated with this idea, I shall carry it with me to my grave as a strong incitement to unceasing vows that Heaven may continue to you the choicest tokens of its beneficence; that your union and brotherly affection may be perpetual; that the free constitution, which is the work of your hands, may be sacredly maintained; that its administration in every department may be stamped with wisdom and virtue; that, in fine, the happiness of the people of these states, under the auspices of liberty, may be made complete by so careful a preservation and so prudent a use of this blessing as will acquire to them the glory of recommending it to the applause, the affection, and adoption of every nation which is yet a stranger to it.

Here, perhaps, I ought to stop. But a solicitude for your welfare, which cannot end but with my life, and the apprehension of danger natural to that solicitude, urge me on an occasion like the present to offer to your solemn contemplation, and to recommend to your frequent review, some sentiments which are the result of much reflection, of no inconsiderable observation, and which appear to me all important to the permanency of your felicity as a people. These will be offered to you with the more freedom as you can only see in them the disinterested warnings of a parting friend, who can possibly have no personal motive to bias his counsel. Nor can I forget, as an encouragement to it, your indulgent reception of my sentiments on a former and not dissimilar occasion.

Interwoven as is the love of liberty with every ligament of your hearts, no

recommendation of mine is necessary to fortify or confirm the attachment.

The unity of government which constitutes you one people is also now dear to you. It is justly so; for it is a main pillar in the edifice of your real independence, the support of your tranquillity at home, your peace abroad, of your safety, of your prosperity, of that very liberty which you so highly prize. But as it is easy to foresee that, from different causes and from different quarters, much pains will be taken, many artifices employed, to weaken in your minds the conviction of this truth; as this is the point in your political fortress against which the batteries of internal and external enemies will be most constantly and actively (though often covertly and insidiously) directed, it is of infinite moment that you should properly estimate the immense value of your national Union to your collective and individual happiness; that you should cherish a cordial, habitual, and immovable attachment to it; accustoming yourselves to think and speak of it as of the palladium of your political safety and prosperity; watching for its preservation with jealous anxiety; discountenancing whatever may suggest even a suspicion that it can in any event be abandoned; and indignantly frowning upon the first dawning of every attempt to alienate any portion of our country from the rest, or to enfeeble the sacred ties which now link together the various parts.

For this you have every inducement of sympathy and interest. Citizens by birth or choice of a common country, that country has a right to concentrate your affections. The name of American, which belongs to you in your national capacity, must always exalt the just pride of patriotism more than any appellation derived from local discriminations. With slight shades of difference, you have the same religion, manners, habits, and political principles. You have in a common cause fought and triumphed together. The independence and liberty you possess are the work of joint councils and joint efforts—of common dangers, sufferings and successes.

But these considerations, however powerfully they address themselves to your sensibility, are greatly outweighed by those which apply more immediately to your interest. Here every portion of our country finds the most commanding motives for carefully guarding and preserving the Union of the whole.

The North, in an unrestrained intercourse with the South, protected by the equal laws of a common government, finds in the productions of the latter great additional resources of maritime and commercial enterprise and precious materials of manufacturing industry. The South in the same intercourse, benefitting by the agency of the North, sees its agriculture grow and its commerce expand. Turning partly into its own channels the sea-

men of the North, it finds its particular navigation invigorated; and while it contributes, in different ways, to nourish and increase the general mass of the national navigation, it looks forward to the protection of a maritime strength to which itself is unequally adapted. The East, in a like intercourse with the West, already finds, and in the progressive improvement of interior communications by land and water will more and more find a valuable vent for the commodities which it brings from abroad or manufactures at home. The West derives from the East supplies requisite to its growth and comfort—and what is perhaps of still greater consequence, it must of necessity owe the secure enjoyment of indispensable outlets for its own productions to the weight, influence, and the future maritime strength of the Atlantic side of the Union, directed by an indissoluble community of interest as one nation. Any other tenure by which the West can hold this essential advantage, whether derived from its own separate strength or from an apostate and unnatural connection with any foreign power, must be intrinsically precarious.

While then every part of our country thus feels an immediate and particular interest in union, all the parts combined cannot fail to find in the united mass of means and efforts greater strength, greater resource, proportionably greater security from external danger, a less frequent interruption of their peace by foreign nations; and, what is of inestimable value! they must derive from union an exemption from those broils and wars between themselves which so frequently afflict neighboring countries not tied together by the same government, which their own rivalships alone would be sufficient to produce, but which opposite foreign alliances, attachments, and intrigues would stimulate and embitter. Hence likewise they will avoid the necessity of those overgrown military establishments, which under any form of government are inauspicious to liberty, and which are to be regarded as particularly hostile to republican liberty. In this sense it is, that your Union ought to be considered as a main prop of your liberty, and that the love of the one ought to endear to you the preservation of the other.

These considerations speak a persuasive language to every reflecting and virtuous mind and exhibit the continuance of the Union as a primary object of patriotic desire. Is there a doubt whether a common government can embrace so large a sphere? Let experience solve it. To listen to mere speculation in such a case were criminal. We are authorized to hope that a proper organization of the whole, with the auxiliary agency of governments for the respective subdivisions, will afford a happy issue to the experiment. It is well worth a fair and full experiment. With such powerful and obvious motives to union affecting all parts of our

country, while experience shall not have demonstrated its impracticability, there will always be reason to distrust the patriotism of those who in any quarter may endeavor to weaken its bands.

In contemplating the causes which may disturb our Union, it occurs as matter of serious concern that any ground should have been furnished for characterizing parties by geographical discriminations—northern and southern—Atlantic and western; whence designing men may endeavor to excite a belief that there is a real difference of local interests and views. One of the expedients of party to acquire influence within particular districts is to misrepresent the opinions and aims of other districts. You cannot shield yourselves too much against the jealousies and heart burnings which spring from these misrepresentations. They tend to render alien to each other those who ought to be bound together by fraternal affection. The inhabitants of our western country have lately had a useful lesson on this head. They have seen in the negotiation by the executive—and in the unanimous ratification by the Senate—of the treaty with Spain, and in the universal satisfaction at that event throughout the United States, a decisive proof how unfounded were the suspicions propagated among them of a policy in the general government and in the Atlantic states unfriendly to their interests in regard to the Mississippi. They have been witnesses to the formation of two treaties, that with Great Britain and that with Spain, which secure to them everything they could desire, in respect to our foreign relations, towards confirming their prosperity. Will it not be their wisdom to rely for the preservation of these advantages on the Union by which they were procured? Will they not henceforth be deaf to those advisers, if such there are, who would sever them from their brethren and connect them with aliens?

To the efficacy and permanency of your Union, a government for the whole is indispensable. No alliances, however strict, between the parts can be an adequate substitute. They must inevitably experience the infractions and interruptions which all alliances in all times have experienced. Sensible of this momentous truth, you have improved upon your first essay by the adoption of a Constitution of government better calculated than your former for an intimate Union and for the efficacious management of your common concerns. This government, the offspring of our own choice uninfluenced and unawed, adopted upon full investigation and mature deliberation, completely free in its principles, in the distribution of its powers uniting security with energy, and containing within itself a provision for its own amendment, has a just claim to your confidence and your support. Respect for its authority, compliance with its laws, acquiescence in its meas-

ures, are duties enjoined by the fundamental maxims of true liberty. The basis of our political systems is the right of the people to make and to alter their constitutions of government. But the Constitution which at any time exists, until changed by an explicit and authentic act of the whole people, is sacredly obligatory upon all. The very idea of the power and the right of the people to establish government presupposes the duty of every individual to obey the established government.

All obstructions to the execution of the laws, all combinations and associations under whatever plausible character with the real design to direct, control, counteract, or awe the regular deliberation and action of the constituted authorities, are destructive of this fundamental principle and of fatal tendency. They serve to organize faction; to give it an artificial and extraordinary force; to put in the place of the delegated will of the nation the will of a party, often a small but artful and enterprising minority of the community; and, according to the alternate triumphs of different parties, to make the public administration the mirror of the ill concerted and incongruous projects of faction, rather than the organ of consistent and wholesome plans digested by common councils and modified by mutual interests. However combinations or associations of the above description may now and then answer popular ends, they are likely, in the course of time and things, to become potent engines by which cunning, ambitious, and unprincipled men will be enabled to subvert the power of the people and to usurp for themselves the reins of government, destroying afterwards the very engines which have lifted them to unjust dominion.

Towards the preservation of your government and the permanency of your present happy state, it is requisite not only that you steadily discountenance irregular opposition, to its acknowledged authority but also that you resist with care the spirit of innovation upon its principles, however specious the pretexts. One method of assault may be to effect in the forms of the Constitution alterations which will impair the energy of the system and thus to undermine what cannot be directly overthrown. In all the changes to which you may be invited, remember that time and habit are at least as necessary to fix the true character of governments as of other human institutions, that experience is the surest standard by which to test the real tendency of the existing constitution of a country, that facility in changes upon the credit of mere hypotheses and opinion exposes to perpetual change from the endless variety of hypotheses and opinion; and remember, especially, that for the efficient management of your common interests in a country so extensive as ours, a government of as much vigor as is consistent with the perfect security of liberty is indispen-

sable; liberty itself will find in such a government, with powers properly distributed and adjusted, its surest guardian. It is indeed little else than a name, where the government is too feeble to withstand the enterprises of faction, to confine each member of the society within the limits prescribed by the laws, and to maintain all in the secure and tranquil enjoyment of the rights of person and property.

I have already intimated to you the danger of parties in the state, with particular reference to the founding of them on geographical discriminations. Let me now take a more comprehensive view and warn you in the most solemn manner against the baneful effects of the spirit of party, generally.

This spirit, unfortunately, is inseparable from our nature, having its root in the strongest passions of the human mind. It exists under different shapes in all governments, more or less stifled, controlled, or repressed; but in those of the popular form it is seen in its greatest rankness and is truly their worst enemy.

The alternate domination of one faction over another, sharpened by the spirit of revenge natural to party dissension, which in different ages and countries has perpetrated the most horrid enormities, is itself a frightful despotism. But this leads at length to a more formal and permanent despotism. The disorders and miseries which result gradually incline the minds of men to seek security and repose in the absolute power of an individual; and sooner or later the chief of some prevailing faction, more able or more fortunate than his competitors, turns this disposition to the purposes of his own elevation on the ruins of public liberty.

Without looking forward to an extremity of this kind (which nevertheless ought not to be entirely out of sight) the common and continual mischiefs of the spirit of party are sufficient to make it the interest and the duty of a wise people to discourage and restrain it.

It serves always to distract the public councils and enfeeble the public administration. It agitates the community with ill founded jealousies and false alarms, kindles the animosity of one part against another, foment occasionally riot and insurrection. It opens the door to foreign influence and corruption, which find a facilitated access to the government itself through the channels of party passions. Thus the policy and the will of one country are subjected to the policy and will of another.

There is an opinion that parties in free countries are useful checks upon the administration of the government and serve to keep alive the spirit of liberty. This within certain limits is probably true—and in governments of a monarchical cast patriotism may look with indulgence, if not with favor, upon the spirit of party. But in those of the popular character, in governments purely elective, it is a spirit not to be

encouraged. From their natural tendency, it is certain there will always be enough of that spirit for every salutary purpose. And there being constant danger of excess, the effort ought to be by force of public opinion to mitigate and assuage it. A fire not to be quenched, it demands a uniform vigilance to prevent its bursting into a flame, lest instead of warming it should consume.

It is important likewise, that the habits of thinking in a free country should inspire caution in those entrusted with its administration to confine themselves within their respective constitutional spheres, avoiding in the exercise of the powers of one department to encroach upon another. The spirit of encroachment tends to consolidate the powers of all the departments in one and thus to create, whatever the form of government, a real despotism. A just estimate of that love of power and proneness to abuse it which predominates in the human heart is sufficient to satisfy us of the truth of this position. The necessity of reciprocal checks in the exercise of political power, by dividing and distributing it into different depositories and constituting each the guardian of the public weal against invasions by the others, has been evinced by experiments ancient and modern, some of them in our country and under our own eyes. To preserve them must be as necessary as to institute them. If in the opinion of the people the distribution or modification of the constitutional powers be in any particular wrong, let it be corrected by an amendment in the way which the Constitution designates. But let there be no change by usurpation; for though this, in one instance, may be the instrument of good, it is the customary weapon by which free governments are destroyed. The precedent must always greatly overbalance in permanent evil any partial or transient benefit which the use can at any time yield.

Of all the dispositions and habits which lead to political prosperity, religion and morality are indispensable supports. In vain would that man claim the tribute of patriotism who should labor to subvert these great pillars of human happiness, these firmest props of the duties of men and citizens. The mere politician, equally with the pious man, ought to respect and to cherish them. A volume could not trace all their connections with private and public felicity. Let it simply be asked where is the security for property, for reputation, for life, if the sense of religious obligation desert the oaths, which are the instruments of investigation in courts of justice? And let us with caution indulge the supposition that morality can be maintained without religion. Whatever may be conceded to the influence of refined education on minds of peculiar structure, reason and experience both forbid us to expect that national morality can prevail in exclusion of religious principle.

It is substantially true that virtue or morality is a necessary spring of pop-

ular government. The rule indeed extends with more or less force to every species of free government. Who that is a sincere friend to it can look with indifference upon attempts to shake the foundation of the fabric?

Promote then, as an object of primary importance, institutions for the general diffusion of knowledge. In proportion as the structure of a government gives force to public opinion, it is essential that the public opinion should be enlightened.

As a very important source of strength and security, cherish public credit. One method of preserving it is to use it as sparingly as possible, avoiding occasions of expense by cultivating peace, but remembering also that timely disbursements to prepare for danger frequently prevent much greater disbursements to repel it; avoiding likewise the accumulation of debt, not only by shunning occasions of expense, but by vigorous exertions in time of peace to discharge the debts which unavoidable wars may have occasioned, not ungenerously throwing upon posterity the burden which we ourselves ought to bear. The execution of these maxims belongs to your representatives, but it is necessary that public opinion should cooperate. To facilitate to them the performance of their duty, it is essential that you should practically bear in mind that towards the payment of debts there must be revenue; that to have revenue there must be taxes; that no taxes can be devised which are not more or less inconvenient and unpleasant; that the intrinsic embarrassment inseparable from the selection of the proper objects (which is always a choice of difficulties) ought to be a decisive motive for a candid construction of the conduct of the government in making it, and for a spirit of acquiescence in the measures for obtaining revenue which the public exigencies may at any time dictate.

Observe good faith and justice towards all nations; cultivate peace and harmony with all; religion and morality enjoin this conduct, and can it be that good policy does not equally enjoin it? It will be worthy of a free, enlightened, and, at no distant period, a great nation, to give to mankind the magnanimous and too novel example of a people always guided by an exalted justice and benevolence. Who can doubt that in the course of time and things the fruits of such a plan would richly repay any temporary advantages which might be lost by a steady adherence to it? Can it be, that Providence has not connected the permanent felicity of a nation with its virtue? The experiment, at least, is recommended by every sentiment which ennobles human nature. Alas! is it rendered impossible by its vices?

In the execution of such a plan nothing is more essential than that permanent, inveterate antipathies against particular nations and passionate attachment for others should be excluded and that in place of them just and ami-

able feelings towards all should be cultivated. The nation which indulges towards another an habitual hatred, or an habitual fondness, is in some degree a slave. It is a slave to its animosity or to its affection, either of which is sufficient to lead it astray from its duty and its interest. Antipathy in one nation against another disposes each more readily to offer insult and injury, to lay hold of slight causes of umbrage, and to be haughty and intractable when accidental or trifling occasions of dispute occur. Hence frequent collisions, obstinate, envenomed, and bloody contests. The nation, prompted by ill will and resentment, sometimes impels to war the government, contrary to the best calculations of policy. The government sometimes participates in the national propensity and adopts through passion what reason would reject; at other times, it makes the animosity of the nation subservient to projects of hostility instigated by pride, ambition and other sinister and pernicious motives. The peace often, sometimes perhaps the liberty, of nations has been the victim.

So likewise, a passionate attachment of one nation for another produces a variety of evils. Sympathy for the favorite nation, facilitating the illusion of an imaginary common interest in cases where no real common interest exists and infusing into one the enmities of the other, betrays the former into a participation in the quarrels and wars of the latter, without adequate inducement or justification. It leads also to concessions to the favorite nation of privileges denied to others, which is apt doubly to injure the nation making the concessions, by unnecessarily parting with what ought to have been retained and by exciting jealousy, ill will, and a disposition to retaliate in the parties from whom equal privileges are withheld. And it gives to ambitious, corrupted or deluded citizens (who devote themselves to the favorite nation) facility to betray or sacrifice the interests of their own country without odium, sometimes even with popularity, gilding with the appearances of a virtuous sense of obligation, a commendable deference for public opinion, or a laudable zeal for public good, the base or foolish compliances of ambition, corruption, or infatuation.

As avenues to foreign influence in innumerable ways, such attachments are particularly alarming to the truly enlightened and independent patriot. How many opportunities do they afford to tamper with domestic factions, to practice the arts of seduction, to mislead public opinion, to influence or awe the public councils! Such an attachment of a small or weak towards a great and powerful nation dooms the former to be the satellite of the latter.

Against the insidious wiles of foreign influence (I conjure you to believe me, fellow citizens) the jealousy of a free people ought to be constantly awake, since history and experience prove that foreign influence is one of the most

baneful foes of republican government. But that jealousy to be useful must be impartial; else it becomes the instrument of the very influence to be avoided, instead of a defense against it. Excessive partiality for one foreign nation and excessive dislike of another cause those whom they actuate to see danger only on one side, and serve to veil and even second the arts of influence on the other. Real patriots, who may resist the intrigues of the favorite, are liable to become suspected and odious, while its tools and dupes usurp the applause and confidence of the people to surrender their interests.

The great rule of conduct for us in regard to foreign nations is, in extending our commercial relations, to have with them as little political connection as possible. So far as we have already formed engagements, let them be fulfilled with perfect good faith. Here let us stop.

Europe has a set of primary interests, which to us have none or a very remote relation. Hence she must be engaged in frequent controversies, the causes of which are essentially foreign to our concerns. Hence therefore it must be unwise in us to implicate ourselves, by artificial ties, in the ordinary vicissitudes of her politics or the ordinary combinations and collisions of her friendships or enmities.

Our detached and distant situation invites and enables us to pursue a different course. If we remain one people under an efficient government, the period is not far off when we may defy material injury from external annoyance; when we may take such an attitude as will cause the neutrality we may at any time resolve upon to be scrupulously respected; when belligerent nations, under the impossibility of making acquisitions upon us, will not lightly hazard the giving us provocation; when we may choose peace or war, as our interest guided by justice shall counsel.

Why forgo the advantages of so peculiar a situation? Why quit our own to stand upon foreign ground? Why, by interweaving our destiny with that of any part of Europe, entangle our peace and prosperity in the toils of European ambition, rivalry, interest, humor, or caprice?

It is our true policy to steer clear of permanent alliances with any portion of the foreign world—so far, I mean, as we are now at liberty to do it, for let me not be understood as capable of patronizing infidelity to existing engagements (I hold the maxim no less applicable to public than private affairs, that honesty is always the best policy)—I repeat it therefore, let those engagements be observed in their genuine sense. But in my opinion, it is unnecessary and would be unwise to extend them.

Taking care always to keep ourselves, by suitable establishments, on a respectably defensive posture, we may safely trust to temporary alliances for extraordinary emergencies.

Harmony, liberal intercourse with all nations, are recommended by policy, humanity, and interest. But even our commercial policy should hold an equal and impartial hand; neither seeking nor granting exclusive favors or preferences; consulting the natural course of things; diffusing and diversifying by gentle means the streams of commerce but forcing nothing; establishing with powers so disposed—in order to give to trade a stable course, to define the rights of our merchants, and to enable the government to support them—conventional rules of intercourse, the best that present circumstances and mutual opinion will permit, but temporary, and liable to be from time to time abandoned or varied, as experience and circumstances shall dictate; constantly keeping in view, that it is folly in one nation to look for disinterested favors from another—that it must pay with a portion of its independence for whatever it may accept under that character—that by such acceptance it may place itself in the condition of having given equivalents for nominal favors and yet of being reproached with ingratitude for not giving more. There can be no greater error than to expect or calculate upon real favors from nation to nation. It is an illusion which experience must cure, which a just pride ought to discard.

In offering to you, my countrymen, these counsels of an old and affectionate friend, I dare not hope they will make the strong and lasting impression I could wish—that they will control the usual current of the passions or prevent our nation from running the course which has hitherto marked the destiny of nations. But if I may even flatter myself that they may be productive of some partial benefit, some occasional good, that they may now and then recur to moderate the fury of party spirit, to warn against the mischiefs of foreign intrigue, to guard against the impostures of pretended patriotism—this hope will be a full recompense for the solicitude for your welfare by which they have been dictated.

How far in the discharge of my official duties I have been guided by the principles which have been delineated, the public records and other evidences of my conduct must witness to you and to the world. To myself, the assurance of my own conscience is that I have at least believed myself to be guided by them.

In relation to the still subsisting war in Europe, my proclamation of the 22d of April 1793 is the index to my plan. Sanctioned by your approving voice and by that of your representatives in both houses of Congress, the spirit of that measure has continually governed me, uninfluenced by any attempts to deter or divert me from it.

After deliberate examination with the aid of the best lights I could obtain, I was well satisfied that our country, under all the circumstances of the

case, had a right to take—and was bound in duty and interest to take—a neutral position. Having taken it, I determined, as far as should depend upon me, to maintain it with moderation, perseverance, and firmness.

The considerations which respect the right to hold this conduct it is not necessary on this occasion to detail. I will only observe that, according to my understanding of the matter, that right, so far from being denied by any of the belligerent powers, has been virtually admitted by all.

The duty of holding a neutral conduct may be inferred, without anything more, from the obligation which justice and humanity impose on every nation, in cases in which it is free to act, to maintain inviolate the relations of peace and amity towards other nations.

The inducements of interest for observing that conduct will best be referred to your own reflections and experience. With me, a predominant motive has been to endeavor to gain time to our country to settle and mature its yet recent institutions and to progress without interruption to that degree of strength and consistency which is necessary to give it, humanly speaking, the command of its own fortunes.

Though in reviewing the incidents of my administration I am unconscious of intentional error, I am nevertheless too sensible of my defects not to think it probable that I may have committed many errors. Whatever they may be, I fervently beseech the Almighty to avert or mitigate the evils to which they may tend. I shall also carry with me the hope that my country will never cease to view them with indulgence and that, after forty-five years of my life dedicated to its service with an upright zeal, the faults of incompetent abilities will be consigned to oblivion, as myself must soon be to the mansions of rest.

Relying on its kindness in this as in other things, and actuated by that fervent love towards it which is so natural to a man who views in it the native soil of himself and his progenitors for several generations, I anticipate with pleasing expectation that retreat, in which I promise myself to realize without alloy the sweet enjoyment of partaking in the midst of my fellow citizens the benign influence of good laws under a free government—the ever favorite object of my heart, and the happy reward, as I trust, of our mutual cares, labors and dangers.

GEO. WASHINGTON.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Republican leader is recognized.

COMMENDING SENATOR ISAKSON FOR READING WASHINGTON'S FAREWELL ADDRESS

Mr. McCONNELL. First, let me congratulate the Senator from Georgia for

his excellent presentation of George Washington's Farewell Address. It has been an important Senate tradition for many years. I thank him for his reading of that for all of us on this important occasion.

BUDGET CUT DEBATE

Mr. McCONNELL. Mr. President, I wish to start by welcoming everyone back from the recess. It is good to be back. Time away from Washington is an opportunity to step back and measure the priorities of party against those of people who sent us here to make sure they are properly aligned.

As the two parties reengage this week in a debate about our Nation's finances, it is vital that we focus not on mere partisan advantage but on what is right for the Nation. When it comes to the two choices before us of either maintaining an unsustainable status quo on spending or beginning to cut spending, the choice could not be more clear.

This morning's news brought word that a 47-member panel of some of the Nation's top business economists view government overspending as the top threat to our economy. In other words, a majority of those experts think Washington's inability to live within its means is the single greatest threat to our Nation's economic future. This is not a groundbreaking observation. After all, Americans have been telling lawmakers for more than 2 years that business as usual simply will not cut it anymore. They want us to get our fiscal house in order and to start to create the right conditions for private sector job growth. But today's news is further confirmation of the stakes in the debate over spending and that Democrats in Congress need to rethink the approach they have taken up to now.

The message from the November elections is quite clear: Stop spending money we don't have. Yet Democratic leaders persist in defending budgets that do just that well into the future.

Earlier this month, the President unveiled a 10-year budget for the government. At no point in this 10-year projection would the government spend less than it takes in. It does not even try. Just look at the estimates for this year alone. Unless we start to cut this year's projected spending, Washington will spend more than \$1.5 trillion more than it takes in—\$1.5 trillion more than it takes in this year—about \$350 billion more in red ink than we had last year. That is \$350 billion more in red ink than we had last year. Think about that—a \$350 billion increase in deficit spending over last year after an election in which the voters unambiguously said they want us to cut spending and stop adding debt.

Next year, Democrats in Congress want us to do it again. Once again, they plan to spend more than \$1 trillion more than we take in, and the same pattern the year after that. They want to spend hundreds of billions of

dollars more than we take in. And on and on.

All of this overspending, of course, just adds to our overall debt. When you add it all up, the numbers are truly staggering. As a result of Democratic budgets, the Federal debt 5 years from now is expected to exceed \$20 trillion—5 years from now, \$20 trillion. Interest payments alone on that debt will exceed $\frac{1}{2}$ trillion a year. That is just interest payments on the \$20 trillion debt— $\frac{1}{2}$ trillion a year. Talk about a disconnect.

The American people have spent the last 2 years trying to get their own fiscal houses in order. Millions have lost their jobs. Millions more have lost their homes. Meanwhile, what have the Democrats in Washington been up to? On the day the President was sworn into office, the national debt was \$10.6 trillion. In the 25 months since, it has increased by about \$3.5 trillion. And despite a national uprising over this profligacy and an election that represented a wholesale repudiation of it, here is the President's response: Spend more. He calls it investments.

What about Democratic leaders in Congress? Are they reading the writing on the wall? Until this past weekend, they insisted they could not agree to cut a dime in spending—not a dime. Rather than look for ways the two parties can work together to rein in spending, they looked for ways to marginalize those who are working hard to come up with ways to do it. They called anybody who wanted to cut a dime in spending an extremist. I will tell you what is extreme, Mr. President. What is extreme is \$20 trillion in debt. That is what is extreme. Or $\frac{1}{2}$ trillion in interest payments a year is extreme. Refusing to agree to even try to live within your means is extreme.

Tomorrow, the House will have a vote on a 2-week spending bill. This bill represents an effort to change the culture in Washington. It says: Let's start to change the mentality around here. Let's find \$4 billion that all of us can agree to cut and cut it and continue from that good start. Democratic leaders in Congress have resisted even this up until a few days ago. Now they have started to suggest they might be willing to agree to it. This is progress.

This week, Democrats will have the opportunity to show they have gotten the message. They can show they agree the time has come to change the status quo. Less spending, lower debt, reining in the size and scope of government, that is what is needed. That is how we will create the conditions for private sector job growth.

Democratic leaders in Congress have tried record spending and deficits. What has it gotten us? More than \$3 trillion more in debt and 3 million more jobs lost—\$3 trillion in new debt while we lost 3 million jobs. Democrats have an opportunity this week to show they get it. They have an opportunity to show that the status quo on spend-

ing and debt is no longer an option, to turn a corner. A lot depends on how they respond to that opportunity. Will they continue to see what they can get away with or will they finally concede that the old way of doing business must come to an end?

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SCHEDULE

Mr. REID. Mr. President, following any leader remarks, there will be a period for the transaction of morning business until 3:30 p.m. today. Senators during that period of time will be able to speak for up to 10 minutes each. At 3:30 p.m., we will move to consideration of S. 23, which is the Patent Reform Act. At 4:30 p.m., the Senate will turn to executive session to consider the nominations of Amy Totenberg, of Georgia, to be a U.S. district judge and Steve C. Jones, of Georgia, to be a U.S. district judge. The time until 5:30 p.m. will be equally divided and controlled in the usual form. At 5:30 p.m., Senators should expect a voice vote on confirmation of the Totenberg nomination, to be followed by a rollcall vote on confirmation of the Jones nomination. We hope to complete action on the patent reform bill and consider a continuing resolution during this week's session.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will be in a period for the transaction of morning business until 3:30 p.m., with Senators permitted to speak therein for up to 10 minutes each.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CORKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SPENDING

Mr. CORKER. Mr. President, I rise today to talk about our dilemma in the Federal Government. The American people are watching as we try to deal with our spending issues. I know there is a big debate over the 2-week spending issue, an issue where we are trying

to cut \$4 billion. Hopefully, some re-solve will come to that.

What the American people are seeing is that unless there is some type of gun to our heads or some type of urgent situation in front of us, we do not have the ability in this body to deal with spending issues in a disciplined or courageous way. Everybody understands that, and they understand that the only way we are looking at whatever spending cuts will take place—I know right now there are discussions over what they might be, but the only reason this issue is being addressed is that we have this deadline of government funding ending in the next week.

I know the Presiding Officer is someone who served as a county executive and had to balance budgets each year and had to figure out a way to live within their means. I know that upon arriving here a few months ago, he had to be totally aghast at the fact that we are taking in \$2.2 trillion this year and spending \$3.7 trillion this year. If we put all the discretionary spending we have, if we took every bit of non-mandatory spending or discretionary spending off the table, we still would not have a balanced budget. Everybody in this country knows that where we are is totally out of line. We are spending a little over 24 percent of our country's economic output today. Over the last 40 years, we have spent about 20.6 percent of our country's GDP.

I, along with CLAIRE MCCASKILL from Missouri, have put a bill in place. We have a number of cosponsors. We put in something called the CAP Act. We hope that over the course of this next year—over the course of the next several months—this is a bill that will actually pass. What it does, I think in a very logical way, is it says we are spending at levels relative to our economy today that are out of proportion, and let's go from where we are today to the 4-year average over a 10-year period. Mr. President, you have to agree that this is just a logical thing that gives us time to go from where we are today over the next 10 years to where the country has been, spending relative to our country's output for the last 40 years.

What this also does is it puts Congress in a straitjacket. Again, I think everybody who is watching knows that if we didn't have this CR—this continuing resolution bill—that is ending this week and if government wasn't going to shut down if it wasn't funded, there would be no negotiations taking place right now over spending. We all know that. So this puts in place a straitjacket on Congress—one that is very needed, unfortunately—to take us from here to there over a 10-year period. What happens if we don't meet the requirements of this declining spending relative to our economy is that sequestration comes into play. On a pro-rata basis—based on the relative weight of certain accounts to the overall spending levels, the OMB comes in and takes from every account of government on a pro-rata basis.

One of the problems we have had in this country is we want to deal with those things that are easy, and that is discretionary spending, in many cases. Nondefense discretionary spending ends up being about \$600 billion, roughly, of the \$3.7 trillion we are spending. Everybody in the world knows there is no way for us to solve our problem by only dealing with discretionary spending. So what this bill would do is put all items on the balance sheet. In other words, it would include all the entitlements.

I don't think there is a person in this body who believes if we continue as we are, if we don't redesign the programs the seniors are counting on—Medicare and Social Security—if we don't redesign these programs so they will be sustained for the long haul, then seniors are not going to have them. So this bill will force us in Congress to deal with designing these programs in such a way they will be here for the long haul. It puts everything on the table. Again, there is not a thinking person in Washington who doesn't know we have to address these issues.

There are a lot of people who say: Well, we cannot do these draconian things right now because we are in the middle of a recession. Hopefully, it looks like it is changing and hopefully changing very rapidly, but these changes would begin from where we are in the year 2013. So we would have a year or so to redesign these programs. We could act in an appropriate way to ensure they were here for the future but also put them in place in a manner that doesn't kill the American taxpayer, and we would cap spending. We have a multiyear averaging process in this bill to make sure, if there is a change in the economy in 1 year, we don't just have this volatile situation, but we would have the ability, 1 year in advance, to know what the appropriate spending levels are. It gives Congress the ability to act upon that throughout the year.

Again, if Congress doesn't act, then 45 days after a year ends, OMB comes in and puts in place something called sequestration—automatically takes money out of these accounts. I think that gives us the impetus to want to make sure we actually act. I don't think there is anybody in Congress who wants OMB coming in and taking money out of accounts. So that would be, in essence, the thing that would give us the sense of urgency we badly need in this body.

This is a problem that exists on both sides of the aisle and that is why I have sought bipartisan support for this bill. I have tried to put something in place that is very logical—I know that is not often the case here—something Americans across the country can understand and also those here in Washington will see as something that works toward a solution and gets us to where we need to go.

I think all of us understand the demographic changes that are taking

place in our country. I think all of us know that over the next 10 years, 20 million more Americans are going to be on Medicare and 20 million more Americans will be on Social Security. We are right on the cusp of that bubble. I am certainly getting ready to be a part of that. The Presiding Officer may not necessarily be there yet, but the point is this is something that has to occur for the good of our country.

So this is called the CAP Act. Again, what it will do is ensure that long after the point in time when the CR window opens and closes, long after the time the debt ceiling vote happens a little later this year—long after those occur and the American people have moved on to other issues and, obviously, Congress has moved on to other issues—we keep in place this fiscal discipline, this straitjacket, to take us where we need to go.

The Presiding Officer and I were in Pakistan and Afghanistan last week, and we witnessed some of the problems we are having there. We also witnessed the brilliance of our men and women in uniform and also many hard-working individuals at the State Department. While those threats are threats we are dealing with that are very important to the American people, I think most of us know the biggest threat today to our country is our inability to deal appropriately with our financial circumstances. I think we all know if we don't deal with that pretty soon, we are going to be putting our country's future in jeopardy. We will be putting in jeopardy the future of these wonderful people who sit in front of me.

The thing that is fascinating about this issue is, unlike what we saw in Pakistan and in Afghanistan, where we are relying on other people, this is something we can do ourselves. We have 100 percent control over spending in Washington—100 percent control of this is held in the hands of 100 Senators and 435 House Members. This is not something where we are depending on other countries or we are concerned about what might happen elsewhere. This is something we ourselves can deal with.

So what I have tried to put in place, along with CLAIRE MCCASKILL and others—and there are growing numbers of other people who are part of this process—is something that causes us to be responsible to the American people. So I hope others will join this. It is my hope we will do three things: I hope we will vote and pass on cuts in Federal spending today. I hope that will happen over the next short period of time. Whether it is some of the things we are looking at on the CR or maybe it is recommendations that have been put in place by the President's deficit reduction commission, I hope what we will do as a body is go ahead and vote to pass real cuts now.

Secondarily, what I hope will happen is that we will put in place something like the CAP Act to make sure we continue that fiscal discipline long after

people move on to other topics; that we keep that straitjacket in place so we do those things that are, again, responsible not only to this generation but future generations.

Thirdly, I hope we figure out a way, through some type of amendment, to ensure that, on into the future, we have put something in place at the Federal level which causes us to be fiscally responsible in this country. All of us know what it means to have to make choices. All of us have households. Many of us have led cities and States. Many of us have had businesses. We all understand what happens in the real world, and it is something that certainly needs to happen here. That has been sorely lacking for a long time.

So I thank the Chair for the time on the floor today, and I hope to talk about this many more times. I have been doing it, I assure you, throughout the State of Tennessee and in multiple forums in the Senate.

I yield the floor, and I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CORKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. CORKER. Mr. President, I had the opportunity to speak with you in the last several moments, and you had a couple questions about the CAP Act that I was just discussing on the floor. The Presiding Officer had some great questions about what it takes to overcome the CAP Act, in the event we were able to pass it.

It is just a 10-page bill. It is very eloquent. It doesn't have a lot of "whereases." It is just a business document that takes us from where we are to where we need to be. But, in essence, to override it, it would take a two-thirds vote. It would take two-thirds of the House and the Senate to actually override or get out of the straitjacket, if you will. There were previous bills, such as Gramm-Rudman and other types of bills that tried to keep Washington fiscally focused, and those bills required 60 votes. So this would be a higher threshold.

So, yes, if there was some type of national emergency and we needed to move beyond this straitjacket for 1 year or 6 months or something like that, a two-thirds vote could do that. I mean, 67 votes is a pretty tough threshold, and hopefully it is the kind of threshold necessary to keep the kind of discipline in place that we need.

So it is a 10-page bill. Again, it is very eloquent. I think it lays out a solution for us that hopefully will be a part of anything we do over the next several months.

I understand, after talking with the Presiding Officer over the last several

days, while traveling to these various countries, that he, along with many of our other colleagues—I know I did myself—came here to solve problems, not to message. In a body such as this, it is tough to solve these kinds of problems, but the only way to do it is to offer a pragmatic solution.

I know there are some people who are interested, sometimes, in messaging. I have tried to offer something that I think will take us from a place that is very much out of line in spending to a place that is more appropriate.

I might also say I thought the President's deficit reduction commission had some very good points as it relates to tax reform. I think all of us are aware of the \$1.2 trillion in tax expenditures that exist.

I was doing an event over the last several days, and a gentleman raised his hand and asked me: What do you mean by tax expenditures? Isn't the money ours until we give it to the Federal Government? Why would you call it a tax expenditure?

I think people realize in our Tax Code there are all kinds of exclusions and subsidies and favored companies and favored this and favored that. If we did away with all of those, there would be \$1.2 trillion we could use to lower everybody's rate, and we could make our Tax Code much more simple. The deficit reduction commission says we could take our corporate rates from where they are down to a level of about 26 percent—somewhere between 23 and 29 percent—and lower everybody's rates individually. I think most Americans, instead of filling out all these forms to see if they benefit from these various subsidies and credits, would much rather know that everybody is on the same playing field; that some favored company is not in a situation where they are more favored than another; that everybody is on the same basis.

I think there has been some good work done there. I hope we are able to take votes on that over the next several months. But there is a very elegant, pragmatic solution that has been offered that would go hand in hand with these types of measures and would cause us, over the next 10 years, to exercise the kind of fiscal discipline this country needs to confront what I think threatens our national security, even more than the things we saw on the ground in the Middle East last week.

With that, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. VITTER. I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

The clerk will continue to call the roll.

The assistant legislative clerk continued with the call of the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Is there an objection?

Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

PATENT REFORM ACT OF 2011

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of S. 23, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 23) to amend title 35, United States Code, to provide for patent reform.

The Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italics.)

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Patent Reform Act of 2011".

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

- Sec. 1. Short title; table of contents.
- Sec. 2. First inventor to file.
- Sec. 3. Inventor's oath or declaration.
- Sec. 4. Damages.
- Sec. 5. Post-grant review proceedings.
- Sec. 6. Patent Trial and Appeal Board.
- Sec. 7. Preissuance submissions by third parties.
- Sec. 8. Venue.
- Sec. 9. Fee setting authority.
- Sec. 10. Supplemental examination.
- Sec. 11. Residency of Federal Circuit judges.
- Sec. 12. Micro entity defined.
- Sec. 13. Funding agreements.
- Sec. 14. Tax strategies deemed within the prior art.
- Sec. 15. Best mode requirement.
- Sec. 16. Technical amendments.
- Sec. 17. *Clarification of jurisdiction.*
- Sec. [17]18. Effective date; [rule of construction.]

SEC. 2. FIRST INVENTOR TO FILE.

(a) DEFINITIONS.—Section 100 of title 35, United States Code, is amended by adding at the end the following:

"(f) The term 'inventor' means the individual or, if a joint invention, the individuals collectively who invented or discovered the subject matter of the invention.

"(g) The terms 'joint inventor' and 'co-inventor' mean any 1 of the individuals who invented or discovered the subject matter of a joint invention.

"(h) The term 'joint research agreement' means a written contract, grant, or cooperative agreement entered into by 2 or more persons or entities for the performance of experimental, developmental, or research work in the field of the claimed invention.

"(i)(1) The term 'effective filing date' of a claimed invention in a patent or application for patent means—

“(A) if subparagraph (B) does not apply, the actual filing date of the patent or the application for the patent containing a claim to the invention; or

“(B) the filing date of the earliest application for which the patent or application is entitled, as to such invention, to a right of priority under section 119, 365(a), or 365(b) or to the benefit of an earlier filing date under section 120, 121, or 365(c).

“(2) The effective filing date for a claimed invention in an application for reissue or reissued patent shall be determined by deeming the claim to the invention to have been contained in the patent for which reissue was sought.

“(j) The term ‘claimed invention’ means the subject matter defined by a claim in a patent or an application for a patent.”.

(b) CONDITIONS FOR PATENTABILITY.—

(1) IN GENERAL.—Section 102 of title 35, United States Code, is amended to read as follows:

“§ 102. Conditions for patentability; novelty

“(a) NOVELTY; PRIOR ART.—A person shall be entitled to a patent unless—

“(1) the claimed invention was patented, described in a printed publication, or in public use, on sale, or otherwise available to the public before the effective filing date of the claimed invention; or

“(2) the claimed invention was described in a patent issued under section 151, or in an application for patent published or deemed published under section 122(b), in which the patent or application, as the case may be, names another inventor and was effectively filed before the effective filing date of the claimed invention.

“(b) EXCEPTIONS.—

“(1) DISCLOSURES MADE 1 YEAR OR LESS BEFORE THE EFFECTIVE FILING DATE OF THE CLAIMED INVENTION.—A disclosure made 1 year or less before the effective filing date of a claimed invention shall not be prior art to the claimed invention under subsection (a)(1) if—

“(A) the disclosure was made by the inventor or joint inventor or by another who obtained the subject matter disclosed directly or indirectly from the inventor or a joint inventor; or

“(B) the subject matter disclosed had, before such disclosure, been publicly disclosed by the inventor or a joint inventor or another who obtained the subject matter disclosed directly or indirectly from the inventor or a joint inventor.

“(2) DISCLOSURES APPEARING IN APPLICATIONS AND PATENTS.—A disclosure shall not be prior art to a claimed invention under subsection (a)(2) if—

“(A) the subject matter disclosed was obtained directly or indirectly from the inventor or a joint inventor;

“(B) the subject matter disclosed had, before such subject matter was effectively filed under subsection (a)(2), been publicly disclosed by the inventor or a joint inventor or another who obtained the subject matter disclosed directly or indirectly from the inventor or a joint inventor; or

“(C) the subject matter disclosed and the claimed invention, not later than the effective filing date of the claimed invention, were owned by the same person or subject to an obligation of assignment to the same person.

“(c) COMMON OWNERSHIP UNDER JOINT RESEARCH AGREEMENTS.—Subject matter disclosed and a claimed invention shall be deemed to have been owned by the same person or subject to an obligation of assignment to the same person in applying the provisions of subsection (b)(2)(C) if—

“(1) the subject matter disclosed was developed and the claimed invention was made

by, or on behalf of, 1 or more parties to a joint research agreement that was in effect on or before the effective filing date of the claimed invention;

“(2) the claimed invention was made as a result of activities undertaken within the scope of the joint research agreement; and

“(3) the application for patent for the claimed invention discloses or is amended to disclose the names of the parties to the joint research agreement.

“(d) PATENTS AND PUBLISHED APPLICATIONS EFFECTIVE AS PRIOR ART.—For purposes of determining whether a patent or application for patent is prior art to a claimed invention under subsection (a)(2), such patent or application shall be considered to have been effectively filed, with respect to any subject matter described in the patent or application—

“(1) if paragraph (2) does not apply, as of the actual filing date of the patent or the application for patent; or

“(2) if the patent or application for patent is entitled to claim a right of priority under section 119, 365(a), or 365(b), or to claim the benefit of an earlier filing date under section 120, 121, or 365(c), based upon 1 or more prior filed applications for patent, as of the filing date of the earliest such application that describes the subject matter.”.

(2) CONTINUITY OF INTENT UNDER THE CREATE ACT.—*The enactment of section 102(c) of title 35, United States Code, under the preceding paragraph is done with the same intent to promote joint research activities that was expressed, including in the legislative history, through the enactment of the Cooperative Research and Technology Enhancement Act of 2004 (Public Law 108-453; the “CREATE Act”), the amendments of which are stricken by subsection (c). The United States Patent and Trademark Office shall administer section 102(c) of title 35, United States Code, in a manner consistent with the legislative history of the CREATE Act that was relevant to its administration by the United States Patent and Trademark Office.*

[2](3) CONFORMING AMENDMENT.—The item relating to section 102 in the table of sections for chapter 10 of title 35, United States Code, is amended to read as follows:

“102. Conditions for patentability; novelty.”.

(c) CONDITIONS FOR PATENTABILITY; NON-OBVIOUS SUBJECT MATTER.—Section 103 of title 35, United States Code, is amended to read as follows:

“§ 103. Conditions for patentability; non-obvious subject matter

“A patent for a claimed invention may not be obtained, notwithstanding that the claimed invention is not identically disclosed as set forth in section 102, if the differences between the claimed invention and the prior art are such that the claimed invention as a whole would have been obvious before the effective filing date of the claimed invention to a person having ordinary skill in the art to which the claimed invention pertains. Patentability shall not be negated by the manner in which the invention was made.”.

(d) REPEAL OF REQUIREMENTS FOR INVENTIONS MADE ABROAD.—Section 104 of title 35, United States Code, and the item relating to that section in the table of sections for chapter 10 of title 35, United States Code, are repealed.

(e) REPEAL OF STATUTORY INVENTION REGISTRATION.—

(1) IN GENERAL.—Section 157 of title 35, United States Code, and the item relating to that section in the table of sections for chapter 14 of title 35, United States Code, are repealed.

(2) REMOVAL OF CROSS REFERENCES.—Section 111(b)(8) of title 35, United States Code, is amended by striking “sections 115, 131, 135, and 157” and inserting “sections 131 and 135”.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect 1 year after the date of the enactment of this Act, and shall apply to any request for a statutory invention registration filed on or after that date.

(f) EARLIER FILING DATE FOR INVENTOR AND JOINT INVENTOR.—Section 120 of title 35, United States Code, is amended by striking “which is filed by an inventor or inventors named” and inserting “which names an inventor or joint inventor”.

(g) CONFORMING AMENDMENTS.—

(1) RIGHT OF PRIORITY.—Section 172 of title 35, United States Code, is amended by striking “and the time specified in section 102(d)”.

(2) LIMITATION ON REMEDIES.—Section 287(c)(4) of title 35, United States Code, is amended by striking “the earliest effective filing date of which is prior to” and inserting “which has an effective filing date before”.

(3) INTERNATIONAL APPLICATION DESIGNATING THE UNITED STATES: EFFECT.—Section 363 of title 35, United States Code, is amended by striking “except as otherwise provided in section 102(e) of this title”.

(4) PUBLICATION OF INTERNATIONAL APPLICATION: EFFECT.—Section 374 of title 35, United States Code, is amended by striking “sections 102(e) and 154(d)” and inserting “section 154(d)”.

(5) PATENT ISSUED ON INTERNATIONAL APPLICATION: EFFECT.—The second sentence of section 375(a) of title 35, United States Code, is amended by striking “Subject to section 102(e) of this title, such” and inserting “Such”.

(6) LIMIT ON RIGHT OF PRIORITY.—Section 119(a) of title 35, United States Code, is amended by striking “; but no patent shall be granted” and all that follows through “one year prior to such filing”.

(7) INVENTIONS MADE WITH FEDERAL ASSISTANCE.—Section 202(c) of title 35, United States Code, is amended—

(A) in paragraph (2)—

(i) by striking “publication, on sale, or public use,” and all that follows through “obtained in the United States” and inserting “the 1-year period referred to in section 102(b) would end before the end of that 2-year period”; and

(ii) by striking “the statutory” and inserting “that 1-year”; and

(B) in paragraph (3), by striking “any statutory bar date that may occur under this title due to publication, on sale, or public use” and inserting “the expiration of the 1-year period referred to in section 102(b)”.

(h) DERIVED PATENTS.—Section 291 of title 35, United States Code, is amended to read as follows:

“§ 291. Derived patents

“(a) IN GENERAL.—The owner of a patent may have relief by civil action against the owner of another patent that claims the same invention and has an earlier effective filing date if the invention claimed in such other patent was derived from the inventor of the invention claimed in the patent owned by the person seeking relief under this section.

“(b) FILING LIMITATION.—An action under this section may only be filed within 1 year after the issuance of the first patent containing a claim to the allegedly derived invention and naming an individual alleged to have derived such invention as the inventor or joint inventor.”.

(i) DERIVATION PROCEEDINGS.—Section 135 of title 35, United States Code, is amended to read as follows:

“§ 135. Derivation proceedings

“(a) INSTITUTION OF PROCEEDING.—An applicant for patent may file a petition to institute a derivation proceeding in the Office.

The petition shall set forth with particularity the basis for finding that an inventor named in an earlier application derived the claimed invention from an inventor named in the petitioner's application and, without authorization, the earlier application claiming such invention was filed. Any such petition may only be filed within 1 year after the first publication of a claim to an invention that is the same or substantially the same as the earlier application's claim to the invention, shall be made under oath, and shall be supported by substantial evidence. Whenever the Director determines that a petition filed under this subsection demonstrates that the standards for instituting a derivation proceeding are met, the Director may institute a derivation proceeding. The determination by the Director whether to institute a derivation proceeding shall be final and nonappealable.

(b) DETERMINATION BY PATENT TRIAL AND APPEAL BOARD.—In a derivation proceeding instituted under subsection (a), the Patent Trial and Appeal Board shall determine whether an inventor named in the earlier application derived the claimed invention from an inventor named in the petitioner's application and, without authorization, the earlier application claiming such invention was filed. The Director shall prescribe regulations setting forth standards for the conduct of derivation proceedings.

(c) DEFERRAL OF DECISION.—The Patent Trial and Appeal Board may defer action on a petition for a derivation proceeding until 3 months after the date on which the Director issues a patent that includes the claimed invention that is the subject of the petition. The Patent Trial and Appeal Board also may defer action on a petition for a derivation proceeding, or stay the proceeding after it has been instituted, until the termination of a proceeding under chapter 30, 31, or 32 involving the patent of the earlier applicant.

(d) EFFECT OF FINAL DECISION.—The final decision of the Patent Trial and Appeal Board, if adverse to claims in an application for patent, shall constitute the final refusal by the Office on those claims. The final decision of the Patent Trial and Appeal Board, if adverse to claims in a patent, shall, if no appeal or other review of the decision has been or can be taken or had, constitute cancellation of those claims, and notice of such cancellation shall be endorsed on copies of the patent distributed after such cancellation.

(e) SETTLEMENT.—Parties to a proceeding instituted under subsection (a) may terminate the proceeding by filing a written statement reflecting the agreement of the parties as to the correct inventors of the claimed invention in dispute. Unless the Patent Trial and Appeal Board finds the agreement to be inconsistent with the evidence of record, if any, it shall take action consistent with the agreement. Any written settlement or understanding of the parties shall be filed with the Director. At the request of a party to the proceeding, the agreement or understanding shall be treated as business confidential information, shall be kept separate from the file of the involved patents or applications, and shall be made available only to Government agencies on written request, or to any person on a showing of good cause.

(f) ARBITRATION.—Parties to a proceeding instituted under subsection (a) may, within such time as may be specified by the Director by regulation, determine such contest or any aspect thereof by arbitration. Such arbitration shall be governed by the provisions of title 9, to the extent such title is inconsistent with this section. The parties shall give notice of any arbitration award to the Director, and such award shall, as between the parties to the arbitration, be dispositive of the issues to which it relates. The

arbitration award shall be unenforceable until such notice is given. Nothing in this subsection shall preclude the Director from determining the patentability of the claimed inventions involved in the proceeding."

(j) ELIMINATION OF REFERENCES TO INTERFERENCES.—(1) Sections 41, 134, 145, 146, 154, 305, and 314 of title 35, United States Code, are each amended by striking "Board of Patent Appeals and Interferences" each place it appears and inserting "Patent Trial and Appeal Board".

(2)(A) Sections 146 and 154 of title 35, United States Code, are each amended—

(i) by striking "an interference" each place it appears and inserting "a derivation proceeding"; and

(ii) by striking "interference" each additional place it appears and inserting "derivation proceeding".

(B) The subparagraph heading for section 154(b)(1)(C) of title 35, United States Code, as amended by this paragraph, is further amended by—

(i) striking "OR" and inserting "OF"; and

(ii) striking "SECURITY ORDER" and inserting "SECURITY ORDERS".

(3) The section heading for section 134 of title 35, United States Code, is amended to read as follows:

"§ 134. Appeal to the Patent Trial and Appeal Board".

(4) The section heading for section 146 of title 35, United States Code, is amended to read as follows:

"§ 146. Civil action in case of derivation proceeding".

(5) Section 154(b)(1)(C) of title 35, United States Code, is amended by striking "INTERFERENCES" and inserting "DERIVATION PROCEEDINGS".

(6) The item relating to section 6 in the table of sections for chapter 1 of title 35, United States Code, is amended to read as follows:

"6. Patent Trial and Appeal Board."

(7) The items relating to sections 134 and 135 in the table of sections for chapter 12 of title 35, United States Code, are amended to read as follows:

"134. Appeal to the Patent Trial and Appeal Board.

"135. Derivation proceedings."

(8) The item relating to section 146 in the table of sections for chapter 13 of title 35, United States Code, is amended to read as follows:

"146. Civil action in case of derivation proceeding."

(k) FALSE MARKING.—

(1) IN GENERAL.—Section 292 of title 35, United States Code, is amended—

(A) in subsection (a), by adding at the end the following:

"Only the United States may sue for the penalty authorized by this subsection."; and

(B) by striking subsection (b) and inserting the following:

"(b) Any person who has suffered a competitive injury as a result of a violation of this section may file a civil action in a district court of the United States for recovery of damages adequate to compensate for the injury."

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to all cases, without exception, pending on or after the date of the enactment of this Act.

(l) STATUTE OF LIMITATIONS.—

(1) IN GENERAL.—Section 32 of title 35, United States Code, is amended by inserting between the third and fourth sentences the following: "A proceeding under this section shall be commenced not later than the earlier of either 10 years after the date on which

the misconduct forming the basis for the proceeding occurred, or 1 year after the date on which the misconduct forming the basis for the proceeding is made known to an officer or employee of the Office as prescribed in the regulations established under section 2(b)(2)(D)."

(2) REPORT TO CONGRESS.—The Director shall provide on a biennial basis to the Judiciary Committees of the Senate and House of Representatives a report providing a short description of incidents made known to an officer or employee of the Office as prescribed in the regulations established under section 2(b)(2)(D) of title 35, United States Code, that reflect substantial evidence of misconduct before the Office but for which the Office was barred from commencing a proceeding under section 32 of title 35, United States Code, by the time limitation established by the fourth sentence of that section.

(3) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply in all cases in which the time period for instituting a proceeding under section 32 of title 35, United States Code, had not lapsed prior to the date of the enactment of this Act.

(m) SMALL BUSINESS STUDY.—

(1) DEFINITIONS.—In this subsection—

(A) the term "Chief Counsel" means the Chief Counsel for Advocacy of the Small Business Administration;

(B) the term "General Counsel" means the General Counsel of the United States Patent and Trademark Office; and

(C) the term "small business concern" has the meaning given that term under section 3 of the Small Business Act (15 U.S.C. 632).

(2) STUDY.—

(A) IN GENERAL.—The Chief Counsel, in consultation with the General Counsel, shall conduct a study of the effects of eliminating the use of dates of invention in determining whether an applicant is entitled to a patent under title 35, United States Code.

(B) AREAS OF STUDY.—The study conducted under subparagraph (A) shall include examination of the effects of eliminating the use of invention dates, including examining—

(i) how the change would affect the ability of small business concerns to obtain patents and their costs of obtaining patents;

(ii) whether the change would create, mitigate, or exacerbate any disadvantage for applicants for patents that are small business concerns relative to applicants for patents that are not small business concerns, and whether the change would create any advantages for applicants for patents that are small business concerns relative to applicants for patents that are not small business concerns;

(iii) the cost savings and other potential benefits to small business concerns of the change; and

(iv) the feasibility and costs and benefits to small business concerns of alternative means of determining whether an applicant is entitled to a patent under title 35, United States Code.

(3) REPORT.—Not later than 1 year after the date of enactment of this Act, the Chief Counsel shall submit to the Committee on Small Business and Entrepreneurship and the Committee on the Judiciary of the Senate and the Committee on Small Business and the Committee on the Judiciary of the House of Representatives a report regarding the results of the study under paragraph (2).

(n) REPORT ON PRIOR USER RIGHTS.—

(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Director shall report, to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives, the findings and recommendations of the Director on the operation of

prior user rights in selected countries in the industrialized world. The report shall include the following:

(A) A comparison between patent laws of the United States and the laws of other industrialized countries, including members of the European Union and Japan, Canada, and Australia.

(B) An analysis of the effect of prior user rights on innovation rates in the selected countries.

(C) An analysis of the correlation, if any, between prior user rights and start-up enterprises and the ability to attract venture capital to start new companies.

(D) An analysis of the effect of prior user rights, if any, on small businesses, universities, and individual inventors.

(E) An analysis of legal and constitutional issues, if any, that arise from placing trade secret law in patent law.

(F) An analysis of whether the change to a first-to-file patent system creates a particular need for prior user rights.

(2) CONSULTATION WITH OTHER AGENCIES.—In preparing the report required under paragraph (1), the Director shall consult with the United States Trade Representative, the Secretary of State, and the Attorney General.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided by this section, the amendments made by this section shall take effect on the date that is 18 months after the date of the enactment of this Act, and shall apply to any application for patent, and to any patent issuing thereon, that contains or contained at any time—

(A) a claim to a claimed invention that has an effective filing date as defined in section 100(i) of title 35, United States Code, that is 18 months or more after the date of the enactment of this Act; or

(B) a specific reference under section 120, 121, or 365(c) of title 35, United States Code, to any patent or application that contains or contained at any time such a claim.

(2) INTERFERING PATENTS.—The provisions of sections 102(g), 135, and 291 of title 35, United States Code, in effect on the day prior to the date of the enactment of this Act, shall apply to each claim of an application for patent, and any patent issued thereon, for which the amendments made by this section also apply, if such application or patent contains or contained at any time—

(A) a claim to an invention having an effective filing date as defined in section 100(i) of title 35, United States Code, earlier than 18 months after the date of the enactment of this Act; or

(B) a specific reference under section 120, 121, or 365(c) of title 35, United States Code, to any patent or application that contains or contained at any time such a claim.

SEC. 3. INVENTOR'S OATH OR DECLARATION.

(a) INVENTOR'S OATH OR DECLARATION.—

(1) IN GENERAL.—Section 115 of title 35, United States Code, is amended to read as follows:

“§ 115. Inventor's oath or declaration

“(a) NAMING THE INVENTOR; INVENTOR'S OATH OR DECLARATION.—An application for patent that is filed under section 111(a) or commences the national stage under section 371 shall include, or be amended to include, the name of the inventor for any invention claimed in the application. Except as otherwise provided in this section, each individual who is the inventor or a joint inventor of a claimed invention in an application for patent shall execute an oath or declaration in connection with the application.

“(b) REQUIRED STATEMENTS.—An oath or declaration under subsection (a) shall contain statements that—

“(1) the application was made or was authorized to be made by the affiant or declarant; and

“(2) such individual believes himself or herself to be the original inventor or an original joint inventor of a claimed invention in the application.

“(c) ADDITIONAL REQUIREMENTS.—The Director may specify additional information relating to the inventor and the invention that is required to be included in an oath or declaration under subsection (a).

“(d) SUBSTITUTE STATEMENT.—

“(1) IN GENERAL.—In lieu of executing an oath or declaration under subsection (a), the applicant for patent may provide a substitute statement under the circumstances described in paragraph (2) and such additional circumstances that the Director may specify by regulation.

“(2) PERMITTED CIRCUMSTANCES.—A substitute statement under paragraph (1) is permitted with respect to any individual who—

“(A) is unable to file the oath or declaration under subsection (a) because the individual—

“(i) is deceased;

“(ii) is under legal incapacity; or

“(iii) cannot be found or reached after diligent effort; or

“(B) is under an obligation to assign the invention but has refused to make the oath or declaration required under subsection (a).

“(3) CONTENTS.—A substitute statement under this subsection shall—

“(A) identify the individual with respect to whom the statement applies;

“(B) set forth the circumstances representing the permitted basis for the filing of the substitute statement in lieu of the oath or declaration under subsection (a); and

“(C) contain any additional information, including any showing, required by the Director.

“(e) MAKING REQUIRED STATEMENTS IN ASSIGNMENT OF RECORD.—An individual who is under an obligation of assignment of an application for patent may include the required statements under subsections (b) and (c) in the assignment executed by the individual, in lieu of filing such statements separately.

“(f) TIME FOR FILING.—A notice of allowance under section 151 may be provided to an applicant for patent only if the applicant for patent has filed each required oath or declaration under subsection (a) or has filed a substitute statement under subsection (d) or recorded an assignment meeting the requirements of subsection (e).

“(g) EARLIER-FILED APPLICATION CONTAINING REQUIRED STATEMENTS OR SUBSTITUTE STATEMENT.—

“(1) EXCEPTION.—The requirements under this section shall not apply to an individual with respect to an application for patent in which the individual is named as the inventor or a joint inventor and who claims the benefit under section 120, 121, or 365(c) of the filing of an earlier-filed application, if—

“(A) an oath or declaration meeting the requirements of subsection (a) was executed by the individual and was filed in connection with the earlier-filed application;

“(B) a substitute statement meeting the requirements of subsection (d) was filed in the earlier filed application with respect to the individual; or

“(C) an assignment meeting the requirements of subsection (e) was executed with respect to the earlier-filed application by the individual and was recorded in connection with the earlier-filed application.

“(2) COPIES OF OATHS, DECLARATIONS, STATEMENTS, OR ASSIGNMENTS.—Notwithstanding paragraph (1), the Director may require that a copy of the executed oath or declaration, the substitute statement, or the

assignment filed in the earlier-filed application be included in the later-filed application.

“(h) SUPPLEMENTAL AND CORRECTED STATEMENTS; FILING ADDITIONAL STATEMENTS.—

“(1) IN GENERAL.—Any person making a statement required under this section may withdraw, replace, or otherwise correct the statement at any time. If a change is made in the naming of the inventor requiring the filing of 1 or more additional statements under this section, the Director shall establish regulations under which such additional statements may be filed.

“(2) SUPPLEMENTAL STATEMENTS NOT REQUIRED.—If an individual has executed an oath or declaration meeting the requirements of subsection (a) or an assignment meeting the requirements of subsection (e) with respect to an application for patent, the Director may not thereafter require that individual to make any additional oath, declaration, or other statement equivalent to those required by this section in connection with the application for patent or any patent issuing thereon.

“(3) SAVINGS CLAUSE.—No patent shall be invalid or unenforceable based upon the failure to comply with a requirement under this section if the failure is remedied as provided under paragraph (1).

“(i) ACKNOWLEDGMENT OF PENALTIES.—Any declaration or statement filed pursuant to this section shall contain an acknowledgment that any willful false statement made in such declaration or statement is punishable under section 1001 of title 18 by fine or imprisonment of not more than 5 years, or both.”

(2) RELATIONSHIP TO DIVISIONAL APPLICATIONS.—Section 121 of title 35, United States Code, is amended by striking “If a divisional application” and all that follows through “inventor.”

(3) REQUIREMENTS FOR NONPROVISIONAL APPLICATIONS.—Section 111(a) of title 35, United States Code, is amended—

(A) in paragraph (2)(C), by striking “by the applicant” and inserting “or declaration”;

(B) in the heading for paragraph (3), by inserting “OR DECLARATION” after “AND OATH”; and

(C) by inserting “or declaration” after “and oath” each place it appears.

(4) CONFORMING AMENDMENT.—The item relating to section 115 in the table of sections for chapter 11 of title 35, United States Code, is amended to read as follows:

“115. Inventor's oath or declaration.”

(b) FILING BY OTHER THAN INVENTOR.—

(1) IN GENERAL.—Section 118 of title 35, United States Code, is amended to read as follows:

“§ 118. Filing by other than inventor

“A person to whom the inventor has assigned or is under an obligation to assign the invention may make an application for patent. A person who otherwise shows sufficient proprietary interest in the matter may make an application for patent on behalf of and as agent for the inventor on proof of the pertinent facts and a showing that such action is appropriate to preserve the rights of the parties. If the Director grants a patent on an application filed under this section by a person other than the inventor, the patent shall be granted to the real party in interest and upon such notice to the inventor as the Director considers to be sufficient.”

(2) CONFORMING AMENDMENT.—Section 251 of title 35, United States Code, is amended in the third undesignated paragraph by inserting “or the application for the original patent was filed by the assignee of the entire interest” after “claims of the original patent”.

(c) SPECIFICATION.—Section 112 of title 35, United States Code, is amended—

(1) in the first paragraph—

(A) by striking “The specification” and inserting “(a) IN GENERAL.—The specification”; and

(B) by striking “of carrying out his invention” and inserting “or joint inventor of carrying out the invention”;

(2) in the second paragraph—

(A) by striking “The specification” and inserting “(b) CONCLUSION.—The specification”; and

(B) by striking “applicant regards as his invention” and inserting “inventor or a joint inventor regards as the invention”;

(3) in the third paragraph, by striking “A claim” and inserting “(c) FORM.—A claim”;

(4) in the fourth paragraph, by striking “Subject to the following paragraph,” and inserting “(d) REFERENCE IN DEPENDENT FORMS.—Subject to subsection (e).”;

(5) in the fifth paragraph, by striking “A claim” and inserting “(e) REFERENCE IN MULTIPLE DEPENDENT FORM.—A claim”; and

(6) in the last paragraph, by striking “An element” and inserting “(f) ELEMENT IN CLAIM FOR A COMBINATION.—An element”.

(d) CONFORMING AMENDMENTS.—

(1) Sections 111(b)(1)(A) is amended by striking “the first paragraph of section 112 of this title” and inserting “section 112(a)”.

(2) Section 111(b)(2) is amended by striking “the second through fifth paragraphs of section 112,” and inserting “subsections (b) through (e) of section 112.”.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect 1 year after the date of the enactment of this Act and shall apply to patent applications that are filed on or after that effective date.

SEC. 4. DAMAGES.

(a) DAMAGES.—Section 284 of title 35, United States Code, is amended—

(1) by striking “Upon finding” and inserting the following: “(a) IN GENERAL.—Upon finding”;

(2) by striking “fixed by the court” and all that follows through “When the damages” and inserting the following: “fixed by the court. When the damages”;

(3) by striking “shall assess them.” and all that follows through “The court may receive” and inserting the following: “shall assess them. *In either event the court may increase the damages up to 3 times the amount found or assessed. Increased damages under this subsection shall not apply to provisional rights under section 154(d) of this title.* The court may receive”; and

(4) by adding at the end the following:

“(b) PROCEDURE FOR DETERMINING DAMAGES.—

“(1) IN GENERAL.—The court shall identify the methodologies and factors that are relevant to the determination of damages, and the court or jury shall consider only those methodologies and factors relevant to making such determination.

“(2) DISCLOSURE OF CLAIMS.—By no later than the entry of the final pretrial order, unless otherwise ordered by the court, the parties shall state, in writing and with particularity, the methodologies and factors the parties propose for instruction to the jury in determining damages under this section, specifying the relevant underlying legal and factual bases for their assertions.

“(3) SUFFICIENCY OF EVIDENCE.—Prior to the introduction of any evidence concerning the determination of damages, upon motion of either party or sua sponte, the court shall consider whether one or more of a party’s damages contentions lacks a legally sufficient evidentiary basis. After providing a nonmovant the opportunity to be heard, and after any further proffer of evidence, briefing, or argument that the court may deem appropriate, the court shall identify on the

record those methodologies and factors as to which there is a legally sufficient evidentiary basis, and the court or jury shall consider only those methodologies and factors in making the determination of damages under this section. The court shall only permit the introduction of evidence relating to the determination of damages that is relevant to the methodologies and factors that the court determines may be considered in making the damages determination.

“(c) SEQUENCING.—Any party may request that a patent-infringement trial be sequenced so that the trier of fact decides questions of the patent’s infringement and validity before the issues of damages and willful infringement are tried to the court or the jury. The court shall grant such a request absent good cause to reject the request, such as the absence of issues of significant damages or infringement and validity. The sequencing of a trial pursuant to this subsection shall not affect other matters, such as the timing of discovery. This subsection does not authorize a party to request that the issues of damages and willful infringement be tried to a jury different than the one that will decide questions of the patent’s infringement and validity.

“(d) WILLFUL INFRINGEMENT.—

“(1) IN GENERAL.—The court may increase damages up to 3 times the amount found or assessed if the court or the jury, as the case may be, determines that the infringement of the patent was willful. Increased damages under this subsection shall not apply to provisional rights under section 154(d). Infringement is not willful unless the claimant proves by clear and convincing evidence that the accused infringer’s conduct with respect to the patent was objectively reckless. An accused infringer’s conduct was objectively reckless if the infringer was acting despite an objectively high likelihood that his actions constituted infringement of a valid patent, and this objectively-defined risk was either known or so obvious that it should have been known to the accused infringer.

“(2) PLEADING STANDARDS.—A claimant asserting that a patent was infringed willfully shall comply with the pleading requirements set forth under Federal Rule of Civil Procedure 9(b).

“(3) KNOWLEDGE ALONE INSUFFICIENT.—Infringement of a patent may not be found to be willful solely on the basis that the infringer had knowledge of the infringed patent.

“(4) PRE-SUIT NOTIFICATION.—A claimant seeking to establish willful infringement may not rely on evidence of pre-suit notification of infringement unless that notification identifies with particularity the asserted patent, identifies the product or process accused, and explains with particularity, to the extent possible following a reasonable investigation or inquiry, how the product or process infringes one or more claims of the patent.

“(5) CLOSE CASE.—The court shall not increase damages under this subsection if the court determines that there is a close case as to infringement, validity, or enforceability. On the motion of either party, the court shall determine whether a close case as to infringement, validity, or enforceability exists, and the court shall explain its decision. Once the court determines that such a close case exists, the issue of willful infringement shall not thereafter be tried to the jury.

“(6) ACCRUED DAMAGES.—If a court or jury finds that the infringement of patent was willful, the court may increase only those damages that accrued after the infringement became willful.”.]

(b) DEFENSE TO INFRINGEMENT BASED ON EARLIER INVENTOR.—Section 273(b)(6) of title

35, United States Code, is amended to read as follows:

“(6) PERSONAL DEFENSE.—The defense under this section may be asserted only by the person who performed or caused the performance of the acts necessary to establish the defense as well as any other entity that controls, is controlled by, or is under common control with such person and, except for any transfer to the patent owner, the right to assert the defense shall not be licensed or assigned or transferred to another person except as an ancillary and subordinate part of a good faith assignment or transfer for other reasons of the entire enterprise or line of business to which the defense relates. Notwithstanding the preceding sentence, any person may, on its own behalf, assert a defense based on the exhaustion of rights provided under paragraph (3), including any necessary elements thereof.”.

(c) VIRTUAL MARKING.—Section 287(a) of title 35, United States Code, is amended by inserting “, or by fixing thereon the word ‘patent’ or the abbreviation ‘pat.’ together with an address of a posting on the Internet, accessible to the public without charge for accessing the address, that associates the patented article with the number of the patent” before “, or when”.

(d) ADVICE OF COUNSEL.—Chapter 29 of title 35, United States Code, is amended by adding at the end the following:

“§ 298. Advice of Counsel

“The failure of an infringer to obtain the advice of counsel with respect to any allegedly infringed patent or the failure of the infringer to present such advice to the court or jury may not be used to prove that the accused infringer willfully infringed the patent or that the infringer intended to induce infringement of the patent.”.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to any civil action commenced on or after the date of the enactment of this Act.

SEC. 5. POST-GRANT REVIEW PROCEEDINGS.

(a) INTER PARTES REVIEW.—Chapter 31 of title 35, United States Code, is amended to read as follows:

“CHAPTER 31—INTER PARTES REVIEW

“Sec.

“311. Inter partes review.

“312. Petitions.

“313. Preliminary response to petition.

“314. Institution of inter partes review.

“315. Relation to other proceedings or actions.

“316. Conduct of inter partes review.

“317. Settlement.

“318. Decision of the board.

“319. Appeal.

“§ 311. Inter partes review

“(a) IN GENERAL.—Subject to the provisions of this chapter, a person who is not the patent owner may file with the Office a petition to institute an inter partes review for a patent. The Director shall establish, by regulation, fees to be paid by the person requesting the review, in such amounts as the Director determines to be reasonable, considering the aggregate costs of the review.

“(b) SCOPE.—A petitioner in an inter partes review may request to cancel as unpatentable 1 or more claims of a patent only on a ground that could be raised under section 102 or 103 and only on the basis of prior art consisting of patents or printed publications.

“(c) FILING DEADLINE.—A petition for inter partes review shall be filed after the later of either—

“(1) 9 months after the grant of a patent or issuance of a reissue of a patent; or

“(2) if a post-grant review is instituted under chapter 32, the date of the termination of such post-grant review.

“§ 312. Petitions

“(a) REQUIREMENTS OF PETITION.—A petition filed under section 311 may be considered only if—

“(1) the petition is accompanied by payment of the fee established by the Director under section 311;

“(2) the petition identifies all real parties in interest;

“(3) the petition identifies, in writing and with particularity, each claim challenged, the grounds on which the challenge to each claim is based, and the evidence that supports the grounds for the challenge to each claim, including—

“(A) copies of patents and printed publications that the petitioner relies upon in support of the petition; and

“(B) affidavits or declarations of supporting evidence and opinions, if the petitioner relies on expert opinions;

“(4) the petition provides such other information as the Director may require by regulation; and

“(5) the petitioner provides copies of any of the documents required under paragraphs (2), (3), and (4) to the patent owner or, if applicable, the designated representative of the patent owner.

“(b) PUBLIC AVAILABILITY.—As soon as practicable after the receipt of a petition under section 311, the Director shall make the petition available to the public.

“§ 313. Preliminary response to petition

“(a) PRELIMINARY RESPONSE.—If an inter partes review petition is filed under section 311, the patent owner shall have the right to file a preliminary response within a time period set by the Director.

“(b) CONTENT OF RESPONSE.—A preliminary response to a petition for inter partes review shall set forth reasons why no inter partes review should be instituted based upon the failure of the petition to meet any requirement of this chapter.

“§ 314. Institution of inter partes review

“(a) THRESHOLD.—The Director may not authorize an inter partes review to commence unless the Director determines that the information presented in the petition filed under section 311 and any response filed under section 313 shows that there is a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition.

“(b) TIMING.—The Director shall determine whether to institute an inter partes review under this chapter within 3 months after receiving a preliminary response under section 313 or, if none is filed, within three months after the expiration of the time for filing such a response.

“(c) NOTICE.—The Director shall notify the petitioner and patent owner, in writing, of the Director's determination under subsection (a), and shall make such notice available to the public as soon as is practicable. Such notice shall list the date on which the review shall commence.

“(d) NO APPEAL.—The determination by the Director whether to institute an inter partes review under this section shall be final and nonappealable.

“§ 315. Relation to other proceedings or actions

“(a) INFRINGER'S ACTION.—An inter partes review may not be instituted or maintained if the petitioner or real party in interest has filed a civil action challenging the validity of a claim of the patent.

“(b) PATENT OWNER'S ACTION.—An inter partes review may not be instituted if the petition requesting the proceeding is filed more than 3 months after the date on which the petitioner, real party in interest, or his privy is required to respond to a civil action alleging infringement of the patent.】

“(b) PATENT OWNER'S ACTION.—An inter partes review may not be instituted if the petition requesting the proceeding is filed more than 6 months after the date on which the petitioner, real party in interest, or his privy is served with a complaint alleging infringement of the patent. The time limitation set forth in the preceding sentence shall not apply to a request for joinder under subsection (c).

“(c) JOINDER.—If the Director institutes an inter partes review, the Director, in his discretion, may join as a party to that inter partes review any person who properly files a petition under section 311 that the Director, after receiving a preliminary response under section 313 or the expiration of the time for filing such a response, determines warrants the institution of an inter partes review under section 314.

“(d) MULTIPLE PROCEEDINGS.—Notwithstanding sections 135(a), 251, and 252, and chapter 30, during the pendency of an inter partes review, if another proceeding or matter involving the patent is before the Office, the Director may determine the manner in which the inter partes review or other proceeding or matter may proceed, including providing for stay, transfer, consolidation, or termination of any such matter or proceeding.

“(e) ESTOPPEL.—

“(1) PROCEEDINGS BEFORE THE OFFICE.—The petitioner in an inter partes review under this chapter, or his real party in interest or privy, may not request or maintain a proceeding before the Office with respect to a claim on any ground that the petitioner raised or reasonably could have raised during an inter partes review of the claim that resulted in a final written decision under section 318(a).

“(2) CIVIL ACTIONS AND OTHER PROCEEDINGS.—The petitioner in an inter partes review under this chapter, or his real party in interest or privy, may not assert either in a civil action arising in whole or in part under section 1338 of title 28 or in a proceeding before the International Trade Commission that a claim in a patent is invalid on any ground that the petitioner raised or reasonably could have raised during an inter partes review of the claim that resulted in a final written decision under section 318(a).

“§ 316. Conduct of inter partes review

“(a) REGULATIONS.—The Director shall prescribe regulations—

“(1) providing that the file of any proceeding under this chapter shall be made available to the public, except that any petition or document filed with the intent that it be sealed shall be accompanied by a motion to seal, and such petition or document shall be treated as sealed pending the outcome of the ruling on the motion;

“(2) setting forth the standards for the showing of sufficient grounds to institute a review under section 314(a);

“(3) establishing procedures for the submission of supplemental information after the petition is filed;

“(4) in accordance with section 2(b)(2), establishing and governing inter partes review under this chapter and the relationship of such review to other proceedings under this title;

“(5) setting a time period for requesting joinder under section 315(c);

“(6) setting forth standards and procedures for discovery of relevant evidence, including that such discovery shall be limited to—

“(A) the deposition of witnesses submitting affidavits or declarations; and

“(B) what is otherwise necessary in the interest of justice;

“(7) prescribing sanctions for abuse of discovery, abuse of process, or any other improper use of the proceeding, such as to har-

ass or to cause unnecessary delay or an unnecessary increase in the cost of the proceeding;

“(8) providing for protective orders governing the exchange and submission of confidential information;

“(9) allowing the patent owner to file a response to the petition after an inter partes review has been instituted, and requiring that the patent owner file with such response, through affidavits or declarations, any additional factual evidence and expert opinions on which the patent owner relies in support of the response;

“(10) setting forth standards and procedures for allowing the patent owner to move to amend the patent under subsection (d) to cancel a challenged claim or propose a reasonable number of substitute claims, and ensuring that any information submitted by the patent owner in support of any amendment entered under subsection (d) is made available to the public as part of the prosecution history of the patent;

“(11) providing either party with the right to an oral hearing as part of the proceeding; and

“(12) requiring that the final determination in an inter partes review be issued not later than 1 year after the date on which the Director notices the institution of a review under this chapter, except that the Director may, for good cause shown, extend the 1-year period by not more than 6 months, and may adjust the time periods in this paragraph in the case of joinder under section 315(c).

“(b) CONSIDERATIONS.—In prescribing regulations under this section, the Director shall consider the effect of any such regulation on the economy, the integrity of the patent system, the efficient administration of the Office, and the ability of the Office to timely complete proceedings instituted under this chapter.

“(c) PATENT TRIAL AND APPEAL BOARD.—The Patent Trial and Appeal Board shall, in accordance with section 6, conduct each proceeding authorized by the Director.

“(d) AMENDMENT OF THE PATENT.—

“(1) IN GENERAL.—During an inter partes review instituted under this chapter, the patent owner may file 1 motion to amend the patent in 1 or more of the following ways:

“(A) Cancel any challenged patent claim.

“(B) For each challenged claim, propose a reasonable number of substitute claims.

“(2) ADDITIONAL MOTIONS.—Additional motions to amend may be permitted upon the joint request of the petitioner and the patent owner to materially advance the settlement of a proceeding under section 317, or as permitted by regulations prescribed by the Director.

“(3) SCOPE OF CLAIMS.—An amendment under this subsection may not enlarge the scope of the claims of the patent or introduce new matter.

“(e) EVIDENTIARY STANDARDS.—In an inter partes review instituted under this chapter, the petitioner shall have the burden of proving a proposition of unpatentability by a preponderance of the evidence.

“§ 317. Settlement

“(a) IN GENERAL.—An inter partes review instituted under this chapter shall be terminated with respect to any petitioner upon the joint request of the petitioner and the patent owner, unless the Office has decided the merits of the proceeding before the request for termination is filed. If the inter partes review is terminated with respect to a petitioner under this section, no estoppel under section 315(e) shall apply to that petitioner. If no petitioner remains in the inter partes review, the Office may terminate the review or proceed to a final written decision under section 318(a).

“(b) AGREEMENTS IN WRITING.—Any agreement or understanding between the patent owner and a petitioner, including any collateral agreements referred to in such agreement or understanding, made in connection with, or in contemplation of, the termination of an inter partes review under this section shall be in writing and a true copy of such agreement or understanding shall be filed in the Office before the termination of the inter partes review as between the parties. If any party filing such agreement or understanding so requests, the copy shall be kept separate from the file of the inter partes review, and shall be made available only to Federal Government agencies upon written request, or to any other person on a showing of good cause.

“§ 318. Decision of the board

“(a) FINAL WRITTEN DECISION.—If an inter partes review is instituted and not dismissed under this chapter, the Patent Trial and Appeal Board shall issue a final written decision with respect to the patentability of any patent claim challenged by the petitioner and any new claim added under section 316(d).

“(b) CERTIFICATE.—If the Patent Trial and Appeal Board issues a final written decision under subsection (a) and the time for appeal has expired or any appeal has terminated, the Director shall issue and publish a certificate canceling any claim of the patent finally determined to be unpatentable, confirming any claim of the patent determined to be patentable, and incorporating in the patent by operation of the certificate any new or amended claim determined to be patentable.

“§ 319. Appeal

“A party dissatisfied with the final written decision of the Patent Trial and Appeal Board under section 318(a) may appeal the decision pursuant to sections 141 through 144. Any party to the inter partes review shall have the right to be a party to the appeal.”

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of chapters for part III of title 35, United States Code, is amended by striking the item relating to chapter 31 and inserting the following:

“31. Inter Partes Review 311.”

(c) REGULATIONS AND EFFECTIVE DATE.—

(1) REGULATIONS.—The Director shall, not later than the date that is 1 year after the date of the enactment of this Act, issue regulations to carry out chapter 31 of title 35, United States Code, as amended by subsection (a) of this section.

(2) APPLICABILITY.—

(A) IN GENERAL.—The amendments made by subsection (a) shall take effect on the date that is 1 year after the date of the enactment of this Act and shall apply to all patents issued before, on, or after the effective date of subsection (a).

(B) EXCEPTION.—The provisions of chapter 31 of title 35, United States Code, as amended by paragraph (3), shall continue to apply to requests for inter partes reexamination that are filed prior to the effective date of subsection (a) as if subsection (a) had not been enacted.

(C) GRADUATED IMPLEMENTATION.—The Director may impose a limit on the number of inter partes reviews that may be instituted during each of the first 4 years following the effective date of subsection (a), provided that such number shall in each year be equivalent to or greater than the number of inter partes reexaminations that are ordered in the last full fiscal year prior to the effective date of subsection (a).

(3) TRANSITION.—

(A) IN GENERAL.—Chapter 31 of title 35, United States Code, is amended—

(i) in section 312—

(I) in subsection (a)—

(aa) in the first sentence, by striking “a substantial new question of patentability affecting any claim of the patent concerned is raised by the request,” and inserting “the information presented in the request shows that there is a reasonable likelihood that the requester would prevail with respect to at least 1 of the claims challenged in the request,”; and

(bb) in the second sentence, by striking “The existence of a substantial new question of patentability” and inserting “A showing that there is a reasonable likelihood that the requester would prevail with respect to at least 1 of the claims challenged in the request”; and

(II) in subsection (c), in the second sentence, by striking “no substantial new question of patentability has been raised,” and inserting “the showing required by subsection (a) has not been made,”; and

(ii) in section 313, by striking “a substantial new question of patentability affecting a claim of the patent is raised” and inserting “it has been shown that there is a reasonable likelihood that the requester would prevail with respect to at least 1 of the claims challenged in the request”.

(B) APPLICATION.—The amendments made by this paragraph shall apply to requests for inter partes reexamination that are filed on or after the date of the enactment of this Act, but prior to the effective date of subsection (a).

(d) POST-GRANT REVIEW.—Part III of title 35, United States Code, is amended by adding at the end the following:

“CHAPTER 32—POST-GRANT REVIEW

“Sec.

“321. Post-grant review.

“322. Petitions.

“323. Preliminary response to petition.

“324. Institution of post-grant review.

“325. Relation to other proceedings or actions.

“326. Conduct of post-grant review.

“327. Settlement.

“328. Decision of the board.

“329. Appeal.

“§ 321. Post-grant review

“(a) IN GENERAL.—Subject to the provisions of this chapter, a person who is not the patent owner may file with the Office a petition to institute a post-grant review for a patent. The Director shall establish, by regulation, fees to be paid by the person requesting the review, in such amounts as the Director determines to be reasonable, considering the aggregate costs of the post-grant review.

“(b) SCOPE.—A petitioner in a post-grant review may request to cancel as unpatentable 1 or more claims of a patent on any ground that could be raised under paragraph (2) or (3) of section 282(b) (relating to invalidity of the patent or any claim).

“(c) FILING DEADLINE.—A petition for a post-grant review shall be filed not later than 9 months after the grant of the patent or issuance of a reissue patent.

“§ 322. Petitions

“(a) REQUIREMENTS OF PETITION.—A petition filed under section 321 may be considered only if—

“(1) the petition is accompanied by payment of the fee established by the Director under section 321;

“(2) the petition identifies all real parties in interest;

“(3) the petition identifies, in writing and with particularity, each claim challenged, the grounds on which the challenge to each claim is based, and the evidence that supports the grounds for the challenge to each claim, including—

“(A) copies of patents and printed publications that the petitioner relies upon in support of the petition; and

“(B) affidavits or declarations of supporting evidence and opinions, if the petitioner relies on other factual evidence or on expert opinions;

“(4) the petition provides such other information as the Director may require by regulation; and

“(5) the petitioner provides copies of any of the documents required under paragraphs (2), (3), and (4) to the patent owner or, if applicable, the designated representative of the patent owner.

“(b) PUBLIC AVAILABILITY.—As soon as practicable after the receipt of a petition under section 321, the Director shall make the petition available to the public.

“§ 323. Preliminary response to petition

“(a) PRELIMINARY RESPONSE.—If a post-grant review petition is filed under section 321, the patent owner shall have the right to file a preliminary response within 2 months of the filing of the petition.

“(b) CONTENT OF RESPONSE.—A preliminary response to a petition for post-grant review shall set forth reasons why no post-grant review should be instituted based upon the failure of the petition to meet any requirement of this chapter.

“§ 324. Institution of post-grant review

“(a) THRESHOLD.—The Director may not authorize a post-grant review to commence unless the Director determines that the information presented in the petition, if such information is not rebutted, would demonstrate that it is more likely than not that at least 1 of the claims challenged in the petition is unpatentable.

“(b) ADDITIONAL GROUNDS.—The determination required under subsection (a) may also be satisfied by a showing that the petition raises a novel or unsettled legal question that is important to other patents or patent applications.

“(c) TIMING.—The Director shall determine whether to institute a post-grant review under this chapter within 3 months after receiving a preliminary response under section 323 or, if none is filed, the expiration of the time for filing such a response.

“(d) NOTICE.—The Director shall notify the petitioner and patent owner, in writing, of the Director's determination under subsection (a) or (b), and shall make such notice available to the public as soon as is practicable. The Director shall make each notice of the institution of a post-grant review available to the public. Such notice shall list the date on which the review shall commence.

“(e) NO APPEAL.—The determination by the Director whether to institute a post-grant review under this section shall be final and nonappealable.

“§ 325. Relation to other proceedings or actions

“(a) INFRINGER'S ACTION.—A post-grant review may not be instituted or maintained if the petitioner or real party in interest has filed a civil action challenging the validity of a claim of the patent.

“(b) PATENT OWNER'S ACTION.—A post-grant review may not be instituted if the petition requesting the proceeding is filed more than 3 months after the date on which the petitioner, real party in interest, or his privy is required to respond to a civil action alleging infringement of the patent.”

“(b) PATENT OWNER'S ACTION.—A post-grant review may not be instituted if the petition requesting the proceeding is filed more than 6 months after the date on which the petitioner, real party in interest, or his privy is served with a complaint alleging infringement of the patent.

The time limitation set forth in the preceding sentence shall not apply to a request for joinder under subsection (c).

“(c) JOINDER.—If more than 1 petition for a post-grant review is properly filed against the same patent and the Director determines that more than 1 of these petitions warrants the institution of a post-grant review under section 324, the Director may consolidate such reviews into a single post-grant review.

“(d) MULTIPLE PROCEEDINGS.—Notwithstanding sections 135(a), 251, and 252, and chapter 30, during the pendency of any post-grant review, if another proceeding or matter involving the patent is before the Office, the Director may determine the manner in which the post-grant review or other proceeding or matter may proceed, including providing for stay, transfer, consolidation, or termination of any such matter or proceeding. In determining whether to institute or order a proceeding under this chapter, chapter 30, or chapter 31, the Director may take into account whether, and reject the petition or request because, the same or substantially the same prior art or arguments previously were presented to the Office.

“(e) ESTOPPEL.—

“(1) PROCEEDINGS BEFORE THE OFFICE.—The petitioner in a post-grant review under this chapter, or his real party in interest or privy, may not request or maintain a proceeding before the Office with respect to a claim on any ground that the petitioner raised or reasonably could have raised during a post-grant review of the claim that resulted in a final written decision under section 328(a).

“(2) CIVIL ACTIONS AND OTHER PROCEEDINGS.—The petitioner in a post-grant review under this chapter, or his real party in interest or privy, may not assert either in a civil action arising in whole or in part under section 1338 of title 28 or in a proceeding before the International Trade Commission that a claim in a patent is invalid on any ground that the petitioner raised during a post-grant review of the claim that resulted in a final written decision under section 328(a).

“(f) PRELIMINARY INJUNCTIONS.—If a civil action alleging infringement of a patent is filed within 3 months of the grant of the patent, the court may not stay its consideration of the patent owner's motion for a preliminary injunction against infringement of the patent on the basis that a petition for post-grant review has been filed or that such a proceeding has been instituted.

“(g) REISSUE PATENTS.—A post-grant review may not be instituted if the petition requests cancellation of a claim in a reissue patent that is identical to or narrower than a claim in the original patent from which the reissue patent was issued, and the time limitations in section 321(c) would bar filing a petition for a post-grant review for such original patent.

“§ 326. Conduct of post-grant review

“(a) REGULATIONS.—The Director shall prescribe regulations—

“(1) providing that the file of any proceeding under this chapter shall be made available to the public, except that any petition or document filed with the intent that it be sealed shall be accompanied by a motion to seal, and such petition or document shall be treated as sealed pending the outcome of the ruling on the motion;

“(2) setting forth the standards for the showing of sufficient grounds to institute a review under subsections (a) and (b) of section 324;

“(3) establishing procedures for the submission of supplemental information after the petition is filed;

“(4) in accordance with section 2(b)(2), establishing and governing a post-grant review

under this chapter and the relationship of such review to other proceedings under this title;

“(5) setting forth standards and procedures for discovery of relevant evidence, including that such discovery shall be limited to evidence directly related to factual assertions advanced by either party in the proceeding;

“(6) prescribing sanctions for abuse of discovery, abuse of process, or any other improper use of the proceeding, such as to harass or to cause unnecessary delay or an unnecessary increase in the cost of the proceeding;

“(7) providing for protective orders governing the exchange and submission of confidential information;

“(8) allowing the patent owner to file a response to the petition after a post-grant review has been instituted, and requiring that the patent owner file with such response, through affidavits or declarations, any additional factual evidence and expert opinions on which the patent owner relies in support of the response;

“(9) setting forth standards and procedures for allowing the patent owner to move to amend the patent under subsection (d) to cancel a challenged claim or propose a reasonable number of substitute claims, and ensuring that any information submitted by the patent owner in support of any amendment entered under subsection (d) is made available to the public as part of the prosecution history of the patent;

“(10) providing either party with the right to an oral hearing as part of the proceeding; and

“(11) requiring that the final determination in any post-grant review be issued not later than 1 year after the date on which the Director notices the institution of a proceeding under this chapter, except that the Director may, for good cause shown, extend the 1-year period by not more than 6 months, and may adjust the time periods in this paragraph in the case of joinder under section 325(c).

“(b) CONSIDERATIONS.—In prescribing regulations under this section, the Director shall consider the effect of any such regulation on the economy, the integrity of the patent system, the efficient administration of the Office, and the ability of the Office to timely complete proceedings instituted under this chapter.

“(c) PATENT TRIAL AND APPEAL BOARD.—The Patent Trial and Appeal Board shall, in accordance with section 6, conduct each proceeding authorized by the Director.

“(d) AMENDMENT OF THE PATENT.—

“(1) IN GENERAL.—During a post-grant review instituted under this chapter, the patent owner may file 1 motion to amend the patent in 1 or more of the following ways:

“(A) Cancel any challenged patent claim.

“(B) For each challenged claim, propose a reasonable number of substitute claims.

“(2) ADDITIONAL MOTIONS.—Additional motions to amend may be permitted upon the joint request of the petitioner and the patent owner to materially advance the settlement of a proceeding under section 327, or upon the request of the patent owner for good cause shown.

“(3) SCOPE OF CLAIMS.—An amendment under this subsection may not enlarge the scope of the claims of the patent or introduce new matter.

“(e) EVIDENTIARY STANDARDS.—In a post-grant review instituted under this chapter, the petitioner shall have the burden of proving a proposition of unpatentability by a preponderance of the evidence.

“§ 327. Settlement

“(a) IN GENERAL.—A post-grant review instituted under this chapter shall be termi-

nated with respect to any petitioner upon the joint request of the petitioner and the patent owner, unless the Office has decided the merits of the proceeding before the request for termination is filed. If the post-grant review is terminated with respect to a petitioner under this section, no estoppel under section 325(e) shall apply to that petitioner. If no petitioner remains in the post-grant review, the Office may terminate the post-grant review or proceed to a final written decision under section 328(a).

“(b) AGREEMENTS IN WRITING.—Any agreement or understanding between the patent owner and a petitioner, including any collateral agreements referred to in such agreement or understanding, made in connection with, or in contemplation of, the termination of a post-grant review under this section shall be in writing, and a true copy of such agreement or understanding shall be filed in the Office before the termination of the post-grant review as between the parties. If any party filing such agreement or understanding so requests, the copy shall be kept separate from the file of the post-grant review, and shall be made available only to Federal Government agencies upon written request, or to any other person on a showing of good cause.

“§ 328. Decision of the board

“(a) FINAL WRITTEN DECISION.—If a post-grant review is instituted and not dismissed under this chapter, the Patent Trial and Appeal Board shall issue a final written decision with respect to the patentability of any patent claim challenged by the petitioner and any new claim added under section 326(d).

“(b) CERTIFICATE.—If the Patent Trial and Appeal Board issues a final written decision under subsection (a) and the time for appeal has expired or any appeal has terminated, the Director shall issue and publish a certificate canceling any claim of the patent finally determined to be unpatentable, confirming any claim of the patent determined to be patentable, and incorporating in the patent by operation of the certificate any new or amended claim determined to be patentable.

“§ 329. Appeal

“A party dissatisfied with the final written decision of the Patent Trial and Appeal Board under section 328(a) may appeal the decision pursuant to sections 141 through 144. Any party to the post-grant review shall have the right to be a party to the appeal.”

(e) TECHNICAL AND CONFORMING AMENDMENT.—The table of chapters for part III of title 35, United States Code, is amended by adding at the end the following:

“32. Post-Grant Review 321.”.

(f) REGULATIONS AND EFFECTIVE DATE.—

(1) REGULATIONS.—The Director shall, not later than the date that is 1 year 18 months after the date of the enactment of this Act, issue regulations to carry out chapter 32 of title 35, United States Code, as added by subsection (d) of this section.

(2) APPLICABILITY.—The amendments made by subsection (d) shall take effect on the date that is [1 year] 18 months after the date of the enactment of this Act and shall apply only to patents issued on or after that date. The Director may impose a limit on the number of post-grant reviews that may be instituted during each of the 4 years following the effective date of subsection (d).

(3) PENDING INTERFERENCES.—The Director shall determine the procedures under which interferences commenced before the effective date of subsection (d) are to proceed, including whether any such interference is to be dismissed without prejudice to the filing of a petition for a post-grant review under chapter 32 of title 35, United States Code, or is to

proceed as if this Act had not been enacted. The Director shall include such procedures in regulations issued under paragraph (1). For purposes of an interference that is commenced before the effective date of subsection (d), the Director may deem the Patent Trial and Appeal Board to be the Board of Patent Appeals and Interferences, and may allow the Patent Trial and Appeal Board to conduct any further proceedings in that interference. The authorization to appeal or have remedy from derivation proceedings in sections 141(d) and 146 of title 35, United States Code, and the jurisdiction to entertain appeals from derivation proceedings in section 1295(a)(4)(A) of title 28, United States Code, shall be deemed to extend to final decisions in interferences that are commenced before the effective date of subsection (d) and that are not dismissed pursuant to this paragraph.

(g) CITATION OF PRIOR ART AND WRITTEN STATEMENTS.—

(1) IN GENERAL.—Section 301 of title 35, United States Code, is amended to read as follows:

“§ 301. Citation of prior art and written statements

“(a) IN GENERAL.—Any person at any time may cite to the Office in writing—

“(1) prior art consisting of patents or printed publications which that person believes to have a bearing on the patentability of any claim of a particular patent; or

“(2) statements of the patent owner filed in a proceeding before a Federal court or the Office in which the patent owner took a position on the scope of any claim of a particular patent.

“(b) OFFICIAL FILE.—If the person citing prior art or written statements pursuant to subsection (a) explains in writing the pertinence and manner of applying the prior art or written statements to at least 1 claim of the patent, the citation of the prior art or written statements and the explanation thereof shall become a part of the official file of the patent.

“(c) ADDITIONAL INFORMATION.—A party that submits a written statement pursuant to subsection (a)(2) shall include any other documents, pleadings, or evidence from the proceeding in which the statement was filed that addresses the written statement.

“(d) LIMITATIONS.—A written statement submitted pursuant to subsection (a)(2), and additional information submitted pursuant to subsection (c), shall not be considered by the Office for any purpose other than to determine the proper meaning of a patent claim in a proceeding that is ordered or instituted pursuant to section 304, 314, or 324. If any such written statement or additional information is subject to an applicable protective order, it shall be redacted to exclude information that is subject to that order.

“(e) CONFIDENTIALITY.—Upon the written request of the person citing prior art or written statements pursuant to subsection (a), that person's identity shall be excluded from the patent file and kept confidential.”.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall take effect [1 year] 18 months after the date of the enactment of this Act and shall apply to patents issued before, on, or after that effective date.

(h) REEXAMINATION.—

(1) DETERMINATION BY DIRECTOR.—

(A) IN GENERAL.—Section 303(a) of title 35, United States Code, is amended by striking “section 301 of this title” and inserting “section 301 or 302”.

(B) EFFECTIVE DATE.—The amendment made by this paragraph shall take effect [1 year] 18 months after the date of the enactment of this Act and shall apply to patents issued before, on, or after that effective date.

(2) APPEAL.—

(A) IN GENERAL.—Section 306 of title 35, United States Code, is amended by striking “145” and inserting “144”.

(B) EFFECTIVE DATE.—The amendment made by this paragraph shall take effect on the date of enactment of this Act and shall apply to appeals of reexaminations that are pending before the Board of Patent Appeals and Interferences or the Patent Trial and Appeal Board on or after the date of the enactment of this Act.

SEC. 6. PATENT TRIAL AND APPEAL BOARD.

(a) COMPOSITION AND DUTIES.—Section 6 of title 35, United States Code, is amended to read as follows:

“§ 6. Patent Trial and Appeal Board

“(a) There shall be in the Office a Patent Trial and Appeal Board. The Director, the Deputy Director, the Commissioner for Patents, the Commissioner for Trademarks, and the administrative patent judges shall constitute the Patent Trial and Appeal Board. The administrative patent judges shall be persons of competent legal knowledge and scientific ability who are appointed by the Secretary, in consultation with the Director. Any reference in any Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or pertaining to the Board of Patent Appeals and Interferences is deemed to refer to the Patent Trial and Appeal Board.

“(b) The Patent Trial and Appeal Board shall—

“(1) on written appeal of an applicant, review adverse decisions of examiners upon applications for patents pursuant to section 134(a);

“(2) review appeals of reexaminations pursuant to section 134(b);

“(3) conduct derivation proceedings pursuant to section 135; and

“(4) conduct inter partes reviews and post-grant reviews pursuant to chapters 31 and 32.

“(c) Each appeal, derivation proceeding, post-grant review, and inter partes review shall be heard by at least 3 members of the Patent Trial and Appeal Board, who shall be designated by the Director. Only the Patent Trial and Appeal Board may grant rehearings.

“(d) The Secretary of Commerce may, in his discretion, deem the appointment of an administrative patent judge who, before the date of the enactment of this subsection, held office pursuant to an appointment by the Director to take effect on the date on which the Director initially appointed the administrative patent judge. It shall be a defense to a challenge to the appointment of an administrative patent judge on the basis of the judge's having been originally appointed by the Director that the administrative patent judge so appointed was acting as a de facto officer.”.

(b) ADMINISTRATIVE APPEALS.—Section 134 of title 35, United States Code, is amended—

(1) in subsection (b), by striking “any reexamination proceeding” and inserting “a reexamination”; and

(2) by striking subsection (c).

(c) CIRCUIT APPEALS.—

(1) IN GENERAL.—Section 141 of title 35, United States Code, is amended to read as follows:

“§ 141. Appeal to the Court of Appeals for the Federal Circuit

“(a) EXAMINATIONS.—An applicant who is dissatisfied with the final decision in an appeal to the Patent Trial and Appeal Board under section 134(a) may appeal the Board's decision to the United States Court of Appeals for the Federal Circuit. By filing such an appeal, the applicant waives his right to proceed under section 145.

“(b) REEXAMINATIONS.—A patent owner who is dissatisfied with the final decision in an appeal of a reexamination to the Patent Trial and Appeal Board under section 134(b) may appeal the Board's decision only to the United States Court of Appeals for the Federal Circuit.

“(c) POST-GRANT AND INTER PARTES REVIEWS.—A party to a post-grant or inter partes review who is dissatisfied with the final written decision of the Patent Trial and Appeal Board under section 318(a) or 328(a) may appeal the Board's decision only to the United States Court of Appeals for the Federal Circuit.

“(d) DERIVATION PROCEEDINGS.—A party to a derivation proceeding who is dissatisfied with the final decision of the Patent Trial and Appeal Board on the proceeding may appeal the decision to the United States Court of Appeals for the Federal Circuit, but such appeal shall be dismissed if any adverse party to such derivation proceeding, within 20 days after the appellant has filed notice of appeal in accordance with section 142, files notice with the Director that the party elects to have all further proceedings conducted as provided in section 146. If the appellant does not, within 30 days after the filing of such notice by the adverse party, file a civil action under section 146, the Board's decision shall govern the further proceedings in the case.”.

(2) JURISDICTION.—Section 1295(a)(4)(A) of title 28, United States Code, is amended to read as follows:

“(A) the Patent Trial and Appeal Board of the United States Patent and Trademark Office with respect to patent applications, derivation proceedings, reexaminations, post-grant reviews, and inter partes reviews at the instance of a party who exercised his right to participate in a proceeding before or appeal to the Board, except that an applicant or a party to a derivation proceeding may also have remedy by civil action pursuant to section 145 or 146 of title 35. An appeal under this subparagraph of a decision of the Board with respect to an application or derivation proceeding shall waive the right of such applicant or party to proceed under section 145 or 146 of title 35.”.

(3) PROCEEDINGS ON APPEAL.—Section 143 of title 35, United States Code, is amended—

(A) by striking the third sentence and inserting the following: “In an ex parte case, the Director shall submit to the court in writing the grounds for the decision of the Patent and Trademark Office, addressing all of the issues raised in the appeal. The Director shall have the right to intervene in an appeal from a decision entered by the Patent Trial and Appeal Board in a derivation proceeding under section 135 or in an inter partes or post-grant review under chapter 31 or 32.”; and

(B) by repealing the second of the two identical fourth sentences.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect [1 year] 18 months after the date of the enactment of this Act and shall apply to proceedings commenced on or after that effective date, except that—

(1) the extension of jurisdiction to the United States Court of Appeals for the Federal Circuit to entertain appeals of decisions of the Patent Trial and Appeal Board in reexaminations under the amendment made by subsection (c)(2) shall be deemed to take effect on the date of enactment of this Act and shall extend to any decision of the Board of Patent Appeals and Interferences with respect to a reexamination that is entered before, on, or after the date of the enactment of this Act;

(2) the provisions of sections 6, 134, and 141 of title 35, United States Code, in effect on

the day prior to the date of the enactment of this Act shall continue to apply to inter partes reexaminations that are requested under section 311 prior to the date that is [1 year] 18 months after the date of the enactment of this Act;

(3) the Patent Trial and Appeal Board may be deemed to be the Board of Patent Appeals and Interferences for purposes of appeals of inter partes reexaminations that are requested under section 311 prior to the date that is [1 year] 18 months after the date of the enactment of this Act; and

(4) the Director's right under the last sentence of section 143 of title 35, United States Code, as amended by subsection (c)(3), to intervene in an appeal from a decision entered by the Patent Trial and Appeal Board shall be deemed to extend to inter partes reexaminations that are requested under section 311 prior to the date that is [1 year] 18 months after the date of the enactment of this Act.

SEC. 7. PREISSUANCE SUBMISSIONS BY THIRD PARTIES.

(a) IN GENERAL.—Section 122 of title 35, United States Code, is amended by adding at the end the following:

“(e) PREISSUANCE SUBMISSIONS BY THIRD PARTIES.—

“(1) IN GENERAL.—Any third party may submit for consideration and inclusion in the record of a patent application, any patent, published patent application, or other printed publication of potential relevance to the examination of the application, if such submission is made in writing before the earlier of—

“(A) the date a notice of allowance under section 151 is given or mailed in the application for patent; or

“(B) the later of—

“(i) 6 months after the date on which the application for patent is first published under section 122 by the Office, or

“(ii) the date of the first rejection under section 132 of any claim by the examiner during the examination of the application for patent.

“(2) OTHER REQUIREMENTS.—Any submission under paragraph (1) shall—

“(A) set forth a concise description of the asserted relevance of each submitted document;

“(B) be accompanied by such fee as the Director may prescribe; and

“(C) include a statement by the person making such submission affirming that the submission was made in compliance with this section.”.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect 1 year after the date of the enactment of this Act and shall apply to patent applications filed before, on, or after that effective date.

SEC. 8. VENUE.

(a) CHANGE OF VENUE.—Section 1400 of title 28, United States Code, is amended by adding at the end the following:

“(c) CHANGE OF VENUE.—For the convenience of parties and witnesses, in the interest of justice, a district court shall transfer any civil action arising under any Act of Congress relating to patents upon a showing that the transferee venue is clearly more convenient than the venue in which the civil action is pending.”.

(b) TECHNICAL AMENDMENTS RELATING TO VENUE.—Sections 32, 145, 146, 154(b)(4)(A), and 293 of title 35, United States Code, and section 21(b)(4) of the Act entitled “An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes”, approved July 5, 1946 (commonly referred to as the “Trademark Act of 1946” or the “Lanham Act”); 15 U.S.C. 1071(b)(4)), are each amended

by striking “United States District Court for the District of Columbia” each place that term appears and inserting “United States District Court for the Eastern District of Virginia”.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect upon the date of the enactment of this Act and shall apply to civil actions commenced on or after that date.

SEC. 9. FEE SETTING AUTHORITY.

(a) FEE SETTING.—

(1) IN GENERAL.—The Director shall have authority to set or adjust by rule any fee established or charged by the Office under sections 41 and 376 of title 35, United States Code, or under section 31 of the Trademark Act of 1946 (15 U.S.C. 1113), or any other fee established or charged by the Office under any other provision of law, notwithstanding the fee amounts established or charged thereunder, for the filing or processing of any submission to, and for all other services performed by or materials furnished by, the Office, provided that patent and trademark fee amounts are in the aggregate set to recover the estimated cost to the Office for processing, activities, services and materials relating to patents and trademarks, respectively, including proportionate shares of the administrative costs of the Office.

(2) SMALL AND MICRO ENTITIES.—The fees established under paragraph (1) for filing, processing, issuing, and maintaining patent applications and patents shall be reduced by 50 percent with respect to their application to any small entity that qualifies for reduced fees under section 41(h)(1) of title 35, United States Code, and shall be reduced by 75 percent with respect to their application to any micro entity as defined in section 123 of that title.

(3) REDUCTION OF FEES IN CERTAIN FISCAL YEARS.—In any fiscal year, the Director—

(A) shall consult with the Patent Public Advisory Committee and the Trademark Public Advisory Committee on the advisability of reducing any fees described in paragraph (1); and

(B) after the consultation required under subparagraph (A), may reduce such fees.

(4) ROLE OF THE PUBLIC ADVISORY COMMITTEE.—The Director shall—

(A) submit to the Patent Public Advisory Committee or the Trademark Public Advisory Committee, or both, as appropriate, any proposed fee under paragraph (1) not less than 45 days before publishing any proposed fee in the Federal Register;

(B) provide the relevant advisory committee described in subparagraph (A) a 30-day period following the submission of any proposed fee, on which to deliberate, consider, and comment on such proposal, and require that—

(i) during such 30-day period, the relevant advisory committee hold a public hearing related to such proposal; and

(ii) the Director shall assist the relevant advisory committee in carrying out such public hearing, including by offering the use of Office resources to notify and promote the hearing to the public and interested stakeholders;

(C) require the relevant advisory committee to make available to the public a written report detailing the comments, advice, and recommendations of the committee regarding any proposed fee;

(D) consider and analyze any comments, advice, or recommendations received from the relevant advisory committee before setting or adjusting any fee; and

(E) notify, through the Chair and Ranking Member of the Senate and House Judiciary Committees, the Congress of any final rule setting or adjusting fees under paragraph (1).

(5) PUBLICATION IN THE FEDERAL REGISTER.—

(A) IN GENERAL.—Any rules prescribed under this subsection shall be published in the Federal Register.

(B) RATIONALE.—Any proposal for a change in fees under this section shall—

(i) be published in the Federal Register; and

(ii) include, in such publication, the specific rationale and purpose for the proposal, including the possible expectations or benefits resulting from the proposed change.

(C) PUBLIC COMMENT PERIOD.—Following the publication of any proposed fee in the Federal Register pursuant to subparagraph (A), the Director shall seek public comment for a period of not less than 45 days.

(6) CONGRESSIONAL COMMENT PERIOD.—Following the notification described in paragraph (3)(E), Congress shall have not more than 45 days to consider and comment on any final rule setting or adjusting fees under paragraph (1). No fee set or adjusted under paragraph (1) shall be effective prior to the end of such 45-day comment period.

(7) RULE OF CONSTRUCTION.—No rules prescribed under this subsection may diminish—

(A) an applicant's rights under title 35, United States Code, or the Trademark Act of 1946; or

(B) any rights under a ratified treaty.

(b) FEES FOR PATENT SERVICES.—Division B of Public Law 108-447 is amended in title VIII of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2005—

(1) in subsections (a), (b), and (c) of section 801, by—

(A) striking “During” and all that follows through “2006, subsection” and inserting “Subsection”; and

(B) striking “shall be administered as though that subsection reads” and inserting “is amended to read”;

(2) in subsection (d) of section 801, by striking “During” and all that follows through “2006, subsection” and inserting “Subsection”; and

(3) in subsection (e) of section 801, by—

(A) striking “During” and all that follows through “2006, subsection” and inserting “Subsection”; and

(B) striking “shall be administered as though that subsection”.

(c) ADJUSTMENT OF TRADEMARK FEES.—Division B of Public Law 108-447 is amended in title VIII of the Departments of Commerce, Justice and State, the Judiciary and Related Agencies Appropriations Act, 2005, in section 802(a) by striking “During fiscal years 2005, 2006 and 2007”, and inserting “Until such time as the Director sets or adjusts the fees otherwise.”.

(d) EFFECTIVE DATE, APPLICABILITY, AND TRANSITION PROVISIONS.—Division B of Public Law 108-447 is amended in title VIII of the Departments of Commerce, Justice and State, the Judiciary and Related Agencies Appropriations Act, 2005, in section 803(a) by striking “and shall apply only with respect to the remaining portion of fiscal year 2005, 2006 and 2007”.

(e) STATUTORY AUTHORITY.—Section 41(d)(1)(A) of title 35, United States Code, is amended by striking “, and the Director may not increase any such fee thereafter”.

(f) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to affect any other provision of Division B of Public Law 108-447, including section 801(c) of title VIII of the Departments of Commerce, Justice and State, the Judiciary and Related Agencies Appropriations Act, 2005.

(g) DEFINITIONS.—In this section, the following definitions shall apply:

(1) DIRECTOR.—The term “Director” means the Director of the United States Patent and Trademark Office.

(2) OFFICE.—The term “Office” means the United States Patent and Trademark Office.

(3) TRADEMARK ACT OF 1946.—The term “Trademark Act of 1946” means an Act entitled “Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes”, approved July 5, 1946 (15 U.S.C. 1051 et seq.) (commonly referred to as the Trademark Act of 1946 or the Lanham Act).

(h) ELECTRONIC FILING INCENTIVE.—

(1) IN GENERAL.—Notwithstanding any other provision of this section, a fee of \$400 shall be established for each application for an original patent, except for a design, plant, or provisional application, that is not filed by electronic means as prescribed by the Director. The fee established by this subsection shall be reduced 50 percent for small entities that qualify for reduced fees under section 41(h)(1) of title 35, United States Code. All fees paid under this subsection shall be deposited in the Treasury as an offsetting receipt that shall not be available for obligation or expenditure.

(2) EFFECTIVE DATE.—This subsection shall become effective 60 days after the date of the enactment of this Act.

(i) EFFECTIVE DATE.—Except as provided in subsection (h), the provisions of this section shall take effect upon the date of the enactment of this Act.

SEC. 10. SUPPLEMENTAL EXAMINATION.

(a) IN GENERAL.—Chapter 25 of title 35, United States Code, is amended by adding at the end the following:

“§257. Supplemental examinations to consider, reconsider, or correct information

“(a) IN GENERAL.—A patent owner may request supplemental examination of a patent in the Office to consider, reconsider, or correct information believed to be relevant to the patent. Within 3 months of the date a request for supplemental examination meeting the requirements of this section is received, the Director shall conduct the supplemental examination and shall conclude such examination by issuing a certificate indicating whether the information presented in the request raises a substantial new question of patentability.

“(b) REEXAMINATION ORDERED.—If a substantial new question of patentability is raised by 1 or more items of information in the request, the Director shall order reexamination of the patent. The reexamination shall be conducted according to procedures established by chapter 30, except that the patent owner shall not have the right to file a statement pursuant to section 304. During the reexamination, the Director shall address each substantial new question of patentability identified during the supplemental examination, notwithstanding the limitations therein relating to patents and printed publication or any other provision of chapter 30.

“(c) EFFECT.—

“(1) IN GENERAL.—A patent shall not be held unenforceable on the basis of conduct relating to information that had not been considered, was inadequately considered, or was incorrect in a prior examination of the patent if the information was considered, reconsidered, or corrected during a supplemental examination of the patent. The making of a request under subsection (a), or the absence thereof, shall not be relevant to enforceability of the patent under section 282.

“(2) EXCEPTIONS.—

“(A) PRIOR ALLEGATIONS.—This subsection shall not apply to an allegation pled with particularity, or set forth with particularity in a notice received by the patent owner under section 505(j)(2)(B)(iv)(II) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C.

355(j)(2)(B)(iv)(II)), before the date of a supplemental-examination request under subsection (a) to consider, reconsider, or correct information forming the basis for the allegation.

“(B) PATENT ENFORCEMENT ACTIONS.—In an action brought under section 337(a) of the Tariff Act of 1930 (19 U.S.C. 1337(a)), or section 281 of this title, this subsection shall not apply to any defense raised in the action that is based upon information that was considered, reconsidered, or corrected pursuant to a supplemental-examination request under subsection (a) unless the supplemental examination, and any reexamination ordered pursuant to the request, are concluded before the date on which the action is brought.

“(d) FEES AND REGULATIONS.—The Director shall, by regulation, establish fees for the submission of a request for supplemental examination of a patent, and to consider each item of information submitted in the request. If reexamination is ordered pursuant to subsection (a), fees established and applicable to ex parte reexamination proceedings under chapter 30 shall be paid in addition to fees applicable to supplemental examination. The Director shall promulgate regulations governing the form, content, and other requirements of requests for supplemental examination, and establishing procedures for conducting review of information submitted in such requests.

“(e) RULE OF CONSTRUCTION.—Nothing in this section shall be construed—

“(1) to preclude the imposition of sanctions based upon criminal or antitrust laws (including section 1001(a) of title 18, the first section of the Clayton Act, and section 5 of the Federal Trade Commission Act to the extent that section relates to unfair methods of competition);

“(2) to limit the authority of the Director to investigate issues of possible misconduct and impose sanctions for misconduct in connection with matters or proceedings before the Office; or

“(3) to limit the authority of the Director to promulgate regulations under chapter 3 relating to sanctions for misconduct by representatives practicing before the Office.”

(b) EFFECTIVE DATE.—This section shall take effect 1 year after the date of the enactment of this Act and shall apply to patents issued before, on, or after that date.

SEC. 11. RESIDENCY OF FEDERAL CIRCUIT JUDGES.

[(a) RESIDENCY.—The second sentence of section 44(c) of title 28, United States Code, is repealed.

[(b) FACILITIES.—Section 44 of title 28, United States Code, is amended by adding at the end the following:

“[(e)(1) The Director of the Administrative Office of the United States Courts shall provide—

“[(A) a judge of the Federal judicial circuit who lives within 50 miles of the District of Columbia with appropriate facilities and administrative support services in the District of the District of Columbia; and

“[(B) a judge of the Federal judicial circuit who does not live within 50 miles of the District of Columbia with appropriate facilities and administrative support services—

“[(i) in the district and division in which that judge resides; or

“[(ii) if appropriate facilities are not available in the district and division in which that judge resides, in the district and division closest to the residence of that judge in which such facilities are available, as determined by the Director.

“[(2) Nothing in this subsection may be construed to authorize or require the construction of new facilities.”]

SEC. 11. RESIDENCY OF FEDERAL CIRCUIT JUDGES.

(a) IN GENERAL.—Section 44(c) of title 28, United States Code, is amended—

(1) by repealing the second sentence; and

(2) in the third sentence, by striking “state” and inserting “State”.

(b) EFFECTIVE DATE.—This section shall take effect on the date of enactment of this Act.

SEC. 12. MICRO ENTITY DEFINED.

Chapter 11 of title 35, United States Code, is amended by adding at the end the following new section:

“§ 123. Micro entity defined

“(a) IN GENERAL.—For purposes of this title, the term ‘micro entity’ means an applicant who makes a certification under either subsection (b) or (c).

“(b) UNASSIGNED APPLICATION.—For an unassigned application, each applicant shall certify that the applicant—

“(1) qualifies as a small entity, as defined in regulations issued by the Director;

“(2) has not been named on 5 or more previously filed patent applications;

“(3) has not assigned, granted, or conveyed, and is not under an obligation by contract or law to assign, grant, or convey, a license or any other ownership interest in the particular application; and

“(4) does not have a gross income, as defined in section 61(a) of the Internal Revenue Code (26 U.S.C. 61(a)), exceeding 2.5 times the average gross income, as reported by the Department of Labor, in the calendar year immediately preceding the calendar year in which the examination fee is being paid.

“(c) ASSIGNED APPLICATION.—For an assigned application, each applicant shall certify that the applicant—

“(1) qualifies as a small entity, as defined in regulations issued by the Director, and meets the requirements of subsection (b)(4);

“(2) has not been named on 5 or more previously filed patent applications; and

“(3) has assigned, granted, conveyed, or is under an obligation by contract or law to assign, grant, or convey, a license or other ownership interest in the particular application to an entity that has 5 or fewer employees and that such entity has a gross income, as defined in section 61(a) of the Internal Revenue Code (26 U.S.C. 61(a)), that does not exceed 2.5 times the average gross income, as reported by the Department of Labor, in the calendar year immediately preceding the calendar year in which the examination fee is being paid.

“(d) INCOME LEVEL ADJUSTMENT.—The gross income levels established under subsections (b) and (c) shall be adjusted by the Director on October 1, 2009, and every year thereafter, to reflect any fluctuations occurring during the previous 12 months in the Consumer Price Index, as determined by the Secretary of Labor.”

SEC. 13. FUNDING AGREEMENTS.

(a) IN GENERAL.—Section 202(c)(7)(E)(i) of title 35, United States Code, is amended—

(1) by striking “75 percent” and inserting “15 percent”; and

(2) by striking “25 percent” and inserting “85 percent”.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act and shall apply to patents issued before, on, or after that date.

SEC. 14. TAX STRATEGIES DEEMED WITHIN THE PRIOR ART.

(a) IN GENERAL.—For purposes of evaluating an invention under section 102 or 103 of title 35, United States Code, any strategy for reducing, avoiding, or deferring tax liability, whether known or unknown at the time of the invention or application for patent, shall be deemed insufficient to differentiate a claimed invention from the prior art.

(b) DEFINITION.—For purposes of this section, the term “tax liability” refers to any liability for a tax under any Federal, State, or local law, or the law of any foreign jurisdiction, including any statute, rule, regulation, or ordinance that levies, imposes, or assesses such tax liability.

(c) EFFECTIVE DATE; APPLICABILITY.—This section shall take effect on the date of enactment of this Act and shall apply to any patent application pending and any patent issued on or after that date.

SEC. 15. BEST MODE REQUIREMENT.

(a) IN GENERAL.—Section 282 of title 35, United States Code, is amended in its second undesignated paragraph by striking paragraph (3) and inserting the following:

“(3) Invalidity of the patent or any claim in suit for failure to comply with—

“(A) any requirement of section 112, except that the failure to disclose the best mode shall not be a basis on which any claim of a patent may be canceled or held invalid or otherwise unenforceable; or

“(B) any requirement of section 251.”.

(b) CONFORMING AMENDMENT.—Sections 119(e)(1) and 120 of title 35, United States Code, are each amended by striking “the first paragraph of section 112 of this title” and inserting “section 112(a) (other than the requirement to disclose the best mode)”.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect upon the date of the enactment of this Act and shall apply to proceedings commenced on or after that date.

SEC. 16. TECHNICAL AMENDMENTS.

(a) JOINT INVENTIONS.—Section 116 of title 35, United States Code, is amended—

(1) in the first paragraph, by striking “When” and inserting “(a) JOINT INVENTIONS.—When”;

(2) in the second paragraph, by striking “If a joint inventor” and inserting “(b) OMITTED INVENTOR.—If a joint inventor”;

(3) in the third paragraph—

(A) by striking “Whenever” and inserting “(c) CORRECTION OF ERRORS IN APPLICATION.—Whenever”;

(B) by striking “and such error arose without any deceptive intent on his part.”.

(b) FILING OF APPLICATION IN FOREIGN COUNTRY.—Section 184 of title 35, United States Code, is amended—

(1) in the first paragraph—

(A) by striking “Except when” and inserting “(a) FILING IN FOREIGN COUNTRY.—Except when”;

(B) by striking “and without deceptive intent”;

(2) in the second paragraph, by striking “The term” and inserting “(b) APPLICATION.—The term”;

(3) in the third paragraph, by striking “The scope” and inserting “(c) SUBSEQUENT MODIFICATIONS, AMENDMENTS, AND SUPPLEMENTS.—The scope”.

(c) FILING WITHOUT A LICENSE.—Section 185 of title 35, United States Code, is amended by striking “and without deceptive intent”.

(d) REISSUE OF DEFECTIVE PATENTS.—Section 251 of title 35, United States Code, is amended—

(1) in the first paragraph—

(A) by striking “Whenever” and inserting “(a) IN GENERAL.—Whenever”;

(B) by striking “without any deceptive intention”;

(2) in the second paragraph, by striking “The Director” and inserting “(b) MULTIPLE REISSUED PATENTS.—The Director”;

(3) in the third paragraph, by striking “The provisions” and inserting “(c) APPLICABILITY OF THIS TITLE.—The provisions”;

(4) in the last paragraph, by striking “No reissued patent” and inserting “(d) REISSUE PATENT ENLARGING SCOPE OF CLAIMS.—No reissued patent”.

(e) EFFECT OF REISSUE.—Section 253 of title 35, United States Code, is amended—

(1) in the first paragraph, by striking “Whenever, without any deceptive intention” and inserting “(a) IN GENERAL.—Whenever”;

(2) in the second paragraph, by striking “in like manner” and inserting “(b) ADDITIONAL DISCLAIMER OR DEDICATION.—In the manner set forth in subsection (a).”.

(f) CORRECTION OF NAMED INVENTOR.—Section 256 of title 35, United States Code, is amended—

(1) in the first paragraph—

(A) by striking “Whenever” and inserting “(a) CORRECTION.—Whenever”;

(B) by striking “and such error arose without any deceptive intention on his part”;

(2) in the second paragraph, by striking “The error” and inserting “(b) PATENT VALID IF ERROR CORRECTED.—The error”.

(g) PRESUMPTION OF VALIDITY.—Section 282 of title 35, United States Code, is amended—

(1) in the first undesignated paragraph—

(A) by striking “A patent” and inserting “(a) IN GENERAL.—A patent”;

(B) by striking the third sentence;

(2) in the second undesignated paragraph, by striking “The following” and inserting “(b) DEFENSES.—The following”;

(3) in the third undesignated paragraph, by striking “In actions” and inserting “(c) NOTICE OF ACTIONS; ACTIONS DURING EXTENSION OF PATENT TERM.—In actions”.

(h) ACTION FOR INFRINGEMENT.—Section 288 of title 35, United States Code, is amended by striking “, without deceptive intention.”.

(i) REVISER’S NOTES.—

(1) Section 3(e)(2) of title 35, United States Code, is amended by striking “this Act,” and inserting “that Act.”.

[(2) Section 202(b)(3) of title 35, United States Code, is amended by striking “the section 203(b)” and inserting “section 203(b)”.]

(2) Section 202 of title 35, United States Code, is amended—

(A) in subsection (b)(3), by striking “the section 203(b)” and inserting “section 203(b)”;

(B) in subsection (c)(7)—

(i) in subparagraph (D), by striking “except where it proves” and all that follows through “; and” and inserting: “except where it is determined to be infeasible following a reasonable inquiry, a preference in the licensing of subject inventions shall be given to small business firms; and”;

(ii) in subparagraph (E)(i), by striking “as described above in this clause (D);” and inserting “described above in this clause;”.

(3) Section 209(d)(1) of title 35, United States Code, is amended by striking “nontransferable” and inserting “non-transferable”.

(4) Section 287(c)(2)(G) of title 35, United States Code, is amended by striking “any state” and inserting “any State”.

(5) Section 371(b) of title 35, United States Code, is amended by striking “of the treaty” and inserting “of the treaty”.

(j) UNNECESSARY REFERENCES.—

(1) IN GENERAL.—Title 35, United States Code, is amended by striking “of this title” each place that term appears.

(2) EXCEPTION.—The amendment made by paragraph (1) shall not apply to the use of such term in the following sections of title 35, United States Code:

(A) Section 1(c).

(B) Section 101.

(C) Subsections (a) and (b) of section 105.

(D) The first instance of the use of such term in section 111(b)(8).

(E) Section 157(a).

(F) Section 161.

(G) Section 164.

(H) Section 171.

(I) Section 251(c), as so designated by this section.

(J) Section 261.

(K) Subsections (g) and (h) of section 271.

(L) Section 287(b)(1).

(M) Section 289.

(N) The first instance of the use of such term in section 375(a).

(k) EFFECTIVE DATE.—The amendments made by this section shall take effect 1 year after the date of the enactment of this Act and shall apply to proceedings commenced on or after that effective date.

SEC. 17. CLARIFICATION OF JURISDICTION.

(a) SHORT TITLE.—This section may be cited as the “Intellectual Property Jurisdiction Clarification Act of 2011”.

(b) STATE COURT JURISDICTION.—Section 1338(a) of title 28, United States Code, is amended by striking the second sentence and inserting the following: “No State court shall have jurisdiction over any claim for relief arising under any Act of Congress relating to patents, plant variety protection, or copyrights.”.

(c) COURT OF APPEALS FOR THE FEDERAL CIRCUIT.—Section 1295(a)(1) of title 28, United States Code, is amended to read as follows:

“(1) of an appeal from a final decision of a district court of the United States, the District Court of Guam, the District Court of the Virgin Islands, or the District Court of the Northern Mariana Islands, in any civil action arising under, or in any civil action in which a party has asserted a compulsory counterclaim arising under, any Act of Congress relating to patents or plant variety protection;”.

(d) REMOVAL.—

(1) IN GENERAL.—Chapter 89 of title 28, United States Code, is amended by adding at the end the following new section:

“§ 1454. Patent, plant variety protection, and copyright cases

“(a) IN GENERAL.—A civil action in which any party asserts a claim for relief arising under any Act of Congress relating to patents, plant variety protection, or copyrights may be removed to the district court of the United States for the district and division embracing the place where such action is pending.

“(b) SPECIAL RULES.—The removal of an action under this section shall be made in accordance with section 1446 of this chapter, except that if the removal is based solely on this section—

“(1) the action may be removed by any party; and

“(2) the time limitations contained in section 1446(b) may be extended at any time for cause shown.

“(c) REMAND.—If a civil action is removed solely under this section, the district court—

“(1) shall remand all claims that are neither a basis for removal under subsection (a) nor within the original or supplemental jurisdiction of the district court under any Act of Congress; and

“(2) may, under the circumstances specified in section 1367(c), remand any claims within the supplemental jurisdiction of the district court under section 1367.”.

(2) CONFORMING AMENDMENT.—The table of sections for chapter 89 of title 28, United States Code, is amended by adding at the end the following new item:

“1454. Patent, plant variety protection, and copyright cases.”.

(e) TRANSFER BY COURT OF APPEALS FOR THE FEDERAL CIRCUIT.—

(1) IN GENERAL.—Chapter 99 of title 28, United States Code, is amended by adding at the end the following new section:

“§ 1632. Transfer by the Court of Appeals for the Federal Circuit

“When a case is appealed to the Court of Appeals for the Federal Circuit under section 1295(a)(1), and no claim for relief arising under any Act of Congress relating to patents or plant variety protection is the subject of the appeal by

any party, the Court of Appeals for the Federal Circuit shall transfer the appeal to the court of appeals for the regional circuit embracing the district from which the appeal has been taken.”.

(2) CONFORMING AMENDMENT.—The table of sections for chapter 99 of title 28, United States Code, is amended by adding at the end the following new item:

“1632. Transfer by the Court of Appeals for the Federal Circuit.”.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to any civil action commenced on or after the date of the enactment of this Act.

SEC. 117.118. EFFECTIVE DATE; RULE OF CONSTRUCTION.

[(a) EFFECTIVE DATE.]—Except as otherwise provided in this Act, the provisions of this Act shall take effect 1 year after the date of the enactment of this Act and shall apply to any patent issued on or after that effective date.

[(b) CONTINUITY OF INTENT UNDER THE CREATE ACT.]—The enactment of section 102(c) of title 35, United States Code, under section (2)(b) of this Act is done with the same intent to promote joint research activities that was expressed, including in the legislative history, through the enactment of the Cooperative Research and Technology Enhancement Act of 2004 (Public Law 108-453; the “CREATE Act”), the amendments of which are stricken by section 2(c) of this Act. The United States Patent and Trademark Office shall administer section 102(c) of title 35, United States Code, in a manner consistent with the legislative history of the CREATE Act that was relevant to its administration by the United States Patent and Trademark Office.]

Mr. LEAHY. Mr. President, I ask unanimous consent that the committee-reported amendments be agreed to, the motions to reconsider be considered made and laid upon the table, with no intervening action or debate; further, that the amended version be considered original text for the purposes of further amendment.

The ACTING PRESIDENT pro tempore. Is there an objection?

Without objection, it is so ordered.

The committee-reported amendments were agreed to.

Mr. LEAHY. Mr. President, the Senate today is turning its attention to a measure that will help create jobs, energize the economy, and promote innovation. The Patent Reform Act, which has also come to be called the America Invents Act, is a key part of any jobs agenda.

We can help unleash innovation and promote American invention, all without adding a penny to the deficit. This is commonsense and bipartisan legislation. During the next few days, the Senate can come together to pass this needed legislation, and do so in a bipartisan manner. It represents the finest traditions of the Senate.

I thank the majority leader for proceeding to this measure, and the Republican leader for his cooperation.

This is a bill that was reported unanimously by the members of the Judiciary Committee. Republicans and Democrats alike recognize that it is important to our country's continued economic recovery, and to our ability to successfully compete in the global economy. America needs a 21st century

patent system in order to lead. The last reform of our patent system was nearly 60 years ago, and I think it is about time the patent system caught up with the needs of this country and what the rest of the world has already done.

In his State of the Union Address, President Obama challenged the Nation to out-innovate, out-build, and out-educate. Enacting the America Invents Act is a key to meeting this challenge.

Reforming the Nation's antiquated patent system will promote American innovation, it will create American jobs, and it will grow America's economy. I thank the President and his administration for their help and support for the Leahy-Hatch-Grassley America Invents Act.

Commerce Secretary Locke has been a strong partner in our efforts, and Director Kappos of the Patent and Trademark Office has been an indispensable source of wise counsel.

Innovation drives the Nation's economy, and that entrepreneurial spirit can only be protected by a patent system that promotes invention and spurs new ideas. We need to reform our patent system so that these innovations can more quickly get to market.

A modernized patent system—one that puts American entrepreneurs on the same playing field as those throughout the world—is a key to that success. This is an idea that cuts across the political spectrum.

Our bipartisan Senate cosponsors include Senator KOHL of Wisconsin, Senator KLOBUCHAR of Minnesota, Senator GILLIBRAND of New York, the distinguished Acting President pro tempore, Senator COONS of Delaware, as well as Senator KYL, the assistant Republican leader, Senator SESSIONS of Alabama, Senator LIEBERMAN of Connecticut, Senator FRANKEN of Minnesota, Senator BLUMENTHAL of Connecticut, and Senator HARKIN of Iowa.

Republicans and Democrats from big States and small, and from all ends of the political spectrum, are coming together to support American innovation.

The Senate Judiciary Committee unanimously approved this legislation on February 3, 2011. But this effort extends back several years. Our current congressional efforts to reform the Nation's patent system began in 2005. Indeed, our bill is the product of years of work and compromise. The Senate Judiciary Committee has reported patent reform legislation to the Senate in each of the last three Congresses. And the House has seen efforts over the same period led by Congressmen LAMAR SMITH of Texas and HOWARD BERMAN of California. The legislation we are considering today, in fact, is structured on the original House bill and contains many of the original provisions.

From the beginning, we each recognized the need for a more effective and efficient patent system, one that im-

proves patent quality and provides incentives for entrepreneurs to create jobs.

A balanced and efficient intellectual property system that rewards invention and promotes innovation through high-quality patents is crucial to our Nation's economic prosperity and job growth. It is how we win the future—by unleashing the American inventive spirit. This bill, the America Invents Act, will allow our inventors and innovators to flourish, and it will do so without adding a penny to the deficit.

Not a dime in taxpayer money is spent on the Patent and Trademark Office reforms. They are all funded by patent fees, not taxes.

The America Invents Act will accomplish three important goals, which have been at the center of the patent reform debate from the beginning: It will improve and harmonize operations at the Patent and Trademark Office; it will improve the quality of patents that are issued; and it will provide more certainty in litigation.

Particularly, this legislation will transition our Nation's patent system to a first-inventor-to-file system. It will also make changes to improve the quality of patents that are issued, and it will provide the PTO with the resources it needs to work through its backlog.

The America Invents Act provides the tools the PTO needs to separate the inventive wheat from the chaff, to help businesses bring new products to market and create jobs.

This is interesting because this is a piece of legislation that is supported by both business and labor—something we all want to see in this Chamber—including the National Association of Manufacturers, the United Steelworkers, the National Venture Capital Association, the AFL-CIO, the Association of American Universities, and companies representing all sectors of the patent community that have been urging action on patent reform proposals for years.

Innovation has always been at the heart of America and American success. From the founding of our Nation, we recognized the importance of promoting and protecting innovation. The Constitution explicitly grants Congress the power to “promote the progress and science and useful arts, by securing for limited times to . . . inventors the exclusive right to their respective . . . discoveries.” It is not a creature of the legislature but an integral part of our Constitution.

The patent system plays a key role in encouraging innovation and bringing new products to market. The discoveries made by American inventors and research institutions, commercialized by our companies, and protected and promoted by our patent laws, have made our system the envy of the world.

In spite of this, a Newsweek study last year found that only 41 percent of Americans believe the United States is staying ahead of China in innovation.

A Thompson Reuters analysis has already predicted that China will outpace the United States in patent filings this year.

China has a specific plan not just to overtake the United States in patent applications, but to more than quadruple its patent filings over the next 5 years—all the more reason why we must act now. This is not something that should be delayed. We should act on it. Delaying it is saying we want China to overtake the United States. Moving forward says we want to be competitive.

It is astonishing to consider that China has been modernizing its patent laws and promoting innovation, but the United States has failed to keep pace. I said before, it has been 60 years since we last enacted reform of American patent law. We can no longer wait. We can no longer remain complacent and expect to stay on top.

In many areas that were highly contentious when the patent reform debate began, the courts have acted. Their decisions reflect the concerns heard in Congress that questionable patents were too easily obtained, too difficult to challenge. The courts have moved the law in a generally positive direction, more closely aligned with the text of the statutes.

More recently, the Federal circuit aggressively moved to constrain runaway damage awards, which plagued the patent system by basing awards on unreliable numbers, untethered to the reality of licensing decisions.

The courts have addressed issues where they can, but in some areas only Congress can take the necessary steps. Our act will both speed the application process and, at the same time, improve patent quality. It will provide the USPTO with the resources it needs to work through its application backlog, while also providing for greater input from third parties to improve the quality of patents issued and that remain in effect.

High quality patents are the key to our economic growth. They benefit both patent owners and users, who can be more confident in the validity of issued patents. Patents of low quality and dubious validity, by contrast, enable patent trolls who extort unreasonable licensing fees from legitimate businesses, and constitute a drag on innovation. Too many dubious patents also unjustly cast doubt on truly high quality patents.

The Department of Commerce issued a report indicating that these reforms will create jobs without adding to the deficit. The Obama administration supports these efforts, as do industries and stakeholders from all sectors of the patent community. Congressional action can no longer be delayed.

Innovation and economic development are not uniquely Democratic or Republican objectives, so we worked together to find the proper balance for America, for our economy, for our inventors, for our consumers.

Thomas Friedman wrote not too long ago in the New York Times that the country which “endows its people with more tools and basic research to invent new goods and services . . . is the one that will not just survive but thrive down the road. . . . We might be able to stimulate our way back to stability, but we can only invent our way back to prosperity.”

I think of the country's first patent, which was issued to a Vermonter, Thomas Jefferson, the Secretary of State, examined the application, and President George Washington signed it.

A recent Judiciary Committee meeting on this measure was on the anniversary of the day Thomas Edison received the historic patent for the principles of his incandescent lamp that paved the way for the bulb that has illuminated our homes, offices, and venues in our country and around the world.

This week is when the patent was issued for lifesaving improvements to the diver's suit. It was magician Harry Houdini who devised a mechanism that allowed divers in distress to safely escape a diving suit.

So we can smooth the path for more interesting and great American inventions. That is what the bipartisan comprehensive patent reform bill would do.

I wish to recognize in particular the work of Senator HATCH, who is here on the Senate floor—and he has been a longtime partner of mine on intellectual property issues—and Senator GRASSLEY, the ranking Republican on our committee. The bill has also received tremendous input from Senator KYL, Senator KLOBUCHAR, Senator SESSIONS and many others. We are working together, along with those on both sides of the aisle in the House, to reach the goal of improving patent quality and the operations at the PTO, and to address the related unpredictability of litigation that has been harming innovation.

No one claims that ours is a perfect bill. It is a compromise that will make key improvements in the patent system. Over the course of the next couple of days, the Senate will have the opportunity to consider amendments.

Senator COBURN intends to bring an amendment on the use of patent fees. Other Senators who disagree with the move to a first-to-file system may seek to reverse that progress. I urge those Senators that have amendments to come forward, agree to time agreements and proceed without delay.

We should be able to complete action on this bill this week and I would hope by Wednesday night. Then the Senate will need to move on to other important matters. So after a brief period for opening statements to outline the bill and frame the debate, I will call for Senators to come forward with any amendments they may have to the bill. This bill is important and its scheduling comes as no surprise. It was more than 10 days ago that the Senate unanimously agreed to its consideration.

So, let us do our job, and get to the task of considering and completing action on this important bill in order to help create jobs, encourage innovation and promote American invention.

Mr. President, some of the Nation's leading innovators and inventors have expressed strong support for S. 23, the America Invents Act. The Coalition for Patent and Trademark Information Dissemination, whose members are patent and trademark holders, recently wrote to the Senate Judiciary Committee in support of the bill, stating that its members have “an interest in a more efficient system that produces higher-quality patents and trademarks.” The Intellectual Property Owners Association, one of the largest trade associations devoted to intellectual property rights also recently wrote to Senators endorsing important provisions in the bill, including the first-to-file system. I ask that these letters, as well as a statement of support from the Coalition for 21st Century Patent Reform be printed in the RECORD at this time. I also ask that a list of cross-sector manufacturers and innovators that support S. 23 be printed in the RECORD.

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

COALITION FOR PATENT AND TRADEMARK INFORMATION DISSEMINATION,

February 1, 2011.

Hon. PATRICK J. LEAHY,
Chairman, Judiciary Committee,
U.S. Senate, Washington, DC.

Hon. CHARLES GRASSLEY
Ranking Member, Judiciary Committee,
U.S. Senate, Washington, DC.

DEAR CHAIRMAN LEAHY AND RANKING MEMBER GRASSLEY: The Coalition writes in support of S. 23, the Patent Reform Act of 2011.

Coalition members are information services and workflow solution provider companies that offer value-added patent and trademark information services. Our services are aimed at enabling patent and trademark applicants to find and make available the most relevant information related to their claimed inventions and marks through the data enhancements and state of the art search tools provided. Members also are patent and trademark holders with growing numbers of patent and trademark applications who have an interest in a more efficient system that produces higher-quality patents and trademarks.

Patent quality is directly related to the adequacy of the prior art presented to examiners. When applicants conduct a patentability search and disclose all relevant prior art to examiners, examiners will have a significantly increased likelihood of making the right decision about patentability. A major positive addition to patent law would be the provisions in S. 23 allowing submission of patents or other publications by third parties while applications are still under consideration by the USPTO. This should further add to the prior art made available to the examiner and has the potential to greatly enhance patent quality.

Additionally, we applaud the inclusion of supplemental examination provisions in the bill. This will allow patent holders to request a review of patents where pertinent history or information may have been intentionally omitted in original requests. The inclusion

of this provision will further strengthen our laws to prevent unlawful infringement.

We are delighted that a provision disallowing outsourcing of USPTO searches no longer seems to be under consideration. Coalition members believe that the USPTO should be able to contract with private companies to perform searches, whether as part of the PCT process, as is now currently permitted, or possibly for national searches at some future time. USPTO operational flexibility with PCT searches has proven to drastically reduce pendency rates. Achieving quality, speed, and cost-effectiveness in USPTO processes is a goal to encourage. USPTO management should be empowered to use the best source or sources for searches.

There is one addition to S. 23 that we would hope to see as the legislation advances. Coalition members believe that full disclosure of prior art information to examiners is constrained by concerns about inequitable conduct liability. We urge Congress to reform the inequitable conduct defense in order to remove the disincentive for full disclosure of all prior art.

We appreciate this opportunity to express our positions on patent reform issues, and the members of the Coalition stand ready to work with the Senate Judiciary Committee as it considers patent reform legislation.

Sincerely,

MARLA GROSSMAN,
*Executive Director, Coalition for Patent
and Trademark Information Dissemination.*

INTELLECTUAL PROPERTY
OWNERS ASSOCIATION,
February 25, 2011.

Re amendments to S. 23, the "Patent Reform Act of 2011"

The Hon. _____
*U.S. Senate,
Washington, DC.*

DEAR SENATOR _____: Intellectual Property Owners Association (IPO) is pleased that the Senate is planning to proceed with consideration of S. 23, the "Patent Reform Act of 2011."

IPO is one of the largest and most diverse trade associations devoted to intellectual property rights. Our 200 corporate members cover a broad spectrum of U.S. companies in industries ranging from information technology to consumer products to pharmaceuticals and biotechnology.

We wish to give you our advice on amendments that we understand might be offered during consideration of S. 23:

Vote AGAINST any amendment to delete the "first-inventor-to-file" and related provisions in section 2 of the bill. First-inventor-to-file, explained in a 1-page attachment to this letter, is central to modernization and simplification of patent law and is very widely supported by U.S. companies.

Vote FOR any amendment guaranteeing the U.S. Patent and Trademark Office access to all user fees paid to the agency by patent and trademark owners and applicants. Current delays in processing patent applications are totally unacceptable and the result of an underfunded Patent and Trademark Office.

Vote AGAINST any amendment that would interpose substantial barriers to enforcement of validly-granted "business method" patents. IPO supports business method patents that were upheld by the U.S. Supreme Court in the recent *Bilski* decision.

For more information, please call IPO at 202-507-4500.

Sincerely,

DOUGLAS K. NORMAN,
President.

INTELLECTUAL PROPERTY
OWNERS ASSOCIATION,
February 25, 2011.

FIRST-INVENTOR-TO-FILE IN S. 23, THE
"PATENT REFORM ACT OF 2011"

Section 2 of S. 23 simplifies and modernizes U.S. patent law by awarding the patent to the first of two competing inventors to file in the U.S. Patent and Trademark Office (PTO), a change from the traditional system of awarding the patent, in theory, to the first inventor to invent. First-inventor-to-file in S. 23 has these advantages:

Eliminates costly and slow patent interference proceedings conducted in the PTO and the courts to determine which inventor was the first to invent.

Creates legal certainty about rights in all patents, the vast majority of which never become entangled in interference proceedings in the first place, but which are still subject to the possibility under current law that another inventor might come forward and seek to invalidate the patent on the ground that this other inventor, who never applied for a patent, was the first to invent.

Encourages both large and small patent applicants to file more quickly in order to establish an early filing date. Early filing leads to early disclosure of technology to the public, enabling other parties to build on and improve the technology. (Applicants who plan to file afterward in other countries already have the incentive to file quickly in the U.S.)

Makes feasible the introduction of post-grant opposition proceedings to improve the quality of patents, by reducing the issues that could be raised in a post-grant proceeding, thereby limiting costs and delay.

Follows up on changes already made by Congress that (1) established inexpensive and easy-to-file provisional patent applications and, (2) in order to comply with treaty obligations, allowed foreign inventors to participate in U.S. patent interference proceedings.

THE COALITION FOR 21ST
CENTURY PATENT REFORM

BIPARTISAN EFFORTS MOVE STRONG PATENT REFORM BILL FORWARD IN SENATE—COALITION SUPPORTS COMMITMENT TO IMPROVE PATENT SYSTEM FOR ALL INVENTORS

Washington, DC.—Gary Griswold of the Coalition for 21st Century Patent Reform today released the following statement after the Senate Judiciary Committee overwhelmingly approved S. 23, The Patent Reform Act of 2011. The Coalition appreciates the strong bipartisan support of the bill in the committee and the recognition by the Senators that patent reform will spur innovation and help create jobs across all business sectors.

"Our Coalition is grateful for the bipartisan vote in support of the legislation and the Senators' hard work to craft legislation that will improve the patent system for all the nation's innovators. It is very encouraging to have the committee's overwhelming support for the legislation as it moves to the Senate floor. We recognize Senators will continue to fine-tune the language of the bill and we look forward to working actively with them to address outstanding issues.

The members of our Coalition will be working with other inventors and innovators in the coming weeks to communicate with all Senators as well as members of the House about the importance of this legislation for jobs, promoting innovation, and solidifying our global competitiveness."

CROSS-SECTOR MANUFACTURERS &
INNOVATORS IN SUPPORT OF S. 23

3M, Air Liquide, Air Products, BP,
Bridgestone American Holdings, Inc.,

Cargill, Caterpillar, Coalition for Patent and Trademark Information Dissemination, Coalition for 21st Century Patent Reform, Cummins.

The Dow Chemical Company, DuPont, Eastman Chemical Company, ExxonMobil, General Electric, General Mills, Henkel Corporation, Honeywell, Intellectual Property Owners Association.

Illinois Tool Works, Kodak, Milliken and Company, Monsanto, Northrop Grumman, PepsiCo, Inc., Procter & Gamble, United Technologies, USG Corporation, Weyerhaeuser.

AMENDMENT NO. 114

Mr. LEAHY. Mr. President, as part of the housekeeping measures we have, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. BLUMENTHAL). The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Vermont [Mr. LEAHY] proposes an amendment numbered 114.

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

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

The amendment is as follows:

(Purpose: To improve the bill)

On page 1, strike line 5, and insert the following: "America Invents Act".

On page 79, strike lines 1 through 17, and insert the following:

(1) IN GENERAL.—The Director shall have authority to set or adjust by rule any fee established, authorized, or charged under title 35, United States Code, and the Trademark Act of 1946 (15 U.S.C. 1051 et seq.), notwithstanding the fee amounts established, authorized, or charged thereunder, for all services performed by or materials furnished by, the Office, provided that patent and trademark fee amounts are in the aggregate set to recover the estimated cost to the Office for processing, activities, services, and materials relating to patents and trademarks, respectively, including proportionate shares of the administrative costs of the Office.

Mr. LEAHY. Mr. President, I see the distinguished senior Senator from Utah on the Senate floor, a man who has worked for years on this issue and has made every effort to keep it bipartisan.

I yield to the Senator from Utah.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I thank the distinguished chairman of the Judiciary Committee. He has been one of the leaders the whole time I have been on that committee with regard to intellectual property issues. It has always been a pleasure to work with him and his staff. They are good people.

This is a particularly important bill. It is only the first step, once we bring it up and hopefully pass it, and then the House will bring up their bill. There are likely to be differences between the two, and we will have to get together in conference to resolve those differences. So those who might have some angst about this particular bill, give it time. We will be working diligently—the distinguished Senator from Vermont, myself, and others, including, of course, our ranking member, Senator GRASSLEY—we will be working diligently to try and resolve these

problems and hopefully we will end up with a bill that everybody in this country should recognize as what needs to be done to keep us at the forefront of all technological innovation in this world.

I rise today to express my support for the pending patent reform legislation before us. As many know, several of my colleagues and I have been working together on this bill for several Congresses. I especially wish to recognize the ongoing efforts of our Judiciary Committee chairman, PAT LEAHY. Over the years he and I have worked tirelessly to bring about long overdue reform to our Nation's patent system. I also wish to recognize the efforts of the Judiciary Committee ranking member, CHUCK GRASSLEY, as well as many of my Senate colleagues who have been instrumental in forging the compromise before us today which, in my opinion, is the first step in trying to arrive at a final consensus bill.

Similarly, no enumeration would be complete without recognizing the considerable work that has been done by our colleagues over in the House of Representatives. House Judiciary Committee chairman LAMAR SMITH has been a leader on patent reform legislation for many years. His vision, his expertise, and his leadership are highly respected and appreciated by me, by my colleagues as well, and by many throughout the patent community.

I also wish to specifically acknowledge the invaluable contributions of Representatives JOHN CONYERS, HOWARD BERMAN, BOB GOODLATTE, HOWARD COBLE, DARRELL ISSA, and ZOE LOFGREN. They have all been very effective people with regard to these very important issues. They have been stalwarts in underscoring the vital need to reform our patent system. I look forward to seeing the results of their process and working with them to complete this important task.

Most of us are very familiar with the history of patent legislation, but it bears repeating that we have not had meaningful reform to our patent system in well over a half century—not any meaningful reform whatsoever, even though many things have changed during these intervening years—courts have instituted welcome changes to our patent system, a lot of technology has changed, and a lot of innovation has occurred.

I am not going to spend my time today on a history lesson. Instead, I urge everyone to consider not the past, but to look forward to the future, and that future begins with examining our present. The Nation's current economic situation requires that we take advantage of our ingenuity that has made America the economic envy of the world.

If enacted, the American Invents Act would move the United States to a first-inventor-to-file system, which will create a system that is more transparent, objective, and predictable for the patentee. In addition,

transitioning to a first-to-inventor-to-file system will facilitate harmonization with other patent offices across the world and contribute to ongoing work-sharing processes.

The bill will also establish another means to administratively challenge the validity of a patent at the U.S. Patent and Trademark Office, USPTO—creating a cost-effective alternative to formal litigation, which will further enhance our patent system.

Patent owners will be able to improve the quality of their patents through a new supplemental examination process. The bill further prevents patents from being issued on claims for tax strategies and provides fee-setting authority for the USPTO Director to ensure the Office is properly funded.

This bipartisan bill also contains provisions on venue to curb forum shopping; changes to the best mode disclosure requirement; increased incentives for government laboratories to commercialize inventions; restrictions on false marking claims, and removes restrictions on the residency of Federal Circuit judges.

For me, it is pretty simple. Patent reform is more than words on paper. It is about jobs and the positive impact they have on our economy. Chairman LEAHY understands this connection and has wisely named the bill the America Invents Act of 2011.

While we debate this important legislation, it is crucial that we keep the creation of jobs and economic prosperity at the forefront of our thoughts. After all, patents encourage technological advancement by providing incentives to invent, to invest in, and to disclose new technology. Now more than ever we must ensure efficiency and increased quality in the issuance of patents. This, in turn, will create an environment that fosters entrepreneurship and the creation of new jobs, thereby contributing to growth within all sectors of our economy.

If we think about it, one single deployed patent has a ripple effect that works like this: A properly examined patent, promptly issued by the USPTO, creates jobs—jobs that are dedicated to developing and producing new products and services. Unfortunately, the current USPTO backlog now exceeds 700,000 applicants. The sheer volume of the patent applications not only reflects the vibrant, innovative spirit that has made America a worldwide innovative leader in science, education, and technology, but the patent backlog also represents dynamic economic growth waiting to be unleashed. We cannot afford to go down this path any longer. We need to take advantage of this opportunity to expand our economy.

During consideration of the America Invents Act, I encourage my colleagues to be mindful that legislation is rarely without its imperfections, and we have a tremendous chance to take much needed action. To those who believe

otherwise, rest assured my intent is to do no harm. But I want the legislative process to move forward. It is long overdue.

I urge my colleagues to participate in the debate and vote on the amendments they think will strengthen the bill. There are some proposals that I believe merit serious consideration by all of us. At the end of the day, the passage of this bill will update our patent system, help strengthen our economy, and provide a springboard for further improvements to our intellectual property laws.

I have every confidence that we can come together and act in a bipartisan manner. The stakes are simply too high for us not to seize this moment.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I rise to speak on S. 23. We probably have a lot of amendments, but right now we are talking about the bill. The America Invents Act is what it is called. I should express my gratitude to those others who have helped so much on this and, quite frankly, more involved on this bill than I have been, including Chairman LEAHY, Senator HATCH, Senator SESSIONS, and Senator KYL.

This is a bipartisan bill. Over the past 5 years or so, the Senate Judiciary Committee has been considering comprehensive patent reform. Chairman LEAHY has engaged Senators on both sides of the aisle as well as a wide range of groups on the outside. His efforts have been pivotal in bringing together diverse views and crafting a reasonable compromise bill. In fact, the bill is supported by a large number of industries and other stakeholders from the U.S. patent community.

I commend the leadership of Chairman LEAHY as well as the leadership of Senator HATCH for getting us to where we are at this point. Intellectual property rights are extremely important to our Nation's economy. An effective and efficient patent system will help promote innovation and technological advancement in America and make life better for us all. An effective and efficient patent system also will help provide stimulus for businesses and obviously generate many new jobs. Everyone agrees we need a well-functioning patent and trademark office within our government so that it can complete its work in a timely manner.

We should find ways to help the Patent and Trademark Office speed up the patent application process and eliminate the current backlog it is experiencing. We should reduce costs and decrease abusive litigation and improve certainty in the patent process and strengthen patent quality. The America Invents Act will help do all of these things.

The bipartisan bill before us will update and upgrade the U.S. patent system. It will enhance transparency and patent quality, and it will ensure that the Patent and Trademark Office has

the tools and funding it needs to cut its backlog and process patent applications more quickly.

The improvements to the patent system contained in our bill will help spur economic prosperity and job creation. I am pleased to support it.

Specifically, the bill would improve patent quality by establishing the opportunity for third parties to submit prior art and other information related to a pending application for consideration by a patent examiner. By allowing prior art to be submitted earlier in the process and explained to the office, patent examiners will be able to issue higher quality patents.

The bill would create a “first window” post-grant opposition proceeding open for 9 months after the grant of a patent. This would allow the Patent and Trademark Office to weed out patents that should not have been issued in the first place.

This new post-grant review process—which was recommended in a 2004 report issued by the National Academy of Sciences—would enable early challenges to patents, but also protect the rights of inventors and patent owners against endless litigation. The reason we want to ensure that the Patent and Trademark Office issues high quality patents is to incentivize investment in truly innovative technological advances and provide more certainty for investors in these inventions.

In addition, the bill would improve the current inter partes administrative process for challenging the validity of a patent. It would establish an adversarial inter partes review, with a higher threshold for initiating a proceeding and procedural safeguards to prevent a challenger from using the process to harass patent owners. It also would include a strengthened estoppel standard to prevent petitioners from raising in a subsequent challenge the same patent issues that were raised or reasonably could have been raised in a prior challenge. The bill would significantly reduce the ability to use post-grant procedures for abusive serial challenges to patents. These new procedures would also provide faster, less costly alternatives to civil litigation to challenge patents.

The bill would institute a gatekeeping role for the court to assess the legal basis for damages and jury instructions. This would provide more certainty in damages calculation and promote uniformity and fairness. The bill also would transition the United States to a first-inventor to file system, simplifying the application process and coordinating it with our trading partners. This change will reduce costs and help improve the competitiveness of American inventors abroad.

Further, the bill would provide fee setting authority for the Patent Trademark Office Director to ensure that the Patent and Trademark Office is properly funded and can reduce its current backlog of patent applications.

The bill also would mandate a reduction of fees by 50 percent for small entities and 75 percent for micro-entities.

I want to particularly thank Chairman LEAHY for working with me and Senator BAUCUS on a provision that would curtail patents on tax strategies. These patents encumber the ability of taxpayers and their advisers to use the tax law freely, interfering with the voluntary tax compliance system. Tax strategy patents undermine the fairness of the Federal tax system by removing from the public domain ways to satisfy a taxpayer's legal obligations. If firms or individuals hold patents for these strategies, some taxpayers could face fees simply for complying with the Tax Code. Moreover, tax patents provide windfalls to lawyers and patent holders by granting them exclusive rights to use tax loopholes, which could provide some businesses with an unfair advantage in our competitive market system.

Our provision would ensure that all taxpayers will have equal access to strategies to comply with the Tax Code.

This provision was carefully drafted with the help of the Patent and Trademark Office not to cover software preparation and other software, tools or systems used to prepare tax or information returns or manage a taxpayer's finances.

In conclusion, the America Invents Act will protect inventors' rights and encourage innovation and investment in our economy. The bill will improve transparency and third party participation in the patent application review process. This, in turn, will strengthen patent quality and result in more fairness for both patent holders and patent challengers. The bill will institute beneficial changes to the patent process to curb litigation abuses and improve certainty for investors and innovators. It will help companies do business more efficiently on an international basis.

The bill also will enhance operations of the Patent and Trademark Office with administrative reforms and will give the office fee setting authority to reduce backlogs and better manage its business.

I am pleased to support this hard fought bipartisan legislation, and I urge my colleagues to support it as well.

I yield the floor.

Mr. LEAHY. Mr. President, I thank the distinguished Senator from Iowa. As I noted before he got on the floor, he has been extremely important in working on this issue.

Mr. President, just so I can have a moment to speak with the Senator from Louisiana, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. VITTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

AMENDMENT NO. 112

Mr. VITTER. Mr. President, pursuant to a conversation with the distinguished committee chairman, I ask unanimous consent to temporarily set aside the pending amendment to call up the Toomey-Vitter amendment.

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

The clerk will report.

The legislative clerk read as follows:

The Senator from Louisiana [Mr. VITTER], for himself and Mr. TOOMEY, proposes an amendment numbered 112.

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

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

The amendment is as follows:

(Purpose: To require that the Government prioritize all obligations on the debt held by the public in the event that the debt limit is reached)

At the appropriate place, insert the following:

SEC. ____ . FULL FAITH AND CREDIT ACT.

(a) **SHORT TITLE.**—This section may be cited as the “Full Faith and Credit Act”.

(b) **PRIORITIZE OBLIGATIONS ON THE DEBT HELD BY THE PUBLIC.**—In the event that the debt of the United States Government, as defined in section 3101 of title 31, United States Code, reaches the statutory limit, the authority of the Department of the Treasury provided in section 3123 of title 31, United States Code, to pay with legal tender the principal and interest on debt held by the public shall take priority over all other obligations incurred by the Government of the United States.

Mr. VITTER. Mr. President, this Toomey-Vitter amendment is the Full Faith and Credit Act—the concept that has been discussed for several weeks prior to this week. It is very timely, as we are all rightly focused on the spending and debt issue with the Thursday deadline coming up.

No one that I know of wants the government to be shut down in any way, shape, or form. No one that I know of wants any massive, significant disruption. But lots of people that I know of, including many in Louisiana, want us to change business as usual in Washington, starting with spending and debt. This full faith and credit amendment is an important step in that regard. Because of the time limitations in front of us before we move to other pending business at 4:30, I have agreed to come back at a later time to fully lay out this Toomey-Vitter amendment, as well as a second-degree Vitter amendment that I will advance with regard to Social Security.

It is very important to discuss this spending, to put it on the floor and start this debate with vigor about spending and debt, changing the fiscal policy of this country so that we can get on a more sustainable path. There is only one thing certain about this debate; that is, if we don't change the fiscal path we are on, it will lead to an economic disaster.

I urge us to debate these important proposals immediately, well before the Thursday deadline, and come to a strong, positive resolution. I will be back on the floor soon with Senator TOOMEY to fully explain this amendment, as well as the Vitter second-degree amendment.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. LEE. Mr. President, I send a motion to the desk.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I understand we have a unanimous consent agreement at 4:30 p.m. to go to two judicial nominations.

The PRESIDING OFFICER. The Senator is correct.

Mr. LEAHY. I ask for the regular order.

EXECUTIVE SESSION

NOMINATION OF AMY TOTENBERG TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DIS- TRICT OF GEORGIA

NOMINATION OF STEVE C. JONES TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DIS- TRICT OF GEORGIA

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session to consider the following nominations, which the clerk will report.

The legislative clerk read the nominations of Amy Totenberg, of Georgia, to be United States District Judge for the Northern District of Georgia and Steve C. Jones, of Georgia, to be United States District Judge for the Northern District of Georgia.

The PRESIDING OFFICER. Under the previous order, there will now be 1 hour of debate, equally and divided and controlled in the usual form.

The Senator from Vermont.

Mr. LEAHY. There is both good news and bad news represented by today's debate. The good news is that we begin another week by considering two of President Obama's judicial nominations. With judicial vacancies remaining over 100, nearly half of them judicial emergencies, the Senate's action today on 2 outstanding nominees to fill judicial emergency vacancies in Georgia is much needed.

The bad news is that we did not consider these nominations earlier, and that we are not considering any of the other 8 judicial nominees awaiting final Senate consideration and confirmation. Two of those nominees, Sue Myerscough and James Shadid, were each nominated to fill emergency vacancies on the Central District of Illinois. Their confirmations would help relieve the chief judge of that district, who is the only active judge in the en-

tire district. Chief Judge McCuskey wrote to Senator DURBIN in November urging the Senate to take action to fill those vacancies, but we did not. Despite the desperate need in that district, neither of these nominations received final Senate votes when they were reported unanimously by the Judiciary Committee last year. Both have now been reported unanimously again, and we should not further delay taking care of this overburdened court and the hard-working Americans who depend on it.

I do thank, in particular, the majority leader for scheduling this time, and also thank the Republican leader for his cooperation. I also commend our ranking Republican on the Judiciary Committee. Senator GRASSLEY has worked with me on each of the judicial nominations that President Obama re-nominated this January.

All 13 of the judicial nominations that were unanimously reported last year have now been unanimously reported, again, this year. To date, five of those nominations have been confirmed and with the confirmation of Amy Totenberg and Steve Jones, we will have reconsidered and confirmed 7 of those 13 unanimously reported judicial nominees.

The Judiciary Committee has also now considered the renomination of Susan Carney of Connecticut to the Second Circuit and Michael Simon to be a district court judge in Oregon. More than half of the Republicans on the Judiciary Committee voted in favor of those nominations. They should be debated and confirmed without delay, as well.

Working with Senator GRASSLEY, I also expect to be able to move forward with Judiciary Committee consideration of the renominations of two district court nominees, Edward Chen of California and Jack McConnell of Rhode Island, in the next few weeks. The renomination of Goodwin Liu of California to the Ninth Circuit will be reexamined at a Judiciary Committee hearing this week, at the request of our Republican members, and then reconsidered by the committee, as well.

We will be holding our third confirmation hearing of the year this week. It will include Professor Liu and four other judicial nominees from Tennessee, Florida, and New Jersey. At the earlier two hearings we considered eight additional judicial nominees who now await committee approval and Senate consideration. We are holding hearings every 2 weeks and hope finally to begin to bend the curve and start to lower judicial vacancies across the country.

I also commend the Senator from Iowa for his statement on February 14 during which he urged the Senate to turn the page and not revisit the re-terminations from administrations past. I agree.

The nominees we consider today are both from Georgia. They were both reported unanimously by the Judiciary

Committee this year. Actually, they were also reported unanimously by the Judiciary Committee last year. They were among the 19 judicial nominees who were ready to be confirmed by the Senate last year but were not. When there was objection to proceeding last year, the vacancies persisted, the President had to renominate them and the Judiciary Committee had to reconsider their nominations. I expect the Senate will confirm them both tonight. I hope we do so unanimously. Both have the support of their home State Senators. Senators ISAKSON and Senator CHAMBLISS worked with me and with President Obama in connection with these nominations.

While I am encouraged that the Senate is proceeding today, I am disappointed that we did not consider these nominees and other nominees from California, North Carolina, and the District of Columbia before the Presidents Day recess. We used to be able to clear the calendar of nominations before a recess. All six of these judicial nominees were approved unanimously by every Republican and every Democrat on the Judiciary Committee weeks before the recess. When they are considered, I fully expect they will be confirmed unanimously by the Senate. With persistently high judicial vacancies around the country, the Senate should be considering judicial nominations without unnecessary delays. Litigants all over the country are having a hard time getting their cases heard in court because of the high number of vacancies. There are nominees pending on the calendar with unanimous support by both Republicans and Democrats on the Senate Judiciary Committee. We ought to at least vote on these nominations to fill the vacancies.

In fact, when these 2 nominations are confirmed, there will still be nearly 100 Federal judicial vacancies around the country. That is too many and they have persisted for too long. That is why Chief Justice Roberts, Attorney General Holder, White House Counsel Bob Bauer, and many others, including the President of the United States, have spoken out and urged the Senate to act.

Nearly one out of every eight Federal judgeships is vacant. That puts at serious risk the ability of Americans all over the country to have a fair hearing in court. The real price being paid for these unnecessary delays is that the judges who remain are overburdened and the American people who depend on them are being denied hearings and justice in a timely fashion. These delays affect everyone; whether you are a plaintiff, a prosecutor, or a defendant.

Regrettably, the progress we made during the first 2 years of the Bush administration has not been duplicated, and the progress we made over the 8 years from 2001 to 2009 to reduce judicial vacancies from 110 to a low of 34 was reversed. The vacancy rate we reduced from 10 percent at the end of

President Clinton's term to less than 4 percent in 2008 has now risen back to over 10 percent.

In contrast to the sharp reduction in vacancies we made during President Bush's first 2 years when the Democratically controlled Senate confirmed 100 of his judicial nominations, only 60 of President Obama's judicial nominations were allowed to be considered and confirmed during his first 2 years. We have not kept up with the rate of attrition, let alone brought the vacancies down. By now they should have been cut in half. Instead, they continue to hover around 100.

The Senate must do better. The Nation cannot afford further delays by the Senate in taking action on the nominations pending before it. Judicial vacancies on courts throughout the country hinder the Federal judiciary's ability to fulfill its constitutional role. They create a backlog of cases that prevents people from having their day in court. This is unacceptable.

We can consider and confirm this President's nominations to the Federal bench in a timely manner. President Obama has worked with both Democratic and Republican home State Senators to identify superbly qualified consensus nominations.

None of the nominations on the Executive Calendar are controversial. They all have the support of their home State Senators, Republicans and Democrats. All have a strong commitment to the rule of law. All have demonstrated faithfulness to the Constitution.

During President Bush's first term, his first 4 tumultuous years in office, we proceeded to confirm 205 of his judicial nominations. This was after 60 of President Clinton's nominations had been pocket-filibustered by those on the other side of the aisle. I decided not to continue that trend and we showed good faith in moving 100 of President Bush's nominees in the 17 months that I was chairman. During the remaining 31 months under Republican control, the Senate confirmed another 105 judicial nominations. So far in President Obama's third year in office, the Senate has only been allowed to consider 67 of his Federal circuit and district court nominees.

We remain well short of the benchmark we set during the Bush administration. When we approach it, we can reduce vacancies from the historically high levels at which they have remained throughout the first 3 years of the Obama administration to the historically low level we reached toward the end of the Bush administration.

I have often said that the 100 of us in the Senate stand in the shoes of over 300 million Americans. We owe it to them to do our constitutional duty of voting on the President's nominations to be Federal judges. We owe it to them to make sure that hard-working Americans are able to have their cases heard in our Federal courts.

I know the distinguished Senator from Iowa is going to want to speak

and time has been reserved for him. I first yield to the Senator from Pennsylvania on my time.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. CASEY. Mr. President, I rise to ask unanimous consent to speak as in morning business.

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

(The remarks of Mr. CASEY are printed in today's RECORD under "Morning Business.")

Mr. CASEY. Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CHAMBLISS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. CHAMBLISS. Mr. President, I rise today, along with my colleague from Georgia, Senator ISAKSON, to commend to this body the confirmation of two judges who have been nominated by President Obama for the Northern District of Georgia.

First of all, Amy Totenberg is an Atlanta lawyer who certainly has the academic credentials that have prepared her well—a graduate of both Radcliffe College and Harvard and also Harvard Law School. She began law practice in Atlanta in 1977 with the Law Project and then went out on her own for 20 years. During her time as a solo practitioner, she specialized in constitutional rights litigation and also became a well-known arbitrator and mediator, particularly in employment and civil rights cases. She served as a court-appointed monitor and mediator for the U.S. District Court for the District of Columbia and has served as a special master for the U.S. District Court in Maryland on an institutional education reform case. Ms. Totenberg has a wealth of experience on that issue, having served as general counsel to the city of Atlanta's Board of Education from 1994 to 1998 and also having served as a part-time municipal court judge in Atlanta for several years. She also has been an adjunct professor at Emory University Law School.

She has been deeply involved in her community. In addition to her legal activities, Ms. Totenberg has been a member of the State Personnel Boards, served as a member of the Governor's Education Reform Commission, and given her time to Hands On Atlanta, the city's largest volunteer service program.

I commend Ms. Totenberg for confirmation today as her name comes before this body.

Steve Jones has been a friend for a long time. He is a guy who, if you had to pick a jurist, you would want to go before whether you are a lawyer, a defendant, or a plaintiff in a civil lawsuit.

Steve Jones is a native of Athens, GA, and attended the University of Georgia both as an undergraduate and as a graduate of the law school. He began his legal career as assistant district attorney before becoming a municipal court judge. In 1995, he was appointed to the superior court bench for the Western Judicial Circuit, which covers both Clarke and Oconee Counties, two of the fastest growing counties in our State. In his capacity as a superior court judge, Steve presided over both criminal and civil cases. He has also supervised the circuit's felony drug court for 6 years.

His list of honors and awards is truly too numerous to mention here for this body, but he has been awarded the State Bar of Georgia's Distinguished Judicial Service Award, Georgia Legal Services Program's Georgia Justice Builder Award, the University of Georgia President's Fulfilling the Dream Award, the Boy Scouts of America Distinguished Citizen Award, the Chief Justice Robert Benham Award for community service beyond official work, and the Julian Bond Humanitarian Award.

He has been very active in the Athens and Clark County communities. Steve is a wonderful person, a great family man, a great community citizen, and an outstanding jurist. He is going to make a truly outstanding district court judge on the northern district court in Atlanta.

I yield to my colleague, Senator ISAKSON.

Mr. ISAKSON. Mr. President, I rise to second the statements made by Senator CHAMBLISS on these two nominees to the northern district of Georgia court, Amy Totenberg and Steve Jones. Amy Totenberg is an attorney, in practice for many years, a judge, an arbitrator, a mediator, and an educator. She brings a wealth of experience to the bench in many areas, not the least of which is personnel law. In fact, during her term of service to the Atlanta Board of Education in the mid-1990s, I was chairman of the State Board of Education and dealt with the major litigation pieces that went through the system of education in Georgia. I know of her competence, her ability, and the trust her colleagues have in her, and I think she will be an excellent appointee to the northern district of Georgia bench.

Steve Jones is the real deal. He is a terrific individual, one of those people who is so active in trying to make the community better. One example is Clark County in Athens where Steve has been a superior court judge for many years, which is one of the leading and founding drug courts in America, an intervention court that intervenes in those first drug cases when young people are caught for the first time, works with them as an advocate and as a mentor to see to it they never return to drugs and therefore never return to crime. That is just one example of his intensity in trying to make his community better.

He is respected by lawyers throughout the circuit, he is respected by his fellow judges, and he is deeply respected by me as an individual who brings great credit to the State and great credit to the bench.

I urge all our colleagues tonight on the vote for Steve Jones and Amy Totenberg to unanimously support both of those nominees to the northern district of Georgia bench.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, we are continuing in our cooperative effort to fill vacancies in the Federal judiciary that have been designated as judicial emergencies. Today, the Senate will confirm two more of President Obama's judicial nominees. I am pleased we are moving forward on consensus nominees who will lessen the burden on our overworked courts.

My Republican colleagues and I continue to demonstrate our ability and desire to work with the President and the Democratic majority. We will have confirmed 7 judicial nominees in just 17 short days the Senate has been in session this Congress. We have reported out of committee a total of 15 judicial nominees, or 29 percent of the total nominees submitted. We have already held two hearings in committee on eight judicial nominees, with additional nominees scheduled for a hearing later this week. With this quick and productive pace, we have taken positive action on 55 percent of the judicial nominations sent to the committee this year.

I continue to work with the chairman to ensure all nominees are afforded a fair but thorough process, in a timely manner. I have appreciated the chairman's courtesy as we work together to set schedules and agendas. It is imperative that the administration work with us, as well, to fill vacancies. I am particularly concerned about those seats designated as judicial emergencies.

We continue to hear about the high judicial vacancy rate. I think the record is clear that the Senate is addressing that issue in vigorous manner. However, I continue to note that the President has failed to submit a nomination for over half of the vacancies. For judicial emergencies, over 57 percent of those seats have no nominee.

The two vacancies we are filling today took some time for a nomination to be sent to the Senate. Both seats became vacant in December 2008, at the end of the Bush administration. It took President Obama over a year to name a nominee for one seat, and nearly a year and a half to nominate for the other seat. So those who are concerned about a high vacancy rate in the Federal judiciary should pay attention to the nomination process, not just Senate confirmations.

I will say a few words about the nominees who are scheduled to have votes today. I thank our leadership for

the reasonable arrangement that was reached to consider these nominations.

First, Amy Totenberg is nominated to be a U.S. district court judge for the Northern District of Georgia. She received her A.B., magna cum laude, and her J.D. from Harvard University. Upon graduation, she joined the Law Project as a partner, where she focused on Federal constitutional and employment law. She left the Law Project to become a solo practitioner where she maintained a general civil practice. Ms. Totenberg also served as municipal court judge for Atlanta, and was appointed by the Atlanta Board of Education as the first in-house general counsel for the Atlanta Public School District.

Over the past decade, while maintaining a solo practice, Ms. Totenberg has spent the majority of her time as a special master, monitor, and arbitrator/monitor for the U.S. district courts in Maryland and Washington, DC. The American Bar Association Standing Committee on the Federal Judiciary unanimously rated her "Well-Qualified."

Our second nominee, Steve C. Jones, is also nominated to be a U.S. district judge for the Northern District of Georgia. Judge Jones received his B.B.A. and his J.D. from the University of Georgia.

An experienced jurist, he began his legal career as an assistant district attorney for the Western Judicial District of Georgia. In 1993, Judge Jones began service as a municipal court judge for Athens-Clarke County, GA. He was appointed by Governor Zell Miller, in 1995, to serve as a superior court judge for the Western Judicial Circuit. He was subsequently re-elected four times and is the presiding judge for the Felony Drug Court. Aside from his daily duties to the bench, Judge Jones was appointed by the Georgia Supreme Court to serve on the Judicial Qualifications Commission. He also functioned as its chairman from 2002 to 2006. On and off the bench, Judge Jones has contributed to his community. He has invested time to help Georgia Legal Services, as well as a local anti-poverty initiative, Partners for a Prosperous Athens/OneAthens. The American Bar Association Standing Committee on the Federal Judiciary unanimously rated him "Well-Qualified."

I support these two nominees, and congratulate them for their achievement and public service. I will continue to work with the chairman to move forward on consensus nominees, as we have done with these two nominations.

I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative 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.

Under the previous order, the nomination of Amy Totenberg, of Georgia, to be United States District Judge for the Northern District of Georgia is confirmed.

The question is, Will the Senate advise and consent to the nomination of Steve C. Jones, of Georgia, to be United States District Judge for the Northern District of Georgia?

Mr. LEAHY. Mr. President, I understand there has been a request for a rollcall vote on Judge Jones, although I would recommend if we have such it be unanimous. I see the distinguished Senator from Georgia, Mr. ISAKSON, on the floor. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The assistant editor of the Daily Digest called the roll.

Mr. DURBIN. I announce that the Senator from Hawaii (Mr. AKAKA), the Senator from New York (Mrs. GILLIBRAND), the Senator from Connecticut (Mr. LIEBERMAN), and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from New Hampshire (Ms. AYOTTE), the Senator from Arkansas (Mr. BOOZMAN), the Senator from Oklahoma (Mr. INHOFE), the Senator from Arizona (Mr. MCCAIN), the Senator from Kentucky (Mr. PAUL), and the Senator from Pennsylvania (Mr. TOOMEY).

The PRESIDING OFFICER (Mr. MANCHIN). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 90, nays 0, as follows:

[Rollcall Vote No. 26 Ex.]

YEAS—90

Alexander	Feinstein	Mikulski
Barrasso	Franken	Moran
Baucus	Graham	Murkowski
Begich	Grassley	Murray
Bennet	Hagan	Nelson (NE)
Bingaman	Harkin	Nelson (FL)
Blumenthal	Hatch	Portman
Blunt	Hoeven	Pryor
Boxer	Hutchinson	Reed
Brown (MA)	Inouye	Reid
Brown (OH)	Isakson	Risch
Burr	Johanns	Roberts
Cantwell	Johnson (SD)	Rubio
Cardin	Johnson (WI)	Sanders
Carper	Kerry	Schumer
Casey	Kirk	Sessions
Chambliss	Klobuchar	Shaheen
Coats	Kohl	Shelby
Coburn	Kyl	Snowe
Cochran	Landrieu	Stabenow
Collins	Lautenberg	Tester
Conrad	Leahy	Thune
Coons	Lee	Udall (CO)
Corker	Levin	Udall (NM)
Cornyn	Lugar	Vitter
Crapo	Manchin	Warner
DeMint	McCaskill	Webb
Durbin	McConnell	Whitehouse
Ensign	Menendez	Wicker
Enzi	Merkley	Wyden

NOT VOTING—10

Akaka	Inhofe	Rockefeller
Ayotte	Lieberman	Toomey
Boozman	McCain	
Gillibrand	Paul	

The nomination was confirmed.

The PRESIDING OFFICER. The motions to reconsider are laid on the table. The President will be immediately notified of the Senate's action.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now resume legislative session.

PATENT REFORM ACT OF 2011—
Resumed

Mr. LEAHY. Mr. President, I understand that the Senator from Colorado has an amendment that could be disposed of quickly and which is agreeable to both sides.

I yield to the Senator from Colorado. The PRESIDING OFFICER. The Senator from Colorado is recognized.

AMENDMENT NO. 116

Mr. BENNET. Mr. President, I thank Chairman LEAHY, Senator GRASSLEY, Senator HATCH, and all of the members of the Judiciary Committee for their hard work on patent reform. Moving this bill forward has been a difficult task. I look forward to supporting the bill as we are in the process of amending it and improving it.

This legislation is critical for our economic growth if we are going to rebuild our economy and win the future. We need to make sure our patent system promotes research and development, investment, job creation, and global competitiveness.

This evening, I want to call up two amendments to this legislation that I believe address the need for efficiency and quality at the U.S. Patent and Trademark Office.

Mr. President, I call up amendment No. 116, which is at the desk.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Colorado [Mr. BENNET] proposes an amendment numbered 116.

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

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

The amendment is as follows:

(Purpose: To reduce the fee amounts paid by small entities requesting prioritized examination under Three-Track Examination)

On page 86, between lines 8 and 9, insert the following:

(1) REDUCTION IN FEES FOR SMALL ENTITY PATENTS.—The Director shall reduce fees for providing prioritized examination of utility and plant patent applications by 50 percent for small entities that qualify for reduced fees under section 41(h)(1) of title 35, United States Code, so long as the fees of the prioritized examination program are set to recover the estimated cost of the program.

On page 86, line 9, strike “(i)” and insert “(j)”.

Mr. BENNET. My first amendment, cosponsored by Senator AYOTTE, can help small businesses utilize the Patent Office's Track I program by reducing their fees for participating. Track I allows applicants to get their patent processed more quickly, but the cost can be burdensome for small entities. This amendment would reduce small business costs by 50 percent.

This Track I program will give applicants the opportunity for prioritized examination of a patent within 12 months of its filing date. On average, the pendency period for first action was 25.7 months in 2010 and 35.3 months for final disposition. By moving this process along for small businesses, we will stimulate business activity and create jobs.

The 50-percent discount is in line with other small entity filing fee discounts offered by the Patent and Trademark Office and will ensure startups and smaller inventors will be at a more level playing field in order to take advantage of Track I.

I encourage my colleagues to support my small business amendment at the appropriate time.

Mr. President, I yield to the chairman.

Mr. LEAHY. Mr. President, I appreciate the amendment of the Senator from Colorado. When it comes to a vote, I think it will probably be unanimous. I suspect there will not even be a requirement for a rollcall vote. It does have this mandatory reduction in fees for small businesses at the Patent Office. I know the Senator is a strong advocate for small business in Colorado. The Patent Office has a backlog of more than 700,000 applications that haven't yet had a first response. This hits small businesses and independent ventures particularly hard because they can least afford a delay in receiving their rights. They have done a lot to reduce that backlog, but they need this legislation to finish it. They have the fast track process, where applicants pay additional fees to cover the costs and the examiners work overtime. Not all small businesses can afford the fast track application fee, and the Senator from Colorado, Mr. BENNET, wisely recognized that not all can afford that.

His amendment will ensure that small businesses and independent vendors will receive a 50-percent reduction in the fee. When the time comes for a vote, I will strongly support the amendment. I suspect both sides will strongly support it. I thank the Senator.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. BENNET. I thank the Senator from Vermont for his leadership and for his kind words about the amendment.

AMENDMENT NO. 117

At this time, I ask unanimous consent to set aside the pending amend-

ment and call up my second amendment, which is currently at the desk.

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

The clerk will report.

The legislative clerk read as follows:

The Senator from Colorado [Mr. BENNET] proposes an amendment numbered 117.

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

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

The amendment is as follows:

(Purpose: To establish additional USPTO satellite offices)

On page 104, between lines 22 and 23, insert the following:

SEC. 18. SATELLITE OFFICES.

(a) ESTABLISHMENT.—Subject to available resources, the Director shall establish 3 or more satellite offices in the United States to carry out the responsibilities of the Patent and Trademark Office.

(b) PURPOSE.—The purpose of the satellite offices established under subsection (a) are to—

(1) increase outreach activities to better connect patent filers and innovators with the Patent and Trademark Office;

(2) enhance patent examiner retention;

(3) improve recruitment of patent examiners; and

(4) decrease the number of patent applications waiting for examination and improve the quality of patent examination.

(c) REQUIRED CONSIDERATIONS.—In selecting the locale of each satellite office to be established under subsection (a), the Director shall—

(1) ensure geographic diversity among the offices, including by ensuring that such offices are established in different States and regions throughout the Nation; and

(2) rely upon any previous evaluations by the Patent and Trademark Office of potential locales for satellite offices, including any evaluations prepared as part of the Patent and Trademark Office's Nationwide Workforce Program that resulted in the 2010 selection of Detroit, Michigan as the first ever satellite office of the Patent and Trademark Office.

(d) PHASE-IN.—The Director shall satisfy the requirements of subsection (a) over the 3-year period beginning on the date of enactment of this Act.

(e) REPORT TO CONGRESS.—Not later than the end of the first fiscal year that occurs after the date of the enactment of this Act, and each fiscal year thereafter, the Director shall submit a report to Congress on—

(1) the rationale of the Director in selecting the locale of any satellite office required under subsection (a);

(2) the progress of the Director in establishing all such satellite offices; and

(3) whether the operation of existing satellite offices is achieving the purposes required under subsection (b).

(f) DEFINITIONS.—In this section, the following definitions shall apply:

(1) DIRECTOR.—The term “Director” means the Director of the United States Patent and Trademark Office.

(2) PATENT AND TRADEMARK OFFICE.—The term “Patent and Trademark Office” means the United States Patent and Trademark Office.

On page 104, line 23, strike “SEC. 18.” and insert “SEC. 19.”.

Mr. BENNET. Mr. President, my amendment provides for the establishment of three regional satellite PTO

offices in the next 3 years. The Patent and Trademark Office has struggled to hire and retain over 6,000 examiners at a single location in Alexandria, VA. This has resulted in one-third of patent examiners having been with the U.S. Patent and Trademark Office for less than 3 years. Ideally, the Patent and Trademark Office would recruit examiners from all across the country, leveraging regional expertise.

The PTO recently recognized this weakness in our patent infrastructure by announcing an initial satellite pilot in Detroit, MI. My amendment seeks to support this effort and further connect innovators to the U.S. Patent and Trademark Office.

The establishment of satellite offices will help the USPTO to recruit and retain workers from across the country. Regional offices will draw local scientists, engineers, and patent attorneys into the USPTO, which add real-world expertise to the patent review process.

Regional satellite offices will also increase outreach activities and connection to patent filers, enhance the ability of the USPTO to recruit and retain patent examiners, and improve the quality and pendency for patent applications.

Europe currently uses four patent offices as a recruitment tool and is known for the ability to attract and retain highly qualified examiners. In short, the limitations of our lone patent office are placing our economy at a competitive disadvantage. It is essential, therefore, that we establish satellite offices in locations that will connect innovators and businesses across the country.

I ask Senators to support my amendment at the appropriate time.

Again, I thank the chairman for his leadership, and I look forward to working with him and the rest of this body to craft a good piece of legislation that helps America take the lead in the world's increasingly competitive innovation economy.

Mr. LEAHY. Mr. President, I know the Senator has advocated for satellite offices. His amendment speaks for geographic diversity. Otherwise, every one of us would be asking for one in our State. Vermont, which receives more patents per capita than any other State in the Union, would be asking for one, and so forth. He does not try to tilt the balance in favor of a particular State but he calls for geographic diversity. That is very wise. When the amendment comes to a vote, I will be there to support it.

Mr. President, parliamentary inquiry: What is pending?

The PRESIDING OFFICER. Amendment No. 117.

Mr. LEAHY. Was that set aside so he could introduce his second amendment?

The PRESIDING OFFICER. That is his second amendment.

Mr. LEAHY. That is what is pending now?

The PRESIDING OFFICER. That is correct.

Mr. LEAHY. I thank the Chair.

The PRESIDING OFFICER. The Senator from Utah is recognized.

AMENDMENT NO. 115

Mr. LEE. Mr. President, I ask unanimous consent that the pending amendment be set aside, and I call up amendment No. 115 and ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection?

Mr. LEAHY. Mr. President, once the Senator has introduced his amendment and has spoken, will he be willing to set that aside so that other amendments on the patent bill can come up?

Mr. LEE. Yes.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Utah [Mr. LEE] proposes an amendment numbered 115.

(Purpose: To express the sense of the Senate in support of a balanced budget amendment to the Constitution)

At the appropriate place, insert the following:

SEC. ____ . SENSE OF THE SENATE.

It is the sense of the Senate that Congress should pass and the States should agree to an amendment to the Constitution requiring a Federal balanced budget.

The PRESIDING OFFICER. The Senator from Utah.

Mr. LEE. This is a self-explanatory amendment. I am a supporter of this legislation, the patent reform bill. I also point out that this amendment does not bring about any substantive change to that legislation, nor does it lock anyone into a particular variation of a balanced budget amendment proposal.

I am happy to work out an agreement as to the timing for a possible vote, and I hope we can get to that sometime soon.

I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CRAPO. Mr. President, I ask unanimous consent to speak as in morning business for up to 15 minutes, with the time to be shared between myself and Senator RISCH.

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

RELATIVE TO THE DEATH OF FORMER SENATOR JAMES A. MCCLURE

Mr. CRAPO. Mr. President, Senator RISCH and I are here today—in fact, I note we are joined on the floor by our former colleague Senator Larry Craig—to honor one of Idaho's greatest statesmen who passed away on Saturday. We rise to honor the distinguished life of Senator James A. McClure, a mentor and a dear friend of mine. As I indicated, Senator Craig is here. Senator Craig is the one who followed Senator McClure into the seat in the Senate. We appreciate him making the effort to get here to also share his concerns

and condolences, and frankly, to help honor Senator McClure.

I join Senator McClure's wife Louise and their family and friends and all of Idaho in mourning the passing of Senator McClure and honoring his great legacy. His sound guidance, strong advocacy for Idaho, and his personal encouragement will be missed by all of us, but definitely not forgotten.

Throughout his decades of public service, Jim McClure set a standard for public servants that will endure for generations. Senator McClure dedicated much of his life to honorable service to our Nation. At the age of 18, he joined the U.S. Navy and served honorably in World War II. He then returned to Idaho and attended law school at the University of Idaho, worked as a prosecuting attorney for Payette County, and served in the Idaho State Senate. With 6 years in the U.S. House of Representatives, and 18 years in the U.S. Senate, his exemplary service in the Congress spanned 24 years.

His unfailing good will, respect for others, and his essential Western conservatism helped him to maintain throughout his life the kind of service that is still the best model for how to engage in today's public policy debates. He was recognized by all as a gentleman but a powerful advocate.

Senator McClure's legacy as a Congressman and a Senator is broad, and on many issues, such as energy and natural resource management, his service to Idaho is historic. Jim utilized his service as chairman of the Senate Committee on Energy and Natural Resources to advocate for Idaho issues and their ideals. He also helped to guide the Senate through his chairmanship of the Senate Republican Conference from 1981 to 1985. Jim worked diligently to achieve solutions to Idaho and national challenges. He also had a forward-thinking focus on fiscal discipline—one that we could well use in the Senate today—and on energy independence, another critical issue which we continue to battle for today. These are critical issues he helped set the foundation for and, frankly, which his wisdom would have helped to solve.

Jim was a friend and a role model for me and I am sure for many others in Idaho and throughout the Nation. His dedication, kind treatment of others, and skillful proactive and principled approach are long going to endure. He will be sorely missed, but his lifetime of accomplishments will be with the people of Idaho forever.

I offer my sympathy and my love to Louise and to the entire McClure family and to Jim's many friends and associates.

Mr. President, I yield the time to Senator RISCH.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. RISCH. Mr. President, we have come to the floor to mourn the loss of a great statesman in Idaho. Jim McClure was loved uniformly across

the State of Idaho and had dedicated his entire life to public service, first as a prosecuting attorney in Payette County, ID, and then, of course, the State senate and Congress—the House of Representatives and then the Senate of the United States.

From a little historical background, Jim McClure, when he was elected to this body, was elected to the Shoup seat. The Shoup seat was first held by Senator Shoup, who was the last territorial Governor of Idaho, the first State Governor of Idaho, and the first Senator to hold that seat. Jim McClure was the ninth person to hold that seat. In the interim, it was held by Borah. Both Shoup and Borah have statues in Statuary Hall.

Prior to my election as the 11th person to hold this seat, the seat was held by our distinguished colleague, Senator Craig, who has joined Senator CRAPO and I on the floor and I am sure joins us in our remarks and condolences to the McClure family.

Jim McClure was a family man. He was truly dedicated to his wife Louise and his children. Back when Jim served here, many of the Members actually moved here as opposed to going home on the weekends, as most of us do today. The McClure family spent a lot of time here. But they did spend their summers—that is when the Senate was out most of the summer—they did spend their summers in Idaho and other times in Idaho.

Jim McClure was very dedicated to a couple important issues, the first one being fiscal. Jim McClure would come back to Idaho and warn about the spending habits this Congress had. In fact, I knew Jim McClure since I was a young prosecutor in the 1960s. I think Jim McClure was the first one I ever heard speak directly about the danger this Congress was leading this country into with its spending habits. Had his advice been followed back then, we would not be, as a country, in the difficulties we are today.

Secondly, Jim's issue was energy. Jim spent time as chairman of the Senate Committee on Energy and Natural Resources. Indeed, I sit on that committee today. Senator Craig sat on it before me, Senator McClure before him, and Senator Jordan before Jim McClure. Indeed, we cannot recall when we did not have anyone from Idaho serving on that committee. Indeed, it was the Shoup seat that has sat on that committee for as long as any of us can remember.

As a testament to the larger-than-life persona that Jim McClure had, the following are named after Jim McClure in Idaho. In 1995, the College of Mines and Earth Resources at the University of Idaho was dedicated as the James A. McClure Hall. In December of 2001, the Federal building and U.S. courthouse in Boise, ID, was renamed for Jim McClure. In 2007, in Moscow, ID, the University of Idaho named their bureau of public affairs research the James A. and Louise McClure Center for Public Policy Research.

All of this recaps in certainly an inadequate way the many things Jim McClure did for the people of Idaho, indeed for the people of America and the people of the world, as he led in the Senate.

I wish to close, briefly, with what I knew about Jim McClure and I think what those of us here knew about Jim McClure and what he is remembered for in the Senate.

In the media today, we see a lot of rancor and we see a lot of arguing and a lot of hostility involved in the political process. If I can say one thing about Jim McClure, it is that what he brought to the entire process was civility. No matter how tough sledding got, no matter how disagreements escalated, Jim McClure always kept it level. He always kept it at a very civil tone, and Jim McClure approached everything with a gentle sense of humor, which many times diffused things that could have gotten out of hand.

To his family, again, we express our deep condolences, and the people of the State of Idaho mourn today.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAPO. Mr. President, Senator RISCH's comments prompted me to think of a time when I was first elected to the House of Representatives. Senator McClure had long been counseling and working with me and helping me to see the kind of civility about which Senator RISCH talked and also that strong, powerful leadership he brought to issues.

When I was first elected to the House of Representatives—I began thinking as Senator RISCH was talking—Jim McClure and Louise invited me to go to dinner. Jim and Louise sat with me for an evening right here in Washington, DC, at a local restaurant. We just talked about politics, about Idaho, about America, about the world, and about how one should lead on issues as they dealt with them in Congress.

I have to tell you, it would take too long to repeat all the lessons I learned that night that were taught to me by Senator McClure as he made that extra step to reach out. I said in my initial remarks he was a mentor and a role model for me. I truly mean that.

I had to add those comments as I thought about that while Senator RISCH was talking.

Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 78, relative to the death of Senator James A. McClure.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 78) relative to the death of James Albertus McClure, former United States Senator for the State of Idaho.

Mr. CRAPO. Mr. President, I note this resolution was submitted earlier today by Senator RISCH and myself. In fact, our leadership helped in preparing

it and bringing it forward. All 100 Senators are cosponsors of this resolution. I think it a fitting tribute to the respect and honor in which Senator James A. McClure is held by this Senate.

Before I ask unanimous consent to take action on the resolution, I ask if Senator RISCH has anything further he wishes to add.

Mr. RISCH. Mr. President, we have gone through the various attributes for which Jim McClure was known. It is a true loss to Idaho and a true loss to the Nation. He was held in such high regard by all Idahoans. I am proud to be the person holding his seat.

He was a cofounder and a charter member of the steering committee on the Republican side. The steering committee is a group that was brought together to talk about and develop policies from a conservative standpoint for the Nation. It certainly is something that has been very helpful to the Republican Conference over the many years. Senator McClure will be remembered for that, and we certainly thank him for that.

I yield the floor.

Mr. CRAPO. Before I ask unanimous consent, Mr. President, I know Louise and a number of Senator McClure's family and friends are watching. This is a short but meaningful resolution. I believe I should read it in its entirety:

Relative to the death of James Albertus McClure, former United States Senator for the State of Idaho.

Whereas James A. McClure served in the United States Navy during World War II;

Whereas James A. McClure served in the state of Idaho as a prosecuting attorney, a city attorney, a member of the Idaho state Senate, and as a member of the United States House of Representatives;

Whereas James A. McClure served the people of the State of Idaho with distinction for 18 years in the United States Senate;

Whereas James A. McClure served the Senate as Chairman of the Committee on Energy and Natural Resources in the Ninety-seventh through the Ninety-ninth Congresses and Chairman of the Senate Republican Conference in the Ninety-seventh and Ninety-eighth Congresses;

Whereas James A. McClure served his caucus as a founding member and Chairman of the Senate Steering Committee in the Ninety-fourth through Ninety-sixth and Ninety-ninth through One Hundredth Congresses; Now therefore be it

Resolved, That the Senate has heard with profound sorrow and deep regret the announcement of the death of the Honorable James Albertus McClure, former member of the United States Senate.

Resolved, That the Secretary of the Senate communicate these resolutions to the House of Representatives and transmit an enrolled copy thereof to the family of the deceased.

Resolved, That when the Senate adjourns today, it stand adjourned as a further mark of respect to the memory of the Honorable James Albertus McClure.

Mr. President, I ask unanimous consent that the resolution be agreed to; that the preamble be agreed to; and that the motion to reconsider be laid upon the table.

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

The resolution (S. Res. 78) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 78

Whereas James A. McClure served in the United States Navy during World War II;

Whereas James A. McClure served the state of Idaho as a prosecuting attorney, a city attorney, a member of the Idaho state Senate, and as a member of the United States House of Representatives;

Whereas James A. McClure served the people of Idaho with distinction for 18 years in the United States Senate;

Whereas James A. McClure served the Senate as Chairman of the Committee on Energy and Natural Resources in the Ninety-seventh through Ninety-ninth Congresses and Chairman of the Senate Republican Conference in the Ninety-seventh and Ninety-eighth Congresses;

Whereas James A. McClure served his caucus as a founding member and Chairman of the Senate Steering Committee in the Ninety-fourth through Ninety-sixth and Ninety-ninth through One Hundredth Congresses; Now therefore be it

Resolved, That the Senate has heard with profound sorrow and deep regret the announcement of the death of the Honorable James Albertus McClure, former member of the United States Senate.

Resolved, That the Secretary of the Senate communicate these resolutions to the House of Representatives and transmit an enrolled copy thereof to the family of the deceased.

Resolved, That when the Senate adjourns today, it stand adjourned as a further mark of respect to the memory of the Honorable James Albertus McClure.

The PRESIDING OFFICER. The Senator from Rhode Island.

MORNING BUSINESS

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the Senate proceed to a period for the transaction of morning business, with Senators permitted to speak for up to 10 minutes each.

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

BLACK HISTORY MONTH

Mr. CASEY. Mr. President, I rise to offer a tribute to honor Robert W. Bogle and the Philadelphia Tribune newspaper. Bob Bogle's family and many of his friends are with us in Washington, DC. They traveled from Philadelphia and other parts of our State and beyond to be with us as we pay tribute to his leadership and his commitment to the Philadelphia African-American community and to all the people in the city of Philadelphia and southeast Pennsylvania. I rise as well to honor the role the Philadelphia Tribune, as a leader in the Black press, has played in communities throughout our State.

This is the fifth year I have come to the floor of the Senate to honor a prominent African-American Pennsylvanian as part of the celebration of Black History Month. Bob Bogle today joins the Reverend Leon Sullivan,

Judge Leon Higginbotham, former U.S. Transportation Secretary Bill Coleman, and former Pennsylvania Secretary of the Commonwealth C. Delores Tucker in being recognized this month in this way.

Today, I will talk about Bob Bogle and the Philadelphia Tribune and, in a larger sense, the history and the future of the Black press in Pennsylvania and across the country.

From the time Bob was a young child, his life has been inseparable from the Philadelphia Tribune. Bob's father John Bogle was the advertising director at the Philadelphia Tribune. Bob still reminisces about the playground he lived in, which was much different than the playgrounds in which most children live. As early as age 7, Bob would roam the Tribune building while waiting for his father to finish work. Bertha Godfrey, employed by the Tribune since 1946 and now senior vice president, recalls a young Bob Bogle wandering around curiously, observing the production department and other areas of the production of the Philadelphia Tribune newspaper.

In 1970, Bob Bogle started selling advertising for the Tribune and quickly worked his way up, impressing his colleagues and business associates alike. In 1973, he became advertising director, in 1976 director of marketing, and, by 1983, executive vice president and treasurer, before becoming president and chief executive officer of the Tribune in 1989.

Despite his early exposure to the Tribune, Bob did not initially plan on a career in journalism. He attended Cheyney State College—now Cheyney University—to study sociology, earning a B.A. in urban studies. After it became clear he was going to play a role in the management of the Tribune, he also attended the University of Pennsylvania's Wharton School to study marketing and economics. He has completed courses of study at Temple University and the Rochester Institute of Technology and continues to this day to hone his newspaper expertise by participating in annual workshops in many areas of marketing and advertising and publishing.

Bob has become a role model for Philadelphia African Americans and for the community at large. He served in leadership roles in a wide range of professional, civic, and social organizations. He is chairman of both the Hospitals and Higher Education Facilities Authority of Philadelphia and the Council of Trustees at Cheyney University, and serves as a commissioner of the Delaware River Port Authority. He also serves on the executive committee of the Greater Philadelphia Chamber of Commerce and on the boards of the Mann Music Center for the Performing Arts, the Zoological Society of Philadelphia, the African-American Chamber of Commerce, the Philadelphia Convention and Visitors Bureau, and of course, The Philadelphia Tribune. In 1995 Bob became the first African

American to serve on the board of U.S.-Airways Group, one of the Nation's largest airlines. He served two terms as president of the National Newspaper Publishers Association, the nationwide trade association for Black newspapers.

Some of Bob's more recent board affiliations include the Philadelphia Museum of Art Corporate Partners Board, the Pennsylvania Newspaper Association Foundation, the Academy of Vocal Arts, the Greater Philadelphia Tourism Marketing Corporation and the Historical Society of Pennsylvania. He is also a founder and serves as a convener for the Forum for a Better Pennsylvania, a statewide, private sector leadership organization committed to enhanced civic and economic inclusion for African Americans.

Bob has also been honored for his service and leadership. In 2002, President George W. Bush appointed him to serve as a member of the National Museum of African American History and Culture Commission. In 2000, he received an honorary Doctorate of Humane Letters from Drexel University in Philadelphia. In addition, Bob has been a member of so many organizations too numerous to name.

While he is recognized as a community leader in various realms, it is Bob's role at the Tribune and with the Black press movement that stands out as his life's work.

Today, few question that the right to a free press, as enshrined in the Bill of Rights, applies to all. The right ensures that all Americans can participate in a vigorous and healthy debate necessary for a well-functioning democracy. But when our Constitution was first ratified, as we recall, most African Americans were not recognized as citizens and had few, if any, opportunities for participation in our democracy. It was not until a group of courageous men living in New York gathered some 30 years after the ratification of the Constitution that African Americans finally found an institution where they "could plead their own case," as they said at the time.

In 1827, editors John Brown Russwurm and Samuel Eli Cornish published Freedom's Journal, the first Black newspaper in America. The newspaper provided African Americans with a public square of their own, where they could participate in discussions and advocate for African Americans.

As these two distinguished leaders wrote in their first editorial, "Too long have others spoken for us. Too long has the public been deceived by misrepresentations. . . ."

While the Freedom's Journal was short-lived, it began what was no less than a revolution. Other Black newspapers arose and began to explore subjects that were previously off-limits in the press of the day. New Black newspapers delved into previously unmentionable hardships in crafting a new identity for free and enslaved African Americans. Topics such as slavery and

menial labor were examined by African Americans for African Americans. For the first time in the history of our country, African Americans were able to speak freely through a press of their own. In addition, African Americans could start announcing to the world some of their most precious moments in life, such as births, anniversaries, deaths, and other family news. The Black Press helped establish a new extended community of African Americans all across the United States.

The Black Press expanded in the years prior to the Civil War, as over 40 publications across the Nation provided African Americans with viewpoints on issues such as immigration to Africa, emancipation in the South of the United States, and, of course, abolition and freedom.

Frederick Douglass was one of the many who published a Black newspaper in which he, like many others, urged African-American men in the North to enlist in the Union Army.

The post-Civil War era saw a period of rapid growth for the Black Press. The first daily newspaper, the New Orleans Tribune, was published in 1864, and newspapers continued to open across the country as African Americans migrated from the South.

By the 1880s, it became obvious that the growing African-American population in Philadelphia, PA, needed a newspaper. Christopher J. Perry filled the void. Following graduation from high school, Mr. Perry moved to Philadelphia to start a newspaper because, he said:

For my people to make progress, they must have a newspaper in which they can speak and speak out against injustice.

Mr. Perry's newspaper, the Philadelphia Tribune, often told a different story from a perspective other than that of the city's traditional newspapers. Mr. Perry and the Philadelphia Tribune quickly established themselves as leaders of the growing African-American community in Philadelphia. The Tribune published stories highlighting Black institutions across Philadelphia that were not reported by the mainstream papers. Mr. Perry championed the causes of the African-American community, from covering important events to offering articles about champions of social and racial equality. Additionally, he provided a forum for African Americans to report on job openings, musical performances, and other happenings within the African-American society.

After Mr. Perry passed away in May of 1921, his children continued the traditions he began in the pages of the Philadelphia Tribune. The second generation of Perrys continued to fight for equality for African Americans. Eugene Washington Rhodes, Mr. Perry's son-in-law, succeeded him as editor. As Dorothy Anderson wrote in a tribute in 1958, "In no year since The Philadelphia Tribune first burst upon the Philadelphia scene was there a single edition which did not press for equal

rights, equal opportunities and equal privileges" for the African-American community.

Eugene Rhodes continued to spotlight social issues around the city of Philadelphia and around the country by focusing on the northern migration during the 1920s and dangerous housing conditions for African Americans in Philadelphia during the 1930s. In addition, he provided much needed support for some of the first African-American politicians in the city of Philadelphia, such as John Asbury and Andrew Stevens, the first African Americans elected to the Pennsylvania House of Representatives. Perhaps most importantly, the Tribune led the fight against segregation in the Philadelphia School District by creating its own legal defense fund and publishing many editorials championing the equality of African Americans.

In 1940, the publisher of the Chicago Defender called a meeting of the major publications which made up the Black Press. He proposed that newspapers form an advocacy group to ensure the long-term survival of the Black Press. The Philadelphia Tribune was one of the newspapers invited to take part, and out of this first conference grew the National Newspaper Publishers Association. Over 200 newspapers are members today, and the association provides vital services to the Black Press so that its members can continue to report on African-American communities and society.

As the current president and CEO of the Philadelphia Tribune, Bob Bogle has continued the tradition of Christopher Perry, while leading the African-American community of Philadelphia into and beyond the 21st century. The Philadelphia Tribune is now the longest operating African-American newspaper in the Nation.

Recognizing Bob's leadership, the National Newspaper Publishers Association has honored the Tribune five times with the Russwurm Award, the association's highest honor for "Best Newspaper in America." The award is named for John B. Russwurm, co-founder, as I mentioned before, of Freedom's Journal in the 1800s.

Recognized as a leading member of the Black Press, Bob Bogle has served two terms as president of the National Newspaper Publishers Association and is credited with increasing awareness of African-American issues, values, and lifestyles. He is also a founding member and president of the African American News and Information Consortium, a group of premier Black newspapers in some of the largest markets in the United States of America.

Finally, Bob continues in his role as ambassador for the city of Philadelphia. He sees race as a leading issue still plaguing our Nation, but he remains relentlessly optimistic. I am quoting Bob here:

I am deeply engaged in the community. I believe that Philadelphia, as the birthplace of America, is the best city in America—it is

diverse, it has great size; and our success will come from our collective understanding of who we are. The Philadelphia Tribune, though it is dedicated to covering the black community, also honors diversity. We have non-African Americans in every area of our business.

Of course, Bob has been not just a leader in the African-American community but a leader in the Philadelphia community at large for many years and especially active in the advancement of young African Americans who live in Philadelphia and the region. He describes his essential philosophy this way:

To be responsible for what you do and be the best at it. We need to account for what we do. Accountability means responsibility and taking pride in your work and doing the best you can.

So says Bob Bogle, and those are good words to live by. They are words we can take to heart and strive every day in our own lives to live by.

So I am honored to be able to offer this tribute today to Bob Bogle, to his team at the Philadelphia Tribune and in a larger sense the history and, most importantly, the future of the African-American press—so-called the Black Press—in the United States. So please join me today in honoring a man of strength, a man of character, accomplishment, and service—Robert W. Bogle of Philadelphia, PA.

CHRISTIAN A. FLEETWOOD

Mr. CARDIN. Mr. President, today I wish to pay tribute to a man of extraordinary strength, moral character, and courage, to end National Black History Month on a high note. Every year, National Black History Month is given a theme; this year's focus rests on the American Civil War, the most divisive and destructive conflict ever witnessed in our great Nation. While many think of the Civil War as a conflict between Whites fought over the condition of African Americans, Blacks fought on both sides of the conflict as well. After Emancipation, the Union Armies fielded dozens of corps of the U.S. Colored Troops, making up approximately 10 percent of the total fighting force fielded by the North, at roughly 180,000 troops. One of those men was named Christian Abraham Fleetwood. His picture rests beside me today.

In many aspects before the war, Fleetwood was already a rare man. Christian A. Fleetwood was born in Baltimore to two free persons of color, Charles and Anna Marie Fleetwood, on July 21, 1840. He was lucky enough to be educated by a wealthy sugar merchant, free of charge, and continued his education with the Maryland Colonization Society, before graduating from the Ashmun Institute, which would later become Lincoln University.

Broadening his education, he travelled to Sierra Leone and Liberia, before returning to the United States to join the Union Army to fight for the freedom of the enslaved. Because of his education, Fleetwood was promoted to

sergeant upon enlisting, and sergeant major just a few days later. As part of the 4th Regiment United States Colored Infantry, he would see action in the Virginia and North Carolina campaigns in the 10th, 18th and 25th Army Corps, and would distinguish himself valorously at Chaffin's Farm, on the outskirts of Richmond, VA, on September 29, 1864.

At the age of 24, SGM Christian Fleetwood stood a mere 5 feet, 4.5 inches tall. Nonetheless, while marching on Confederate fortifications he witnessed Alfred B. Hilton, a fellow soldier, fall wounded while carrying the American flag and the Regimental Standard, which Hilton himself had retrieved from a wounded comrade. Rushing forward under withering fire, Fleetwood and another soldier named Charles Veale caught both banners before they brushed the ground. Now bearing the American flag, Fleetwood carried the attack forward, but retreated once it became clear that the unit did not have sufficient strength to penetrate the defenses. Returning through enemy fire to the reserve line, Fleetwood used his standard to rally a determined group of men and renewed the attack on the battlements.

In a fight where the 4th and 6th Regiments of U.S. Colored Troops sustained casualties reaching 50 percent, Fleetwood refused to give up. For these actions and their contribution to victory at Chaffin's Farm, Fleetwood, along with Veale and Hilton, were awarded the Medal of Honor. Fleetwood's official Medal of Honor citation reads simply: "Seized the colors, after 2 color bearers had been shot down, and bore them nobly through the fight." Every officer in Fleetwood's regiment, all white men, submitted a petition to the War Department to have him commissioned an officer, a sure sign of the respect felt by all who witnessed his gallantry.

The medal is now part of the collection of the Smithsonian's National Museum of American History, and appears in the exhibit entitled "The Price of Freedom." The medal's inclusion in the Smithsonian exhibit is also unique. Fleetwood's daughter Edith Fleetwood donated his medal to the Smithsonian Institute's National Museum in 1948. The Smithsonian accepted the medal, making Christian Fleetwood the first African-American veteran to be so honored.

The Civil War did not call an end to Christian Fleetwood's service, though he was discharged honorably on May 4, 1866. Fleetwood would go on to organize a battalion of the D.C. National Guardsmen, and, in the 1880s, formed Washington, DC's Colored High School Cadet Corps, which counted among its graduates Benjamin O. Davis, Sr., the Nation's first African-American general, and Wesley A. Brown, the first African-American graduate of the U.S. Naval Academy.

Christian Fleetwood embodied everything Americans revere. His actions in

the 4th Regiment from Baltimore, MD, earned him the military's highest honor. He was selfless, brave, a fierce fighter for the abolition of slavery, and chose to dedicate his free life to service of his country and his community.

TRIBUTE TO TAHIS CASTRO

Mr. REID. Mr. President, I rise today to honor Tahis Castro, who is retiring after 17 years of serving Nevadans as an organizer for the Culinary Workers Union.

Tahis came to Reno from Costa Rica in 1987. In 1994, she cofounded and organized Hotel Employees and Restaurant Employees Local 86, which represented over 900 culinary workers throughout Reno. Since that time, she has helped negotiate improvements in health care benefits, wages, job security, and training for thousands of working families in Nevada.

Tahis has always been a dedicated and tireless promoter of justice, respect, and dignity for all workers. She has been instrumental in the growth of Local 86, which merged with Las Vegas' Culinary Workers Union Local 226 to represent a total of 60,000 workers in Nevada today. In addition, she has served on the executive board of the Nevada State AFL-CIO.

Tahis has also been influential in representing Nevadans in the political sphere. In 2008, she was chosen as one of the State's five delegates to the Electoral College, and she has been instrumental in promoting voter participation among Nevada's Latino citizens.

I am pleased to stand today to commend Tahis for all she has accomplished, and all she will continue to achieve. Along with the Culinary Workers Union, I congratulate Tahis for her concerted effort and her career of dedicated service.

REMEMBERING EARLE B. COMBS

Mr. MCCONNELL. Mr. President, I rise today to honor the remarkable life and career of one of baseball's greatest legends, and a native of the Commonwealth, the late Mr. Earle B. Combs. Known far and wide to fans as the Kentucky Greyhound, the Silver Fox and the Kentucky Colonel, Earle was a prime example of a gentleman who knew the value of hard work and determination.

Earle began his journey to greatness as a child on his father's farm in Pebworth, Owsley County, KY, where he and his siblings would play pickup games with homemade baseballs constructed out of leather and rubber trimmings from old, worn-out shoes and tightly wound string, and bats made with tree limbs found around the yard. Each spring, when warmer weather came, the rolling hills of farmland and hollows provided Earle with the perfect setting to develop a love for America's pastime.

But, as he grew older, he decided his calling in life was to teach. In 1917,

Earle left his hometown of Pebworth to attend Eastern Kentucky State Normal School, now Eastern Kentucky University, and received his teaching certificate in 1919. To help pay for his education, Earle returned to eastern Kentucky to teach in one-room schools in Kentucky towns like Ida May and Levi. That was until destiny had other plans.

In 1918 after a faculty-student baseball game, Earle's abilities caught the eye of Dr. Charles Keith, an Eastern Kentucky State Normal School dean and former pro player, who recommended he try out for Eastern's team. After successfully landing a spot on the team, Earle's talent on the field started to gain him some much-deserved attention. In the summer of 1921, after his last season on Eastern's team, Earle played semiprofessional baseball in several Kentucky towns until he was offered a contract with the Louisville Colonels.

During his 2 years with the Colonels, Earle's miraculous talent earned him his career-long reputation as a line-drive hitter with reckless base-stealing ability. In 1924, this reputation traveled north all the way to New York, where the New York Yankees bought the young and talented Earle for \$50,000.

In the years that followed, Earle became a leadoff hitter for the famed Yankees "Murderers Row," a lineup of the late 1920s and early 1930s, and a member of the 1927 World Championship Yankees team where he played alongside other greats by the names of Babe Ruth and Lou Gehrig. He was errorless in the 16 World Series games in which he played throughout his career, and ended with a career batting average of .325.

Earle retired in 1935 after sustaining a brutal outfield injury the year before, but remained a coach for the Yankees until 1944, during which he trained other baseball greats such as Joe DiMaggio. He was named to the National Baseball Hall of Fame in Cooperstown, NY, in 1970.

Earle coached for several other teams before returning to Madison County where he served as a banking commissioner during Governor A.B. Chandler's second administration and on Eastern Kentucky University's board of regents for 19 years, serving as chairman for 2 of those years. Earle was a leader both on and off the diamond. He was known as a loving family man, a successful businessman, and above all, a true gentleman. He was a devoted father and grandfather and a loyal husband to his childhood sweetheart, the late Ruth Combs.

He valued hard-work and knew the importance of higher education. There is no question that Earle was someone who forever changed the game of baseball, who left an impression on those he taught, and who left a lasting legacy in both his community and throughout the Commonwealth.

The Booneville Sentinel recently published an article introducing a new

portrait of the late Earle B. Combs that was hung on the outside of the courthouse in Owsley County, KY, on December 30, 2010. What an honor for this athlete and legend from his hometown and home county. I ask unanimous consent that the full article be printed in the RECORD.

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

[From the Booneville Sentinel, Jan. 12, 2011]

EARLE B. COMBS PORTRAIT HUNG AT
COURTHOUSE

(By Rosalind Turner)

Boonesville and Owsley County officials honored one of the community's most famous sons Thursday, December 30 when a portrait of the late Earle B. Combs was hung on the outside of the Owsley County Courthouse.

Earle B. Combs, a native of Pebworth and the son of James Jesse and Nannie (Brandenburg) Combs, was a major league baseball player, a member of the 1929 New York Yankees and was named to the National Baseball Hall of Fame. In 1917, Combs left Owsley at age 17 to pursue a degree in education at Eastern Kentucky Normal School (Eastern Kentucky University). Though he earned his degree in 1919 and taught at one-room schools in Ida May and Levi, he eventually changed his career path to play baseball.

In 1924, he earned a position as the centerfielder and leadoff hitter for the famed New York Yankees "Murderers Row" lineup of the late 1920s and early 1930s, according to the Earle Bryan Combs official website. He was a member of the 1927 World Champion Yankees team, which also featured baseball greats Babe Ruth and Lou Gehrig, and is considered by many to be the greatest team in baseball history.

As the portrait was installed on the side of the courthouse, the outgoing Owsley County Judge-Executive Cale Turner and Booneville Mayor Charles Long were joined by one of Combs' grandsons and two great-grandsons.

"We are so honored," said Craig Combs of Richmond, a grandson with very fond memories of his grandfather. "Thank you so much."

Craig Combs praised Turner, Long and others who were instrumental in seeing the project to fruition. In March, Craig Combs came to Owsley to speak to Holly Shouse's class at Owsley County Elementary School about his grandfather. He said that he was later contacted about the courthouse project and gave his permission for the officials to proceed.

"I was very honored," he said. "I was thrilled that you (the project planners) were going to include grandfather."

Turner said that it has been a long time goal of Mayor Long's to have a portrait in the city honoring the famed baseball player.

"We're tickled to be here and we're tickled that (the community) thought enough of him to put his picture on the side of the courthouse. (It shows) obviously, how proud they are of grandfather," said Craig Combs, who was accompanied by his sons, John, 17, who plans to study vocal music at the University of Louisville, and Christopher, 22, who played baseball at Madison Central, graduated from the University of Evansville and is currently working on his Ph.D. at the University of Texas in aerospace engineering.

Earle B. Combs has had many honors bestowed upon him, but for his grandson, this one is especially meaningful. "Coming from his hometown and his home county, this is something very special," said Craig Combs. "I appreciate Judge Turner and Mayor Long for being so kind to us when we came down."

Long said he is very pleased to see the community finally honor its famous son with the portrait at the courthouse.

"This has been a dream of Mayor Long's," said Turner. "He has brought it up at numerous meetings."

The portrait by Robert Johnson of Madison Avenue Designs in Georgetown joins other murals at the courthouse depicting important Owsley County scenes.

Turner acknowledged the assistance of Jo'e Short, Kacey Smith and Cassie Hudson, members of the Action Team. These ladies wrote the application to the Flex-E ARC grant program after attending the Brushy Fork Institute at Berea College that got the ball rolling. "This would not have happened without the grant," he said. Additional matching funds for the project came from the Owsley County Fiscal Court, the Owsley County Action Team and Farmer's State Bank.

As a legendary baseball player, businessman and member of the Eastern Kentucky University board of regents, Craig Combs said his grandfather was much respected. However, his grandson remembers more than baseball and business.

"He was just Pop to me," he explained, recalling nights spent with his grandfather and grandmother (Mimi), Ruth McCollum, also a native of Owsley County, on their farm in rural Madison County.

"It was a magical time to grow up and be around them because they cared so much for us. He was just a regular, loving grandfather."

Craig Combs recalls the stories about his grandfather's baseball career and said he became the family's baseball historian.

"It was a wonderful upbringing to be around them. To be their grandson was so special."

Craig Combs said he remembers his grandfather very well. He was 18 when Earle B. Combs passed away. Earle and Ruth Combs had three children. Earle Jr., Charles and Donald Combs. Mrs. Combs died in 1989.

Still a student, Earle Combs started playing baseball at Eastern. That led to playing semi-professional ball in such Kentucky towns as Winchester, High Splint and Lexington. While playing for the Lexington Reos of the Bluegrass League, he drew the attention of the Louisville Cardinals (American Association), where he honed his skill in 1922 and 1923. In 1924, he was a rookie for the New York Yankees, patrolling center field between Babe Ruth and Rob Meusel. The following season, he was installed as the leadoff hitter in the famed "Murderers Row" Yankee lineup. He kept that position for the remaining 11 years of his career. During his career, he batted over .300 nine times, had 200 or more hits three times, paced the American League in triples three times and twice led all AL outfielders in putouts. He had a career batting average of .325. In the outfield, he was known as "swift and sure-handed," according to the Earle B. Combs official website.

A favorite of Yankee fans, nicknames bestowed upon him included "Kentucky Greyhound," "Silver Fox" and "Kentucky Colonel." After an injury, he retired in 1935 and coached for the team until 1944. The first year he coached, he trained his replacement, Joe DiMaggio. He coached for several other teams before retiring in the mid-1950s and returning to his Madison County farm. He served as Kentucky banking commissioner during Gov. A.B. Chandler's second administration (1955-59). He served on Eastern Kentucky University's board of regents from 1956-1975 and was chairman from 1972-74. A dormitory at EKU (Earle Combs Hall) bears his name and the school gives an athletic scholarship in his honor. He also is a charter member of EKU's Athletics Hall of Fame.

Earle B. Combs was named to the National Baseball Hall of Fame in Cooperstown, NY in 1970. His baseball career included being part of nine World Championships as a player and coach in New York.

Many from Owsley County, including Mayor Long and Judge Turner who watched the portrait go on the courthouse wall, are proud of the numerous honors and accolades bestowed upon this Hall of Fame baseball player. They are also gratified that he found fame for himself while practicing the values he learned growing up in Pebworth in Owsley County, Ky.

FEDERAL EMPLOYEE INCOME
TAXES

Mr. COBURN. Mr. President, on February 17, 2011, I introduced a bill that will provide assurance to taxpayers that Federal employees are on equal footing with the American people and are held accountable to the same rules they enforce.

In 2009, the Internal Revenue Service, IRS, found nearly 100,000 civilian Federal employees were delinquent on their Federal income taxes, owing over \$1 billion in unpaid Federal income taxes. When considering retirees and military, more than 282,000 Federal employees owed \$3.3 billion in taxes.

This legislation will save taxpayers at least \$1 billion by requiring the Internal Revenue Service to collect unpaid Federal income taxes from civilian Federal employees.

Federal employees have a clear obligation to pay their Federal income taxes. The very nature of Federal employment and the concept inherent to "public service" demands those being paid by taxpayers to also pay their fair share of taxes. Federal workers should not be exempt from the laws they enforce. In fact, they should lead by example. Failure to do so is an affront to taxpayers and to the rule of law.

Unfortunately, Congress has allowed this abuse of taxpayer dollars to occur throughout the Federal Government and failed to implement the proper safeguards to hold culprits accountable. Considering our national debt recently surpassed \$14 trillion, it is critical Congress quickly pass this legislation. Surely this milestone is a wake-up call for Congress to find ways to get control of the Federal budget and help get our country back on the right track towards fiscal responsibility.

The bill I recently introduced requires all Federal employees to be current on their Federal income taxes or be fired from their jobs. This is a commonsense bill that most Americans would believe is reasonable, necessary, and likely surprised that it is not already the standard throughout the Federal Government.

It is not the intention of this legislation to single out the majority of Federal employees who work hard and pay their taxes. Instead, the bill would carefully reach only those who have willfully neglected to pay their income taxes and would direct the IRS to only collect money already owed under the Federal Tax Code.

This legislation excludes Federal employees who make oversights in their personal taxes but willfully agree to pay them or are challenging the delinquency in court or through the IRS.

Specifically, it excludes Federal employees from termination if (1) the individual is currently paying the taxes, interest, and penalties owed to IRS under an installment plan; (2) the individual and the IRS have worked out a compromise on the amount of taxes, interest and penalties owed, and the compromise amount agreed upon is being repaid to IRS; (3) the individual has not exhausted his or her right to due process under the law; or (4) the individual filed a joint return and successfully contends he or she should not be fully liable for the taxes, interest, and/or penalties owed because of something the other party to the return did or did not do.

I recently introduced this bipartisan legislation, because Congress has failed to responsibly manage taxpayer dollars and serve in the best interests of the American people. This legislation will provide a solution to level the playing field between Federal employees and the American people when it comes to paying Federal income taxes.

It should be a priority of this Congress to pass this solution as a way to provide equal treatment under the law and to seek out commonsense opportunities that will reduce our national debt. Now is the time for Congress to get a grip on the federal budget and find responsible ways to save in order to preserve the heritage of service and sacrifice that made our country great.

I thank my colleagues for the opportunity to speak in support of this legislation. I ask my colleagues on both sides of the aisle for their support.

COMMITTEE ON FOREIGN RELATIONS RULES OF PROCEDURE

Mr. KERRY. Mr. President, I ask unanimous consent to have printed in the RECORD "Rules of the Committee on Foreign Relations."

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

RULES OF THE COMMITTEE ON FOREIGN RELATIONS

RULE 1—JURISDICTION

(a) *Substantive.*—In accordance with Senate Rule XXV.1(j), the jurisdiction of the committee shall extend to all proposed legislation, messages, petitions, memorials, and other matters relating to the following subjects:

1. Acquisition of land and buildings for embassies and legations in foreign countries.
2. Boundaries of the United States.
3. Diplomatic service.
4. Foreign economic, military, technical, and humanitarian assistance.
5. Foreign loans.
6. International activities of the American National Red Cross and the International Committee of the Red Cross.
7. International aspects of nuclear energy, including nuclear transfer policy.
8. International conferences and congresses.

9. International law as it relates to foreign policy.

10. International Monetary Fund and other international organizations established primarily for international monetary purposes (except that, at the request of the Committee on Banking, Housing, and Urban Affairs, any proposed legislation relating to such subjects reported by the Committee on Foreign Relations shall be referred to the Committee on Banking, Housing, and Urban Affairs).

11. Intervention abroad and declarations of war.

12. Measures to foster commercial intercourse with foreign nations and to safeguard American business interests abroad.

13. National security and international aspects of trusteeships of the United States.

14. Ocean and international environmental and scientific affairs as they relate to foreign policy.

15. Protection of United States citizens abroad and expatriation.

16. Relations of the United States with foreign nations generally.

17. Treaties and executive agreements, except reciprocal trade agreements.

18. United Nations and its affiliated organizations.

19. World Bank group, the regional development banks, and other international organizations established primarily for development assistance purposes.

The committee is also mandated by Senate Rule XXV.1(j) to study and review, on a comprehensive basis, matters relating to the national security policy, foreign policy, and international economic policy as it relates to foreign policy of the United States, and matters relating to food, hunger, and nutrition in foreign countries, and report thereon from time to time.

(b) *Oversight.*—The committee also has a responsibility under Senate Rule XXVI.8, which provides that "... each standing committee ... shall review and study, on a continuing basis, the application, administration, and execution of those laws or parts of laws, the subject matter of which is within the jurisdiction of the committee."

(c) *"Advice and Consent" Clauses.*—The committee has a special responsibility to assist the Senate in its constitutional function of providing "advice and consent" to all treaties entered into by the United States and all nominations to the principal executive branch positions in the field of foreign policy and diplomacy.

RULE 2—SUBCOMMITTEES

(a) *Creation.*—Unless otherwise authorized by law or Senate resolution, subcommittees shall be created by majority vote of the committee and shall deal with such legislation and oversight of programs and policies as the committee directs. Legislative measures or other matters may be referred to a subcommittee for consideration in the discretion of the chairman or by vote of a majority of the committee. If the principal subject matter of a measure or matter to be referred falls within the jurisdiction of more than one subcommittee, the chairman or the committee may refer the matter to two or more subcommittees for joint consideration.

(b) *Assignments.*—Assignments of members to subcommittees shall be made in an equitable fashion. No member of the committee may receive assignment to a second subcommittee until, in order of seniority, all members of the committee have chosen assignments to one subcommittee, and no member shall receive assignments to a third subcommittee until, in order of seniority, all members have chosen assignments to two subcommittees.

No member of the committee may serve on more than four subcommittees at any one time.

The chairman and ranking member of the committee shall be *ex officio* members, without vote, of each subcommittee.

(c) *Meetings.*—Except when funds have been specifically made available by the Senate for a subcommittee purpose, no subcommittee of the Committee on Foreign Relations shall hold hearings involving expenses without prior approval of the chairman of the full committee or by decision of the full committee. Meetings of subcommittees shall be scheduled after consultation with the chairman of the committee with a view toward avoiding conflicts with meetings of other subcommittees insofar as possible. Meetings of subcommittees shall not be scheduled to conflict with meetings of the full committee.

The proceedings of each subcommittee shall be governed by the rules of the full committee, subject to such authorizations or limitations as the committee may from time to time prescribe.

RULE 3—MEETINGS

(a) *Regular Meeting Day.*—The regular meeting day of the Committee on Foreign Relations for the transaction of committee business shall be on Tuesday of each week, unless otherwise directed by the chairman.

(b) *Additional Meetings.*—Additional meetings and hearings of the committee may be called by the chairman as he may deem necessary. If at least three members of the committee desire that a special meeting of the committee be called by the chairman, those members may file in the offices of the committee their written request to the chairman for that special meeting. Immediately upon filing of the request, the chief clerk of the committee shall notify the chairman of the filing of the request. If, within three calendar days after the filing of the request, the chairman does not call the requested special meeting, to be held within seven calendar days after the filing of the request, a majority of the members of the committee may file in the offices of the committee their written notice that a special meeting of the committee will be held, specifying the date and hour of that special meeting. The committee shall meet on that date and hour. Immediately upon the filing of the notice, the clerk shall notify all members of the committee that such special meeting will be held and inform them of its date and hour.

(c) *Hearings, Selection of Witnesses.*—To ensure that the issue which is the subject of the hearing is presented as fully and fairly as possible, whenever a hearing is conducted by the committee or a subcommittee upon any measure or matter, the ranking member of the committee or subcommittee may call an equal number of non-governmental witnesses selected by the ranking member to testify at that hearing.

(d) *Public Announcement.*—The committee, or any subcommittee thereof, shall make public announcement of the date, place, time, and subject matter of any meeting or hearing to be conducted on any measure or matter at least one week in advance of such meetings or hearings, unless the chairman of the committee, or subcommittee, in consultation with the ranking member, determines that there is good cause to begin such meeting or hearing at an earlier date.

(e) *Procedure.*—Insofar as possible, proceedings of the committee will be conducted without resort to the formalities of parliamentary procedure and with due regard for the views of all members. Issues of procedure which may arise from time to time shall be resolved by decision of the chairman, in consultation with the ranking member. The chairman, in consultation with the ranking member, may also propose special procedures to govern the consideration of particular matters by the committee.

(f) *Closed Sessions.*—Each meeting of the Committee on Foreign Relations, or any subcommittee thereof, including meetings to conduct hearings, shall be open to the public, except that a meeting or series of meetings by the committee or a subcommittee on the same subject for a period of no more than 14 calendar days may be closed to the public on a motion made and seconded to go into closed session to discuss only whether the matters enumerated in paragraphs (1) through (6) would require the meeting to be closed followed immediately by a record vote in open session by a majority of the members of the committee or subcommittee when it is determined that the matters to be discussed or the testimony to be taken at such meeting or meetings—

(1) will disclose matters necessary to be kept secret in the interests of national defense or the confidential conduct of the foreign relations of the United States;

(2) will relate solely to matters of committee staff personnel or internal staff management or procedure;

(3) will tend to charge an individual with crime or misconduct; to disgrace or injure the professional standing of an individual, or otherwise to expose an individual to public contempt or obloquy, or will represent a clearly unwarranted invasion of the privacy of an individual;

(4) will disclose the identity of any informer or law enforcement agent or will disclose any information relating to the investigation or prosecution of a criminal offense that is required to be kept secret in the interests of effective law enforcement;

(5) will disclose information relating to the trade secrets or financial or commercial information pertaining specifically to a given person if

(A) an Act of Congress requires the information to be kept confidential by government officers and employees; or

(B) the information has been obtained by the government on a confidential basis, other than through an application by such person for a specific government financial or other benefit, and is required to be kept secret in order to prevent undue injury to the competitive position of such person, or

(6) may divulge matters required to be kept confidential under other provisions of law or government regulations.

A closed meeting may be opened by a majority vote of the committee.

(g) *Staff Attendance.*—A member of the committee may have one member of his or her personal staff, for whom that member assumes personal responsibility, accompany and be seated nearby at committee meetings.

Each member of the committee may designate members of his or her personal staff, who hold a top secret security clearance, for the purpose of their eligibility to attend closed sessions of the committee, subject to the same conditions set forth for committee staff under Rules 12, 13, and 14.

In addition, the majority leader and the minority leader of the Senate, if they are not otherwise members of the committee, may designate one member of their staff with a top secret security clearance to attend closed sessions of the committee, subject to the same conditions set forth for committee staff under Rules 12, 13, and 14. Staff of other Senators who are not members of the committee may not attend closed sessions of the committee.

Attendance of committee staff at meetings shall be limited to those designated by the staff director or the minority staff director.

The committee, by majority vote, or the chairman, with the concurrence of the ranking member, may limit staff attendance at specified meetings.

RULE 4—QUORUMS

(a) *Testimony.*—For the purpose of taking sworn or unsworn testimony at any duly scheduled meeting a quorum of the committee and each subcommittee thereof shall consist of one member.

(b) *Business.*—A quorum for the transaction of committee or subcommittee business, other than for reporting a measure or recommendation to the Senate or the taking of testimony, shall consist of one-third of the members of the committee or subcommittee, including at least one member from each party.

(c) *Reporting.*—A majority of the membership of the committee, including at least one member from each party, shall constitute a quorum for reporting any measure or recommendation to the Senate. No measure or recommendation shall be ordered reported from the committee unless a majority of the committee members is physically present, and a majority of those present concurs.

RULE 5—PROXIES

Proxies must be in writing with the signature of the absent member. Subject to the requirements of Rule 4 for the physical presence of a quorum to report a matter, proxy voting shall be allowed on all measures and matters before the committee. However, proxies shall not be voted on a measure or matter except when the absent member has been informed of the matter on which he is being recorded and has affirmatively requested that he or she be so recorded.

RULE 6—WITNESSES

(a) *General.*—The Committee on Foreign Relations will consider requests to testify on any matter or measure pending before the committee.

(b) *Presentation.*—If the chairman so determines, the oral presentation of witnesses shall be limited to 10 minutes. However, written statements of reasonable length may be submitted by witnesses and other interested persons who are unable to testify in person.

(c) *Filing of Statements.*—A witness appearing before the committee, or any subcommittee thereof, shall file a written statement of his proposed testimony at least 48 hours prior to his appearance, unless this requirement is waived by the chairman and the ranking member following their determination that there is good cause for failure to file such a statement. Witnesses appearing on behalf of the executive branch shall provide an additional 100 copies of their statement to the committee.

(d) *Expenses.*—Only the chairman may authorize expenditures of funds for the expenses of witnesses appearing before the committee or its subcommittees.

(e) *Requests.*—Any witness called for a hearing may submit a written request to the chairman no later than 24 hours in advance for his testimony to be in closed or open session, or for any other unusual procedure. The chairman shall determine whether to grant any such request and shall notify the committee members of the request and of his decision.

RULE 7—SUBPOENAS

(a) *Authorization.*—The chairman or any other member of the committee, when authorized by a majority vote of the committee at a meeting or by proxies, shall have authority to subpoena the attendance of witnesses or the production of memoranda, documents, records, or any other materials. At the request of any member of the committee, the committee shall authorize the issuance of a subpoena only at a meeting of the committee. When the committee authorizes a subpoena, it may be issued upon the signature of the chairman or any other member designated by the committee.

(b) *Return.*—A subpoena, or a request to an agency, for documents may be issued whose return shall occur at a time and place other than that of a scheduled committee meeting. A return on such a subpoena or request which is incomplete or accompanied by an objection constitutes good cause for a hearing on shortened notice. Upon such a return, the chairman or any other member designated by him may convene a hearing by giving 2 hours notice by telephone to all other members. One member shall constitute a quorum for such a hearing. The sole purpose of such a hearing shall be to elucidate further information about the return and to rule on the objection.

(c) *Depositions.*—At the direction of the committee, staff is authorized to take depositions from witnesses.

RULE 8—REPORTS

(a) *Filing.*—When the committee has ordered a measure or recommendation reported, the report thereon shall be filed in the Senate at the earliest practicable time.

(b) *Supplemental, Minority and Additional Views.*—A member of the committee who gives notice of his intentions to file supplemental, minority, or additional views at the time of final committee approval of a measure or matter, shall be entitled to not less than 3 calendar days in which to file such views, in writing, with the chief clerk of the committee, with the 3 days to begin at 11:00 p.m. on the same day that the committee has ordered a measure or matter reported. Such views shall then be included in the committee report and printed in the same volume, as a part thereof, and their inclusion shall be noted on the cover of the report. In the absence of timely notice, the committee report may be filed and printed immediately without such views.

(c) *Rollcall Votes.*—The results of all rollcall votes taken in any meeting of the committee on any measure, or amendment thereto, shall be announced in the committee report. The announcement shall include a tabulation of the votes cast in favor and votes cast in opposition to each such measure and amendment by each member of the committee.

RULE 9—TREATIES

(a) The committee is the only committee of the Senate with jurisdiction to review and report to the Senate on treaties submitted by the President for Senate advice and consent to ratification. Because the House of Representatives has no role in the approval of treaties, the committee is therefore the only congressional committee with responsibility for treaties.

(b) Once submitted by the President for advice and consent, each treaty is referred to the committee and remains on its calendar from Congress to Congress until the committee takes action to report it to the Senate or recommend its return to the President, or until the committee is discharged of the treaty by the Senate.

(c) In accordance with Senate Rule XXX.2, treaties which have been reported to the Senate but not acted on before the end of a Congress "shall be resumed at the commencement of the next Congress as if no proceedings had previously been had thereon."

(d) Insofar as possible, the committee should conduct a public hearing on each treaty as soon as possible after its submission by the President. Except in extraordinary circumstances, treaties reported to the Senate shall be accompanied by a written report.

RULE 10—NOMINATIONS

(a) *Waiting Requirement.*—Unless otherwise directed by the chairman and the ranking member, the Committee on Foreign Relations shall not consider any nomination

until 6 calendar days after it has been formally submitted to the Senate.

(b) *Public Consideration.*—Nominees for any post who are invited to appear before the committee shall be heard in public session, unless a majority of the committee decrees otherwise, consistent with Rule 3(f).

(c) *Required Data.*—No nomination shall be reported to the Senate unless (1) the nominee has been accorded a security clearance on the basis of a thorough investigation by executive branch agencies; (2) the nominee has filed a financial disclosure report and a related ethics undertaking with the committee; (3) the committee has been assured that the nominee does not have any interests which could conflict with the interests of the government in the exercise of the nominee's proposed responsibilities; (4) for persons nominated to be chief of mission, ambassador-at-large, or minister, the committee has received a complete list of any contributions made by the nominee or members of his immediate family to any Federal election campaign during the year of his or her nomination and for the 4 preceding years; and (5) for persons nominated to be chiefs of mission, the report required by Section 304(a)(4) of the Foreign Service Act of 1980 on the demonstrated competence of that nominee to perform the duties of the position to which he or she has been nominated.

RULE 11—TRAVEL

(a) *Foreign Travel.*—No member of the Committee on Foreign Relations or its staff shall travel abroad on committee business unless specifically authorized by the chairman, who is required by law to approve vouchers and report expenditures of foreign currencies, and the ranking member. Requests for authorization of such travel shall state the purpose and, when completed, a full substantive and financial report shall be filed with the committee within 30 days. This report shall be furnished to all members of the committee and shall not be otherwise disseminated without authorization of the chairman or the ranking member. Except in extraordinary circumstances, staff travel shall not be approved unless the reporting requirements have been fulfilled for all prior trips. Except for travel that is strictly personal, travel funded by non-U.S. Government sources is subject to the same approval and substantive reporting requirements as U.S. Government-funded travel. In addition, members and staff are reminded to consult the Senate Code of Conduct, and, as appropriate, the Senate Select Committee on Ethics, in the case of travel sponsored by non-U.S. Government sources.

Any proposed travel by committee staff for a subcommittee purpose must be approved by the subcommittee chairman and ranking member prior to submission of the request to the chairman and ranking member of the full committee.

(b) *Domestic Travel.*—All official travel in the United States by the committee staff shall be approved in advance by the staff director, or in the case of minority staff, by the minority staff director.

(c) *Personal Staff.*—As a general rule, no more than one member of the personal staff of a member of the committee may travel with that member with the approval of the chairman and the ranking member of the committee. During such travel, the personal staff member shall be considered to be an employee of the committee.

(d) *Personal Representatives of the Member (PRM).*—For the purposes of this rule regarding staff foreign travel, the officially-designated personal representative of the member (PRM) shall be deemed to have the same rights, duties, and responsibilities as members of the staff of the Committee on Foreign

Relations. Furthermore, for the purposes of this section, each member of the committee may designate one personal staff member as the "Personal Representative of the Member."

RULE 12—TRANSCRIPTS

(a) *General.*—The Committee on Foreign Relations shall keep verbatim transcripts of all committee and subcommittee meetings and such transcripts shall remain in the custody of the committee, unless a majority of the committee decides otherwise. Transcripts of public hearings by the committee shall be published unless the chairman, with the concurrence of the ranking member, determines otherwise.

(b) *Classified or Restricted Transcripts.*—

(1) The chief clerk of the committee shall have responsibility for the maintenance and security of classified or restricted transcripts, and shall ensure that such transcripts are handled in a manner consistent with the requirements of the United States Senate Security Manual.

(2) A record shall be maintained of each use of classified or restricted transcripts as required by the Senate Security Manual.

(3) Classified transcripts may not leave the committee offices, or SVC-217 of the Capitol Visitors Center, except for the purpose of declassification.

(4) Extreme care shall be exercised to avoid taking notes or quotes from classified transcripts. Their contents may not be divulged to any unauthorized person.

(5) Subject to any additional restrictions imposed by the chairman with the concurrence of the ranking member, only the following persons are authorized to have access to classified or restricted transcripts.

(A) Members and staff of the committee in the committee offices or in SVC-217 of the Capitol Visitors Center;

(B) Designated personal representatives of members of the committee, and of the majority and minority leaders, with appropriate security clearances, in the committee offices or in SVC-217 of the Capitol Visitors Center;

(C) Senators not members of the committee, by permission of the chairman, in the committee offices or in SVC-217 of the Capitol Visitors Center; and

(D) Officials of the executive departments involved in the meeting, in the committee offices or SVC-217 of the Capitol Visitors Center.

(6) Any restrictions imposed upon access to a meeting of the committee shall also apply to the transcript of such meeting, except by special permission of the chairman and ranking member.

(7) In addition to restrictions resulting from the inclusion of any classified information in the transcript of a committee meeting, members and staff shall not discuss with anyone the proceedings of the committee in closed session or reveal information conveyed or discussed in such a session unless that person would have been permitted to attend the session itself, or unless such communication is specifically authorized by the chairman, the ranking member, or in the case of staff, by the staff director or minority staff director. A record shall be kept of all such authorizations.

(c) *Declassification.*—

(1) All noncurrent records of the committee are governed by Rule XI of the Standing Rules of the Senate and by S. Res. 474 (96th Congress). Any classified transcripts transferred to the National Archives and Records Administration under Rule XI may not be made available for public use unless they have been subject to declassification review in accordance with applicable laws or Executive orders.

(2) Any transcript or classified committee report, or any portion thereof, may be de-

classified, in accordance with applicable laws or Executive orders, sooner than the time period provided for under S. Res. 474 if:

(A) the chairman originates such action, with the concurrence of the ranking member;

(B) the other current members of the committee who participated in such meeting or report have been notified of the proposed declassification, and have not objected thereto, except that the committee by majority vote may overrule any objections thereby raised to early declassification; and

(C) the executive departments that participated in the meeting or originated the classified information have been consulted and consented to the declassification.

RULE 13—CLASSIFIED INFORMATION

(a) The handling of classified information in the Senate is governed by S. Res. 243 (100th Congress), which established the Office of Senate Security. All handling of classified information by the committee shall be consistent with the procedures set forth in the United States Senate Security Manual issued by the Office of Senate Security.

(b) The chief clerk is the security manager for the committee. The chief clerk shall be responsible for implementing the provisions of the Senate Security Manual and for serving as the committee liaison to the Office of Senate Security. The staff director, in consultation with the minority staff director, may appoint an alternate security manager as circumstances warrant.

(c) Classified material may only be transported between Senate offices by appropriately cleared staff members who have been specifically authorized to do so by the security manager.

(d) In general, Senators and staff undertake to confine their access to classified information on the basis of a "need to know" such information related to their committee responsibilities.

(e) The staff director is authorized to make such administrative regulations as may be necessary to carry out the provisions of this rule.

RULE 14—STAFF

(a) *Responsibilities.*—

(1) The staff works for the committee as a whole, under the general supervision of the chairman of the committee, and the immediate direction of the staff director, except that such part of the staff as is designated minority staff shall be under the general supervision of the ranking member and under the immediate direction of the minority staff director.

(2) Any member of the committee should feel free to call upon the staff at any time for assistance in connection with committee business. Members of the Senate not members of the committee who call upon the staff for assistance from time to time should be given assistance subject to the overriding responsibility of the staff to the committee.

(3) The staff's primary responsibility is with respect to bills, resolutions, treaties, and nominations.

In addition to carrying out assignments from the committee and its individual members, the staff has a responsibility to originate suggestions for committee or subcommittee consideration. The staff also has a responsibility to make suggestions to individual members regarding matters of special interest to such members.

(4) It is part of the staff's duty to keep itself as well informed as possible in regard to developments affecting foreign relations and in regard to the administration of foreign programs of the United States. Significant trends or developments which might otherwise escape notice should be called to the attention of the committee, or of individual Senators with particular interests.

(5) The staff shall pay due regard to the constitutional separation of powers between the Senate and the executive branch. It therefore has a responsibility to help the committee bring to bear an independent, objective judgment of proposals by the executive branch and when appropriate to originate sound proposals of its own. At the same time, the staff shall avoid impinging upon the day-to-day conduct of foreign affairs.

(6) In those instances when committee action requires the expression of minority views, the staff shall assist the minority as fully as the majority to the end that all points of view may be fully considered by members of the committee and of the Senate. The staff shall bear in mind that under our constitutional system it is the responsibility of the elected members of the Senate to determine legislative issues in the light of as full and fair a presentation of the facts as the staff may be able to obtain.

(b) *Restrictions.*—

(1) The staff shall regard its relationship to the committee as a privileged one, in the nature of the relationship of a lawyer to a client. In order to protect this relationship and the mutual confidence which must prevail if the committee-staff relationship is to be a satisfactory and fruitful one, the following criteria shall apply:

(A) members of the staff shall not be identified with any special interest group in the field of foreign relations or allow their names to be used by any such group;

(B) members of the staff shall not accept public speaking engagements or write for publication in the field of foreign relations without specific advance permission from the staff director, or, in the case of minority staff, from the minority staff director. In the case of the staff director and the minority staff director, such advance permission shall be obtained from the chairman or the ranking member, as appropriate. In any event, such public statements should avoid the expression of personal views and should not contain predictions of future, or interpretations of past, committee action; and

(C) staff shall not discuss their private conversations with members of the committee without specific advance permission from the Senator or Senators concerned.

(2) The staff shall not discuss with anyone the proceedings of the committee in closed session or reveal information conveyed or discussed in such a session unless that person would have been permitted to attend the session itself, or unless such communication is specifically authorized by the staff director or minority staff director. Unauthorized disclosure of information from a closed session or of classified information shall be cause for immediate dismissal and may, in the case of some kinds of information, be grounds for criminal prosecution.

RULE 15—STATUS AND AMENDMENT OF RULES

(a) *Status.*—In addition to the foregoing, the Committee on Foreign Relations is governed by the Standing Rules of the Senate, which shall take precedence in the event of a clear inconsistency. In addition, the jurisdiction and responsibilities of the committee with respect to certain matters, as well as the timing and procedure for their consideration in committee, may be governed by statute.

(b) *Amendment.*—These rules may be modified, amended, or repealed by a majority of the committee, provided that a notice in writing of the proposed change has been given to each member at least 48 hours prior to the meeting at which action thereon is to be taken. However, rules of the committee which are based upon Senate rules may not be superseded by committee vote alone.

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS RULES OF PROCEDURE

Mr. LIEBERMAN. Mr. President, Senate standing rules XXVI requires each committee to adopt rules to govern the procedure of the committee and to publish those rules in the CONGRESSIONAL RECORD not later than March 1 of the first year of each Congress. On February 23, 2011, a majority of the members of the Committee on Homeland Security and Governmental Affairs' Permanent Subcommittee on Investigations adopted subcommittee rules of procedure.

Consistent with standing rule XXVI, today I ask unanimous consent to have printed in the RECORD a copy of the rules of procedure of the Permanent Subcommittee on Investigations.

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

RULES OF PROCEDURE FOR THE SENATE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS OF THE COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

1. No public hearing connected with an investigation may be held without the approval of either the Chairman and the Ranking Minority Member or the approval of a Majority of the Members of the Subcommittee. In all cases, notification to all Members of the intent to hold hearings must be given at least 7 days in advance to the date of the hearing. The Ranking Minority Member should be kept fully apprised of preliminary inquiries, investigations, and hearings. Preliminary inquiries may be initiated by the Subcommittee Majority staff upon the approval of the Chairman and notice of such approval to the Ranking Minority Member or the Minority counsel. Preliminary inquiries may be undertaken by the Minority staff upon the approval of the Ranking Minority Member and notice of such approval to the Chairman or Chief Counsel. Investigations may be undertaken upon the approval of the Chairman of the Subcommittee and the Ranking Minority Member with notice of such approval to all Members.

No public hearing shall be held if the Minority Members unanimously object, unless the full Committee on Homeland Security and Governmental Affairs by a majority vote approves of such public hearing.

Senate Rules will govern all closed sessions convened by the Subcommittee (Rule XXVI, Sec. 5(b), Standing Rules of the Senate).

2. Subpoenas for witnesses, as well as documents and records, may be authorized and issued by the Chairman, or any other Member of the Subcommittee designated by him or her, with notice to the Ranking Minority Member. A written notice of intent to issue a subpoena shall be provided to the Chairman and Ranking Minority Member of the Committee, or staff officers designated by them, by the Subcommittee Chairman or a staff officer designated by him or her, immediately upon such authorization, and no subpoena shall be issued for at least 48 hours, excluding Saturdays and Sundays, from delivery to the appropriate offices, unless the Chairman and Ranking Minority Member waive the 48 hour waiting period or unless the Subcommittee Chairman certifies in writing to the Chairman and Ranking Minority Member that, in his or her opinion, it is necessary to issue a subpoena immediately.

3. The Chairman shall have the authority to call meetings of the Subcommittee. This

authority may be delegated by the Chairman to any other Member of the Subcommittee when necessary.

4. If at least three Members of the Subcommittee desire the Chairman to call a special meeting, they may file in the office of the Subcommittee, a written request therefor, addressed to the Chairman. Immediately thereafter, the clerk of the Subcommittee shall notify the Chairman of such request. If, within 3 calendar days after the filing of such request, the Chairman fails to call the requested special meeting, which is to be held within 7 calendar days after the filing of such request, a majority of the Subcommittee Members may file in the office of the Subcommittee their written notice that a special Subcommittee meeting will be held, specifying the date and hour thereof, and the Subcommittee shall meet on that date and hour. Immediately upon the filing of such notice, the Subcommittee clerk shall notify all Subcommittee Members that such special meeting will be held and inform them of its date and hour. If the Chairman is not present at any regular, additional or special meeting, the Ranking Majority Member present shall preside.

5. For public or executive sessions, one Member of the Subcommittee shall constitute a quorum for the administering of oaths and the taking of testimony in any given case or subject matter.

One-third of the Members of the Subcommittee shall constitute a quorum for the transaction of Subcommittee business other than the administering of oaths and the taking of testimony, provided that one member of the minority is present.

6. All witnesses at public or executive hearings who testify to matters of fact shall be sworn.

7. If, during public or executive sessions, a witness, his or her counsel, or any spectator conducts himself or herself in such a manner as to prevent, impede, disrupt, obstruct, or interfere with the orderly administration of such hearing, the Chairman or presiding Member of the Subcommittee present during such hearing may request the Sergeant at Arms of the Senate, his or her representative or any law enforcement official to eject said person from the hearing room.

8. Counsel retained by any witness and accompanying such witness shall be permitted to be present during the testimony of such witness at any public or executive hearing, and to advise such witness while he or she is testifying, of his or her legal rights; *provided, however*, that in the case of any witness who is an officer or employee of the government, or of a corporation or association, the Subcommittee Chairman may rule that representation by counsel from the government, corporation, or association, or by counsel representing other witnesses, creates a conflict of interest, and that the witness may only be represented during interrogation by staff or during testimony before the Subcommittee by personal counsel not from the government, corporation, or association, or by personal counsel not representing other witnesses. This rule shall not be construed to excuse a witness from testifying in the event his or her counsel is ejected for conducting himself or herself in such a manner so as to prevent, impede, disrupt, obstruct, or interfere with the orderly administration of the hearings; nor shall this rule be construed as authorizing counsel to coach the witness or answer for the witness. The failure of any witness to secure counsel shall not excuse such witness from complying with a subpoena or deposition notice.

9. Depositions.

9.1 Notice. Notices for the taking of depositions in an investigation authorized by the Subcommittee shall be authorized and issued

by the Chairman. The Chairman of the full Committee and the Ranking Minority Member of the Subcommittee shall be kept fully apprised of the authorization for the taking of depositions. Such notices shall specify a time and place of examination, and the name of the Subcommittee Member or Members or staff officer or officers who will take the deposition. The deposition shall be in private. The Subcommittee shall not initiate procedures leading to criminal or civil enforcement proceedings for a witness' failure to appear unless the deposition notice was accompanied by a Subcommittee subpoena.

9.2 Counsel. Witnesses may be accompanied at a deposition by counsel to advise them of their legal rights, subject to the provisions of Rule 8.

9.3 Procedure. Witnesses shall be examined upon oath administered by an individual authorized by local law to administer oaths. Questions shall be propounded orally by Subcommittee Members or staff. Objections by the witness as to the form of questions shall be noted for the record. If a witness objects to a question and refuses to testify on the basis of relevance or privilege, the Subcommittee Members or staff may proceed with the deposition, or may, at that time or at a subsequent time, seek a ruling by telephone or otherwise on the objection from the Chairman or such Subcommittee Member as designated by him or her. If the Chairman or designated Member overrules the objection, he or she may refer the matter to the Subcommittee or he or she may order and direct the witness to answer the question, but the Subcommittee shall not initiate procedures leading to civil or criminal enforcement unless the witness refuses to testify after he or she has been ordered and directed to answer by a Member of the Subcommittee.

9.4 Filing. The Subcommittee staff shall see that the testimony is transcribed or electronically recorded. If it is transcribed, the witness shall be furnished with a copy for review pursuant to the provisions of Rule 12. The individual administering the oath shall certify on the transcript that the witness was duly sworn in his or her presence, the transcriber shall certify that the transcript is a true record of the testimony, and the transcript shall then be filed with the Subcommittee clerk. Subcommittee staff may stipulate with the witness to changes in this procedure; deviations from this procedure which do not substantially impair the reliability of the record shall not relieve the witness from his or her obligation to testify truthfully.

10. Any witness desiring to read a prepared or written statement in executive or public hearings shall file a copy of such statement with the Chief Counsel or Chairman of the Subcommittee 48 hours in advance of the hearings at which the statement is to be presented unless the Chairman and the Ranking Minority Member waive this requirement. The Subcommittee shall determine whether such statement may be read or placed in the record of the hearing.

11. A witness may request, on grounds of distraction, harassment, personal safety, or physical discomfort, that during the testimony, television, motion picture, and other cameras and lights, shall not be directed at him or her. Such requests shall be ruled on by the Subcommittee Members present at the hearing.

12. An accurate stenographic record shall be kept of the testimony of all witnesses in executive and public hearings. The record of his or her own testimony, whether in public or executive session, shall be made available for inspection by witness or his or her counsel under Subcommittee supervision; a copy of any testimony given in public session or that part of the testimony given by the wit-

ness in executive session and subsequently quoted or made part of the record in a public session shall be made available to any witness at his or her expense if he or she so requests.

13. Interrogation of witnesses at Subcommittee hearings shall be conducted on behalf of the Subcommittee by Members and authorized Subcommittee staff personnel only.

14. Any person who is the subject of an investigation in public hearings may submit to the Chairman of the Subcommittee questions in writing for the cross-examination of other witnesses called by the Subcommittee. With the consent of a majority of the Members of the Subcommittee present and voting, these questions, or paraphrased versions of them, shall be put to the witness by the Chairman, by a Member of the Subcommittee, or by counsel of the Subcommittee.

15. Any person whose name is mentioned or who is specifically identified, and who believes that testimony or other evidence presented at a public hearing, or comment made by a Subcommittee Member or counsel, tends to defame him or her or otherwise adversely affect his or her reputation, may (a) request to appear personally before the Subcommittee to testify in his or her own behalf, or, in the alternative, (b) file a sworn statement of facts relevant to the testimony or other evidence or comment complained of. Such request and such statement shall be submitted to the Subcommittee for its consideration and action.

If a person requests to appear personally before the Subcommittee pursuant to alternative (a) referred to herein, said request shall be considered untimely if it is not received by the Chairman of the Subcommittee or its counsel in writing on or before thirty (30) days subsequent to the day on which said person's name was mentioned or otherwise specifically identified during a public hearing held before the Subcommittee, unless the Chairman and the Ranking Minority Member waive this requirement.

If a person requests the filing of his or her sworn statement pursuant to alternative (b) referred to herein, the Subcommittee may condition the filing of said sworn statement upon said person agreeing to appear personally before the Subcommittee and to testify concerning the matters contained in his or her sworn statement, as well as any other matters related to the subject of the investigation before the Subcommittee.

16. All testimony taken in executive session shall be kept secret and will not be released for public information without the approval of a majority of the Subcommittee.

17. No Subcommittee report shall be released to the public unless approved by a majority of the Subcommittee and after no less than 10 days' notice and opportunity for comment by the Members of the Subcommittee unless the need for such notice and opportunity to comment has been waived in writing by a majority of the Minority Members.

18. The Ranking Minority Member may select for appointment to the Subcommittee staff a Chief Counsel for the Minority and such other professional staff members and clerical assistants as he or she deems advisable. The total compensation allocated to such Minority staff members shall be not less than one-third the total amount allocated for all Subcommittee staff salaries during any given year. The Minority staff members shall work under the direction and supervision of the Ranking Minority Member. The Chief Counsel for the Minority shall be kept fully informed as to preliminary inquiries, investigations, and hearings, and shall have access to all material in the files of the Subcommittee.

19. When it is determined by the Chairman and Ranking Minority Member, or by a majority of the Subcommittee, that there is reasonable cause to believe that a violation of law may have occurred, the Chairman and Ranking Minority Member by letter, or the Subcommittee by resolution, are authorized to report such violation to the proper State, local and/or Federal authorities. Such letter or report may recite the basis for the determination of reasonable cause. This rule is not authority for release of documents or testimony.

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT, THE FEDERAL WORKFORCE, AND THE DISTRICT OF COLUMBIA RULES OF PROCEDURE

Mr. LIEBERMAN. Mr. President, rule XXVI, paragraph 2, of the Standing Rules of the Senate requires each committee to adopt rules to govern the procedure of the committee and to publish those rules in the CONGRESSIONAL RECORD not later than March 1 of the first year of each Congress. On February 28, 2011, the Committee on Homeland Security and Governmental Affairs' Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia adopted subcommittee rules of procedure.

Consistent with standing rule XXVI, I ask unanimous consent to have a copy of the rules of procedure of the Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia printed in the RECORD.

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

RULES OF PROCEDURE OF THE COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS, SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT, THE FEDERAL WORKFORCE, AND THE DISTRICT OF COLUMBIA

(1) SUBCOMMITTEE RULES.—The Subcommittee shall be governed, where applicable, by the rules of the full Committee on Homeland Security and Governmental Affairs and the Standing Rules of the Senate.

(2) QUORUMS.

(A) TRANSACTION OF ROUTINE BUSINESS.—One-third of the membership of the Subcommittee shall constitute a quorum for the transaction of routine business, provided that one Member of the Minority is present. For the purpose of this paragraph, the term "routine business" includes the convening of a meeting and the consideration of any business of the Subcommittee other than reporting to the full Committee on Homeland Security and Governmental Affairs any measures, matters or recommendations.

(B) TAKING TESTIMONY.—One Member of the Subcommittee shall constitute a quorum for taking sworn or unsworn testimony.

(C) PROXIES PROHIBITED IN ESTABLISHMENT OF QUORUM.—Proxies shall not be considered, for the establishment of a quorum.

(3) SUBCOMMITTEE SUBPOENAS.—The Chairman of the Subcommittee, with the approval of the Ranking Minority Member of the Subcommittee, is authorized to subpoena the attendance of witnesses or the production of memoranda, documents, records, or

any other materials at a hearing, provided that the Chairman may subpoena attendance or production without the approval of the Ranking Minority Member where the Chairman or a staff officer designated by him/her has not received notification from the Ranking Minority Member or a staff officer designated by him/her of disapproval of the subpoena within 72 hours, excluding Saturdays and Sundays, of being notified of the subpoena. If a subpoena is disapproved by the Ranking Minority Member as provided herein, the subpoena may be authorized by vote of the Members of the Subcommittee.

Immediately upon authorization of the issuance of a subpoena under these rules, a written notice of intent to issue the subpoena shall be provided to the Chairman and Ranking Minority Member of the full Committee on Homeland Security and Governmental Affairs, or staff officers designated by them, by the Subcommittee Chairman or a staff officer designated by him/her, and no subpoena shall be issued for at least 48 hours, excluding Saturdays and Sundays, from delivery to the appropriate offices, unless the Chairman and Ranking Minority Member of the full Committee on Homeland Security and Governmental Affairs waive the 48-hour waiting period or unless the Subcommittee Chairman certifies in writing to the Chairman and Ranking Minority Member of the full Committee that, in his or her opinion, it is necessary to issue a subpoena immediately.

When the Subcommittee or its Chairman authorizes subpoenas, subpoenas may be issued upon the signature of the Chairman or any other Member of the Subcommittee designated by the Chairman.

SUBCOMMITTEE ON FEDERAL FINANCIAL MANAGEMENT, GOVERNMENT INFORMATION, FEDERAL SERVICES, AND INTERNATIONAL SECURITY RULES OF PROCEDURE

Mr. LIEBERMAN. Mr. President, rule XXVI, paragraph 2, of the Standing Rules of the Senate requires each committee to adopt rules to govern the procedure of the committee and to publish those rules in the CONGRESSIONAL RECORD not later than March 1 of the first year of each Congress. On February 28, 2011, the Committee on Homeland Security and Governmental Affairs' Subcommittee on Federal Financial Management, Government Information, Federal Services, and International Security adopted subcommittee rules of procedure.

Consistent with standing rule XXVI, I ask unanimous consent to have a copy of the rules of procedure of the Subcommittee on Federal Financial Management, Government Information, Federal Services, and International Security printed in the RECORD.

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

RULES OF PROCEDURE OF THE COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS—SUBCOMMITTEE ON FEDERAL FINANCIAL MANAGEMENT, GOVERNMENT INFORMATION, FEDERAL SERVICES, AND INTERNATIONAL SECURITY

1. Subcommittee rules. The Subcommittee shall be governed, where applicable, by the

rules of the full Committee on Homeland Security and Governmental Affairs and the Standing Rules of the Senate.

2. Quorums.

A. Transaction of routine business. One-third of the membership of the Subcommittee shall constitute a quorum for the transaction of routine business, provided that one Member of the Minority is present. For the purpose of this paragraph, the term "routine business" includes the convening of a meeting and the consideration of any business of the Subcommittee other than reporting to the full Committee on Homeland Security and Governmental Affairs any measures, matters or recommendations.

B. Taking testimony. One Member of the Subcommittee shall constitute a quorum for taking sworn or unsworn testimony.

C. Proxies prohibited in establishment of quorum. Proxies shall not be considered for the establishment of a quorum.

3. Subcommittee subpoenas. The Chairman of the Subcommittee, with the approval of the Ranking Minority Member of the Subcommittee, is authorized to subpoena the attendance of witnesses or the production of memoranda, documents, records, or any other materials at a hearing, provided that the Chairman may subpoena attendance or production without the approval of the Ranking Minority Member where the Chairman or a staff officer designated by him/her has not received notification from the Ranking Minority Member or a staff officer designated by him/her of disapproval of the subpoena within 72 hours, excluding Saturdays and Sundays, of being notified of the subpoena. If a subpoena is disapproved by the Ranking Minority Member as provided herein, the subpoena may be authorized by vote of the Members of the Subcommittee.

Immediately upon authorization of the issuance of a subpoena under these rules, a written notice of intent to issue the subpoena shall be provided to the Chairman and Ranking Minority Member of the full Committee on Homeland Security and Governmental Affairs, or staff officers designated by them, by the Subcommittee Chairman or a staff officer designated by him/her, and no subpoena shall be issued for at least 48 hours, excluding Saturdays and Sundays, from delivery to the appropriate offices, unless the Chairman and Ranking Minority Member of the full Committee on Homeland Security and Governmental Affairs waive the 48-hour waiting period or unless the Subcommittee Chairman certifies in writing to the Chairman and Ranking Minority Member of the full Committee that, in his or her opinion, it is necessary to issue a subpoena immediately.

When the Subcommittee or its Chairman authorizes subpoenas, subpoenas may be issued upon the signature of the Chairman or any other Member of the Subcommittee designated by the Chairman.

AD HOC SUBCOMMITTEE ON DISASTER RECOVERY AND INTERGOVERNMENTAL AFFAIRS RULES OF PROCEDURE

Mr. LIEBERMAN. Mr. President, rule XXVI, paragraph 2, of the Standing Rules of the Senate requires each committee to adopt rules to govern the procedure of the committee and to publish those rules in the CONGRESSIONAL RECORD not later than March 1 of the first year of each Congress. On February 28, 2011, the Committee on Homeland Security and Governmental Affairs' Ad Hoc Subcommittee on Dis-

aster Recovery and Intergovernmental Affairs adopted subcommittee rules of procedure.

Consistent with standing rule XXVI, I ask unanimous consent to have a copy of the rules of procedure of the Ad Hoc Subcommittee on Disaster Recovery and Intergovernmental Affairs printed in the RECORD.

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

RULES OF PROCEDURE OF THE COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS—SUBCOMMITTEE ON DISASTER RECOVERY AND INTERGOVERNMENTAL AFFAIRS

1. Subcommittee rules. The Subcommittee shall be governed, where applicable, by the rules of the full Committee on Homeland Security and Governmental Affairs and the Standing Rules of the Senate.

2. Quorums.

A. Transaction of routine business. One-third of the membership of the Subcommittee shall constitute a quorum for the transaction of routine business, provided that one Member of the Minority is present. For the purpose of this paragraph, the term "routine business" includes the convening of a meeting and the consideration of any business of the Subcommittee other than reporting to the full Committee on Homeland Security and Governmental Affairs any measures, matters or recommendations.

B. Taking testimony. One Member of the Subcommittee shall constitute a quorum for taking sworn or unsworn testimony.

C. Proxies prohibited in establishment of quorum. Proxies shall not be considered for the establishment of a quorum.

3. Subcommittee subpoenas. The Chairman of the Subcommittee, with the approval of the Ranking Minority Member of the Subcommittee, is authorized to subpoena the attendance of witnesses or the production of memoranda, documents, records, or any other materials at a hearing, provided that the Chairman may subpoena attendance or production without the approval of the Ranking Minority Member where the Chairman or a staff officer designated by him/her has not received notification from the Ranking Minority Member or a staff officer designated by him/her of disapproval of the subpoena within 72 hours, excluding Saturdays and Sundays, of being notified of the subpoena. If a subpoena is disapproved by the Ranking Minority Member as provided herein, the subpoena may be authorized by vote of the Members of the Subcommittee.

Immediately upon authorization of the issuance of a subpoena under these rules, a written notice of intent to issue the subpoena shall be provided to the Chairman and Ranking Minority Member of the full Committee on Homeland Security and Governmental Affairs, or staff officers designated by them, by the Subcommittee Chairman or a staff officer designated by him/her, and no subpoena shall be issued for at least 48 hours, excluding Saturdays and Sundays, from delivery to the appropriate offices, unless the Chairman and the Ranking Minority Member of the full Committee on Homeland Security and Governmental Affairs waive the 48-hour waiting period or unless the Subcommittee Chairman certifies in writing to the Chairman and Ranking Minority Member of the full Committee that, in his or her opinion, it is necessary to issue a subpoena immediately.

When the Subcommittee or its Chairman authorizes subpoenas, subpoenas may be issued upon the signature of the Chairman or any other Member of the Subcommittee designated by the Chairman.

AD HOC SUBCOMMITTEE ON CONTRACTING OVERSIGHT RULES OF PROCEDURE

Mr. LIEBERMAN. Mr. President, rule XXVI, paragraph 2, of the Standing Rules of the Senate requires each committee to adopt rules to govern the procedure of the committee and to publish those rules in the CONGRESSIONAL RECORD not later than March 1 of the first year of each Congress. On February 28, 2011, the Committee on Homeland Security and Governmental Affairs' Ad Hoc Subcommittee on Contracting Oversight adopted subcommittee rules of procedure.

Consistent with standing rule XXVI, I ask unanimous consent to have a copy of the rules of procedure of the Ad Hoc Subcommittee on Contracting Oversight printed in the RECORD.

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

RULES OF PROCEDURE OF THE COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS AD HOC SUBCOMMITTEE ON CONTRACTING OVERSIGHT

(1) SUBCOMMITTEE RULES.—The Subcommittee shall be governed, where applicable, by the rules of the full Committee on Homeland Security and Governmental Affairs and the Standing Rules of the Senate.

(2) QUORUMS.

(A) TRANSACTION OF ROUTINE BUSINESS.—One-third of the membership of the Subcommittee shall constitute a quorum for the transaction of routine business, provided that one Member of the Minority is present. For the purpose of this paragraph, the term "routine business" includes the convening of a meeting and the consideration of any business of the Subcommittee other than reporting to the full Committee on Homeland Security and Governmental Affairs any matters or recommendations. Nothing herein shall be construed to authorize the consideration or reporting of legislation.

(B) TAKING TESTIMONY.—One Member of the Subcommittee shall constitute a quorum for taking sworn or unsworn testimony.

(C) PROXIES PROHIBITED IN ESTABLISHMENT OF QUORUM.—Proxies shall not be considered for the establishment of a quorum.

(3) SUBCOMMITTEE SUBPOENAS.—The Chairman of the Subcommittee, with the approval of the Ranking Minority Member of the Subcommittee, is authorized to subpoena the attendance of witnesses or the production of memoranda, documents, records, or any other materials at a hearing, provided that the Chairman may subpoena attendance or production without the approval of the Ranking Minority Member where the Chairman or a staff officer designated by him/her has not received notification from the Ranking Minority Member or a staff officer designated by him/her of disapproval of the subpoena within 72 hours, excluding Saturdays and Sundays, of being notified of the subpoena. If a subpoena is disapproved by the Ranking Minority Member as provided herein, the subpoena may be authorized by vote of the Members of the Subcommittee.

Immediately upon authorization of the issuance of a subpoena under these rules, a written notice of intent to issue the subpoena shall be provided to the Chairman and Ranking Minority Member of the full Committee on Homeland Security and Governmental Affairs, or staff officers designated by

them, by the Subcommittee Chairman or a staff officer designated by him/her, and no subpoena shall be issued for at least 48 hours, excluding Saturdays and Sundays, from delivery to the appropriate offices, unless the Chairman and Ranking Minority Member of the full Committee on Homeland Security and Governmental Affairs waive the 48-hour waiting period or unless the Subcommittee Chairman certifies in writing to the Chairman and Ranking Minority Member of the full Committee that, in his or her opinion, it is necessary to issue a subpoena immediately.

When the Subcommittee or its Chairman authorizes subpoenas, subpoenas may be issued upon the signature of the Chairman or any other Member of the Subcommittee designated by the Chairman.

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS RULES OF PROCEDURE

Mr. LIEBERMAN. Mr. President, rule XXVI, paragraph 2, of the Standing Rules of the Senate requires each committee to adopt rules to govern the procedure of the committee and to publish those rules in the CONGRESSIONAL RECORD not later than March 1 of the first year of each Congress. On February 15, 2011, the Committee on Homeland Security and Governmental Affairs adopted committee rules of procedure.

Consistent with standing rule XXVI, I ask unanimous consent to have a copy of the rules of procedure of the Committee on Homeland Security and Governmental Affairs printed in the RECORD.

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

RULES OF PROCEDURE OF THE COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

RULE 1. MEETINGS AND MEETING PROCEDURES OTHER THAN HEARINGS

A. Meeting dates. The Committee shall hold its regular meetings on the first Wednesday of each month, when the Congress is in session, or at such other times as the Chairman shall determine. Additional meetings may be called by the Chairman as he/she deems necessary to expedite Committee business. (Rule XXVI, Sec. 3, Standing Rules of the Senate.)

B. Calling special Committee meetings. If at least three Members of the Committee desire the Chairman to call a special meeting, they may file in the offices of the Committee a written request therefor, addressed to the Chairman. Immediately thereafter, the Chief Clerk of the Committee shall notify the Chairman of such request. If, within 3 calendar days after the filing of such request, the Chairman fails to call the requested special meeting, which is to be held within 7 calendar days after the filing of such request, a majority of the Committee Members may file in the offices of the Committee their written notice that a special Committee meeting will be held, specifying the date and hour thereof, and the Committee shall meet on that date and hour. Immediately upon the filing of such notice, the Committee chief clerk shall notify all Committee Members that such special meeting will be held and inform them of its date and hour. (Rule XXVI, Sec. 3, Standing Rules of the Senate.)

C. Meeting notices and agenda. Written notices of Committee meetings, accompanied by an agenda, enumerating the items of business to be considered, shall be sent to all Committee Members at least 3 days in advance of such meetings, excluding Saturdays, Sundays, and legal holidays in which the Senate is not in session. The written notices required by this Rule may be provided by electronic mail. In the event that unforeseen requirements or Committee business prevent a 3-day notice of either the meeting or agenda, the Committee staff shall communicate such notice and agenda, or any revisions to the agenda, as soon as practicable by telephone or otherwise to Members or appropriate staff assistants in their offices.

D. Open business meetings. Meetings for the transaction of Committee or Subcommittee business shall be conducted in open session, except that a meeting or series of meetings on the same subject for a period of no more than 14 calendar days may be closed to the public on a motion made and seconded to go into closed session to discuss only whether the matters enumerated in clauses (1) through (6) below would require the meeting to be closed, followed immediately by a record vote in open session by a majority of the Committee or Subcommittee Members when it is determined that the matters to be discussed or the testimony to be taken at such meeting or meetings—

(1) will disclose matters necessary to be kept secret in the interests of national defense or the confidential conduct of foreign relations of the United States;

(2) will relate solely to matters of Committee or Subcommittee staff personnel or internal staff management or procedure;

(3) will tend to charge an individual with crime or misconduct, to disgrace or injure the professional standing of an individual, or otherwise expose an individual to public contempt or obloquy or will represent a clearly unwarranted invasion of the privacy of an individual;

(4) will disclose the identity of an informer or law enforcement agent or will disclose any information relating to the investigation or prosecution of a criminal offense that is required to be kept secret in the interests of effective law enforcement;

(5) will disclose information relating to the trade secrets of financial or commercial information pertaining specifically to a given person if—

(A) an Act of Congress requires the information to be kept confidential by Government officers and employees; or

(B) the information has been obtained by the Government on a confidential basis, other than through an application by such person for a specific Government financial or other benefit, and is required to be kept secret in order to prevent undue injury to the competitive position of such person; or

(6) may divulge matters required to be kept confidential under other provisions of law or Government regulations. (Rule XXVI, Sec. 5(b), Standing Rules of the Senate.) Notwithstanding the foregoing, whenever disorder arises during a Committee or Subcommittee meeting that is open to the public, or any demonstration of approval or disapproval is indulged in by any person in attendance at any such meeting, it shall be the duty of the Chairman to enforce order on his or her own initiative and without any point of order being made by a Member of the Committee or Subcommittee; provided, further, that when the Chairman finds it necessary to maintain order, he/she shall have the power to clear the room, and the Committee or Subcommittee may act in closed session for so long as there is doubt of the assurance of order. (Rule XXVI, Sec. 5(d), Standing Rules of the Senate.)

E. Prior notice of first degree amendments. It shall not be in order for the Committee, or a Subcommittee thereof, to consider any amendment in the first degree proposed to any measure under consideration by the Committee or Subcommittee unless a written copy of such amendment has been delivered to each Member of the Committee or Subcommittee, as the case may be, and to the office of the Committee or Subcommittee, at least 24 hours before the meeting of the Committee or Subcommittee at which the amendment is to be proposed. The written copy of amendments in the first degree required by this Rule may be provided by electronic mail. This subsection may be waived by a majority of the Members present. This subsection shall apply only when at least 72 hours written notice of a session to mark up a measure is provided to the Committee or Subcommittee.

F. Meeting transcript. The Committee or Subcommittee shall prepare and keep a complete transcript or electronic recording adequate to fully record the proceeding of each meeting whether or not such meeting or any part thereof is closed to the public, unless a majority of the Committee or Subcommittee Members vote to forgo such a record. (Rule XXVI, Sec. 5(e), Standing Rules of the Senate.)

RULE 2. QUORUMS

A. Reporting measures and matters. A majority of the Members of the Committee shall constitute a quorum for reporting to the Senate any measures, matters or recommendations. (Rule XXVI, Sec. 7(a)(1), Standing Rules of the Senate.)

B. Transaction of routine business. One-third of the membership of the Committee shall constitute a quorum for the transaction of routine business, provided that one Member of the Minority is present. For the purpose of this paragraph, the term "routine business" includes the convening of a meeting and the consideration of any business of the Committee other than reporting to the Senate any measures, matters or recommendations. (Rule XXVI, Sec. 7(a)(1), Standing Rules of the Senate.)

C. Taking testimony. One Member of the Committee shall constitute a quorum for taking sworn or unsworn testimony. (Rule XXVI, Sec. 7(a)(2) and 7(c)(2), Standing Rules of the Senate.)

D. Subcommittee quorums. Subject to the provisions of sections 7(a) (1) and (2) of Rule XXVI of the Standing Rules of the Senate, the Subcommittees of this Committee are authorized to establish their own quorums for the transaction of business and the taking of sworn testimony.

E. Proxies prohibited in establishment of quorum. Proxies shall not be considered for the establishment of a quorum.

RULE 3. VOTING

A. Quorum required. Subject to the provisions of subsection (E), no vote may be taken by the Committee, or any Subcommittee thereof, on any measure or matter unless a quorum, as prescribed in the preceding section, is actually present.

B. Reporting measures and matters. No measure, matter or recommendation shall be reported from the Committee unless a majority of the Committee Members are actually present, and the vote of the Committee to report a measure or matter shall require the concurrence of a majority of those Members who are actually present at the time the vote is taken. (Rule XXVI, Sec. 7(a) (1) and (3), Standing Rules of the Senate.)

C. Proxy voting. Proxy voting shall be allowed on all measures and matters before the Committee, or any Subcommittee thereof, except that, when the Committee, or any Subcommittee thereof, is voting to report a

measure or matter, proxy votes shall be allowed solely for the purposes of recording a Member's position on the pending question. Proxy voting shall be allowed only if the absent Committee or Subcommittee Member has been informed of the matter on which he or she is being recorded and has affirmatively requested that he or she be so recorded. All proxies shall be filed with the chief clerk of the Committee or Subcommittee thereof, as the case may be. All proxies shall be in writing and shall contain sufficient reference to the pending matter as is necessary to identify it and to inform the Committee or Subcommittee as to how the Member establishes his or her vote to be recorded thereon. (Rule XXVI, Sec. 7(a)(3) and 7(c)(1), Standing Rules of the Senate.)

D. Announcement of vote. (1) Whenever the Committee by roll call vote reports any measure or matter, the report of the Committee upon such a measure or matter shall include a tabulation of the votes cast in favor of and the votes cast in opposition to such measure or matter by each Member of the Committee. (Rule XXVI, Sec. 7(c), Standing Rules of the Senate.)

(2) Whenever the Committee by roll call vote acts upon any measure or amendment thereto, other than reporting a measure or matter, the results thereof shall be announced in the Committee report on that measure unless previously announced by the Committee, and such announcement shall include a tabulation of the votes cast in favor of and the votes cast in opposition to each such measure and amendment thereto by each Member of the Committee who was present at the meeting. (Rule XXVI, Sec. 7(b), Standing Rules of the Senate.)

(3) In any case in which a roll call vote is announced, the tabulation of votes shall state separately the proxy vote recorded in favor of and in opposition to that measure, amendment thereto, or matter. (Rule XXVI, Sec. 7(b) and (c), Standing Rules of the Senate.)

E. Polling. (1) The Committee, or any Subcommittee thereof, may poll (a) internal Committee or Subcommittee matters including the Committee's or Subcommittee's staff, records and budget; (b) steps in an investigation, including issuance of subpoenas, applications for immunity orders, and requests for documents from agencies; and (c) other Committee or Subcommittee business other than a vote on reporting to the Senate any measures, matters or recommendations or a vote on closing a meeting or hearing to the public.

(2) Only the Chairman, or a Committee Member or staff officer designated by him/her, may undertake any poll of the Members of the Committee. If any Member requests, any matter to be polled shall be held for meeting rather than being polled. The chief clerk of the Committee shall keep a record of polls; if a majority of the Members of the Committee determine that the polled matter is in one of the areas enumerated in subsection (D) of Rule 1, the record of the poll shall be confidential. Any Committee Member may move at the Committee meeting following the poll for a vote on the polled decision, such motion and vote to be subject to the provisions of subsection (D) of Rule 1, where applicable.

F. Naming postal facilities. The Committee will not consider any legislation that would name a postal facility for a living person with the exception of bills naming facilities after former Presidents and Vice Presidents of the United States, former Members of Congress over 70 years of age, former State or local elected officials over 70 years of age, former judges over 70 years of age, or wounded veterans.

RULE 4. CHAIRMANSHIP OF MEETINGS AND HEARINGS

The Chairman shall preside at all Committee meetings and hearings except that he or she shall designate a temporary Chairman to act in his or her place if he or she is unable to be present at a scheduled meeting or hearing. If the Chairman (or his or her designee) is absent 10 minutes after the scheduled time set for a meeting or hearing, the Ranking Majority Member present shall preside until the Chairman's arrival. If there is no Member of the Majority present, the Ranking Minority Member present, with the prior approval of the Chairman, may open and conduct the meeting or hearing until such time as a Member of the Majority arrives.

RULE 5. HEARINGS AND HEARING PROCEDURES

A. Announcement of hearings. The Committee, or any Subcommittee thereof, shall make public announcement of the date, time, and subject matter of any hearing to be conducted on any measure or matter at least 1 week in advance of such hearing, unless the Committee, or Subcommittee, determines that there is good cause to begin such hearing at an earlier date. (Rule XXVI, Sec. 4(a), Standing Rules of the Senate.)

B. Open hearings. Each hearing conducted by the Committee, or any Subcommittee thereof, shall be open to the public, except that a hearing or series of hearings on the same subject for a period of no more than 14 calendar days may be closed to the public on a motion made and seconded to go into closed session to discuss only whether the matters enumerated in clauses (1) through (6) below would require the hearing to be closed, followed immediately by a record vote in open session by a majority of the Committee or Subcommittee Members when it is determined that the matters to be discussed or the testimony to be taken at such hearing or hearings—

(1) will disclose matters necessary to be kept secret in the interests of national defense or the confidential conduct of foreign relations of the United States;

(2) will relate solely to matters of Committee or Subcommittee staff personnel or internal staff management or procedure;

(3) will tend to charge an individual with crime or misconduct, to disgrace or injure the professional standing of an individual, or otherwise expose an individual to public contempt or obloquy or will represent a clearly unwarranted invasion of the privacy of an individual;

(4) will disclose the identity of an informer or law enforcement agent or will disclose any information relating to the investigation or prosecution of a criminal offense that is required to be kept secret in the interests of effective law enforcement;

(5) will disclose information relating to the trade secrets of financial or commercial information pertaining specifically to a given person if—

(A) an Act of Congress requires the information to be kept confidential by Government officers and employees; or

(B) the information has been obtained by the Government on a confidential basis, other than through an application by such person for a specific Government financial or other benefit, and is required to be kept secret in order to prevent undue injury to the competitive position of such person; or

(6) may divulge matters required to be kept confidential under other provisions of law or Government regulations. (Rule XXVI, Sec. 5(b), Standing Rules of the Senate.)

Notwithstanding the foregoing, whenever disorder arises during a Committee or Subcommittee meeting that is open to the public, or any demonstration of approval or disapproval is indulged in by any person in attendance at any such meeting, it shall be the

duty of the Chairman to enforce order on his or her own initiative and without any point of order being made by a Member of the Committee or Subcommittee; provided, further, that when the Chairman finds it necessary to maintain order, he or she shall have the power to clear the room, and the Committee or Subcommittee may act in closed session for so long as there is doubt of the assurance of order. (Rule XXVI, Sec. 5(d), Standing Rules of the Senate.)

C. Full Committee subpoenas. The Chairman, with the approval of the Ranking Minority Member of the Committee, is authorized to subpoena the attendance of witnesses or the production of memoranda, documents, records, or any other materials at a hearing or deposition, provided that the Chairman may subpoena attendance or production without the approval of the Ranking Minority Member where the Chairman or a staff officer designated by him/her has not received notification from the Ranking Minority Member or a staff officer designated by him/her of disapproval of the subpoena within 72 hours, excluding Saturdays and Sundays, of being notified of the subpoena. If a subpoena is disapproved by the Ranking Minority Member as provided in this subsection, the subpoena may be authorized by vote of the Members of the Committee. When the Committee or Chairman authorizes subpoenas, subpoenas may be issued upon the signature of the Chairman or any other Member of the Committee designated by the Chairman.

D. Witness counsel. Counsel retained by any witness and accompanying such witness shall be permitted to be present during the testimony of such witness at any public or executive hearing or deposition to advise such witness while he or she is testifying, of his or her legal rights; provided, however, that in the case of any witness who is an officer or employee of the Government, or of a corporation or association, the Committee Chairman may rule that representation by counsel from the Government, corporation, or association or by counsel representing other witnesses, creates a conflict of interest, and that the witness may only be represented during interrogation by staff or during testimony before the Committee by personal counsel not from the Government, corporation, or association or by personal counsel not representing other witnesses. This subsection shall not be construed to excuse a witness from testifying in the event his or her counsel is ejected for conducting himself or herself in such manner so as to prevent, impede, disrupt, obstruct or interfere with the orderly administration of the hearings; nor shall this subsection be construed as authorizing counsel to coach the witness or answer for the witness. The failure of any witness to secure counsel shall not excuse such witness from complying with a subpoena or deposition notice.

E. Witness transcripts. An accurate electronic or stenographic record shall be kept of the testimony of all witnesses in executive and public hearings. The record of his or her testimony whether in public or executive session shall be made available for inspection by the witness or his or her counsel under Committee supervision; a copy of any testimony given in public session or that part of the testimony given by the witness in executive session and subsequently quoted or made part of the record in a public session shall be provided to any witness at his or her expense if he or she so requests. Upon inspecting his or her transcript, within a time limit set by the chief clerk of the Committee, a witness may request changes in the transcript to correct errors of transcription and grammatical errors; the Chairman or a staff officer designated by him/her shall rule on such requests.

F. Impugned persons. Any person whose name is mentioned or is specifically identified, and who believes that evidence presented, or comment made by a Member of the Committee or staff officer, at a public hearing or at a closed hearing concerning which there have been public reports, tends to impugn his or her character or adversely affect his or her reputation may:

(a) File a sworn statement of facts relevant to the evidence or comment, which statement shall be considered for placement in the hearing record by the Committee;

(b) Request the opportunity to appear personally before the Committee to testify in his or her own behalf, which request shall be considered by the Committee; and

(c) Submit questions in writing which he or she requests be used for the cross-examination of other witnesses called by the Committee, which questions shall be considered for use by the Committee.

G. Radio, television, and photography. The Committee, or any Subcommittee thereof, may permit the proceedings of hearings which are open to the public to be photographed and broadcast by radio, television or both, subject to such conditions as the Committee, or Subcommittee, may impose. (Rule XXVI, Sec. 5(c), Standing Rules of the Senate.)

H. Advance statements of witnesses. A witness appearing before the Committee, or any Subcommittee thereof, shall provide electronically a written statement of his or her proposed testimony at least 48 hours prior to his or her appearance. This requirement may be waived by the Chairman and the Ranking Minority Member following their determination that there is good cause for failure of compliance. (Rule XXVI, Sec. 4(b), Standing Rules of the Senate.)

I. Minority witnesses. In any hearings conducted by the Committee, or any Subcommittee thereof, the Minority Members of the Committee or Subcommittee shall be entitled, upon request to the Chairman by a majority of the Minority Members, to call witnesses of their selection during at least 1 day of such hearings. (Rule XXVI, Sec. 4(d), Standing Rules of the Senate.)

J. Full Committee depositions. Depositions may be taken prior to or after a hearing as provided in this subsection.

(1) Notices for the taking of depositions shall be authorized and issued by the Chairman, with the approval of the Ranking Minority Member of the Committee, provided that the Chairman may initiate depositions without the approval of the Ranking Minority Member where the Chairman or a staff officer designated by him/her has not received notification from the Ranking Minority Member or a staff officer designated by him/her of disapproval of the deposition within 72 hours, excluding Saturdays and Sundays, of being notified of the deposition notice. If a deposition notice is disapproved by the Ranking Minority Member as provided in this subsection, the deposition notice may be authorized by a vote of the Members of the Committee. Committee deposition notices shall specify a time and place for examination, and the name of the Committee Member or Members or staff officer or officers who will take the deposition. Unless otherwise specified, the deposition shall be in private. The Committee shall not initiate procedures leading to criminal or civil enforcement proceedings for a witness' failure to appear or produce unless the deposition notice was accompanied by a Committee subpoena.

(2) Witnesses may be accompanied at a deposition by counsel to advise them of their legal rights, subject to the provisions of Rule 5D.

(3) Oaths at depositions may be administered by an individual authorized by local

law to administer oaths. Questions shall be propounded orally by Committee Member or Members or staff. If a witness objects to a question and refuses to testify, the objection shall be noted for the record and the Committee Member or Members or staff may proceed with the remainder of the deposition.

(4) The Committee shall see that the testimony is transcribed or electronically recorded (which may include audio or audio/video recordings). If it is transcribed, the transcript shall be made available for inspection by the witness or his or her counsel under Committee supervision. The witness shall sign a copy of the transcript and may request changes to it, which shall be handled in accordance with the procedure set forth in subsection (E). If the witness fails to sign a copy, the staff shall note that fact on the transcript. The individual administering the oath shall certify on the transcript that the witness was duly sworn in his or her presence, the transcriber shall certify that the transcript is a true record of the testimony, and the transcript shall then be filed with the chief clerk of the Committee. The Chairman or a staff officer designated by him/her may stipulate with the witness to changes in the procedure; deviations from this procedure which do not substantially impair the reliability of the record shall not relieve the witness from his or her obligation to testify truthfully.

RULE 6. COMMITTEE REPORTING PROCEDURES

A. Timely filing. When the Committee has ordered a measure or matter reported, following final action, the report thereon shall be filed in the Senate at the earliest practicable time. (Rule XXVI, Sec. 10(b), Standing Rules of the Senate.)

B. Supplemental, Minority, and additional views. A Member of the Committee who gives notice of his or her intention to file supplemental, Minority, or additional views at the time of final Committee approval of a measure or matter shall be entitled to not less than 3 calendar days in which to file such views, in writing, with the chief clerk of the Committee. Such views shall then be included in the Committee report and printed in the same volume, as a part thereof, and their inclusion shall be noted on the cover of the report. In the absence of timely notice, the Committee report may be filed and printed immediately without such views. (Rule XXVI, Sec. 10(c), Standing Rules of the Senate.)

C. Notice by Subcommittee Chairmen. The Chairman of each Subcommittee shall notify the Chairman in writing whenever any measure has been ordered reported by such Subcommittee and is ready for consideration by the full Committee.

D. Draft reports of Subcommittees. All draft reports prepared by Subcommittees of this Committee on any measure or matter referred to it by the Chairman shall be in the form, style, and arrangement required to conform to the applicable provisions of the Standing Rules of the Senate, and shall be in accordance with the established practices followed by the Committee. Upon completion of such draft reports, copies thereof shall be filed with the chief clerk of the Committee at the earliest practicable time.

E. Impact statements in reports. All Committee reports, accompanying a bill or joint resolution of a public character reported by the Committee, shall contain (1) an estimate, made by the Committee, of the costs which would be incurred in carrying out the legislation for the then current fiscal year and for each of the next 5 years thereafter (or for the authorized duration of the proposed legislation, if less than 5 years); and (2) a comparison of such cost estimates with any made by a Federal agency; or (3) in lieu

of such estimate or comparison, or both, a statement of the reasons for failure by the Committee to comply with these requirements as impracticable, in the event of inability to comply therewith. (Rule XXVI, Sec. 11(a), Standing Rules of the Senate.)

Each such report shall also contain an evaluation, made by the Committee, of the regulatory impact which would be incurred in carrying out the bill or joint resolution. The evaluation shall include (a) an estimate of the numbers of individuals and businesses who would be regulated and a determination of the groups and classes of such individuals and businesses, (b) a determination of the economic impact of such regulation on the individuals, consumers, and businesses affected, (c) a determination of the impact on the personal privacy of the individuals affected, and (d) a determination of the amount of paperwork that will result from the regulations to be promulgated pursuant to the bill or joint resolution, which determination may include, but need not be limited to, estimates of the amount of time and financial costs required of affected parties, showing whether the effects of the bill or joint resolution could be substantial, as well as reasonable estimates of the recordkeeping requirements that may be associated with the bill or joint resolution. Or, in lieu of the foregoing evaluation, the report shall include a statement of the reasons for failure by the Committee to comply with these requirements as impracticable, in the event of inability to comply therewith. (Rule XXVI, Sec. 11(b), Standing Rules of the Senate.)

RULE 7. SUBCOMMITTEES AND SUBCOMMITTEE PROCEDURES

A. Regularly established Subcommittees. The Committee shall have three regularly established Subcommittees. The Subcommittees are as follows:

Permanent Subcommittee on Investigations
Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia
Subcommittee on Federal Financial Management, Government Information, Federal Services, and International Security

B. Ad hoc Subcommittees. Following consultation with the Ranking Minority Member, the Chairman shall, from time to time, establish such ad hoc Subcommittees as he/she deems necessary to expedite Committee business.

C. Subcommittee membership. Following consultation with the Majority Members, and the Ranking Minority Member of the Committee, the Chairman shall announce selections for membership on the Subcommittees referred to in paragraphs A and B, above.

D. Subcommittee meetings and hearings. Each Subcommittee of this Committee is authorized to establish meeting dates and adopt rules not inconsistent with the rules of the Committee except as provided in Rules 2(D) and 7(E).

E. Subcommittee subpoenas. Each Subcommittee is authorized to adopt rules concerning subpoenas which need not be consistent with the rules of the Committee; provided, however, that in the event the Subcommittee authorizes the issuance of a subpoena pursuant to its own rules, a written notice of intent to issue the subpoena shall be provided to the Chairman and Ranking Minority Member of the Committee, or staff officers designated by them, by the Subcommittee Chairman or a staff officer designated by him/her immediately upon such authorization, and no subpoena shall be issued for at least 48 hours, excluding Saturdays and Sundays, from delivery to the appropriate offices, unless the Chairman and Ranking Minority Member waive the 48-hour

waiting period or unless the Subcommittee Chairman certifies in writing to the Chairman and Ranking Minority Member that, in his or her opinion, it is necessary to issue a subpoena immediately.

F. Subcommittee budgets. During the first year of a new Congress, each Subcommittee that requires authorization for the expenditure of funds for the conduct of inquiries and investigations, shall file with the chief clerk of the Committee, by a date and time prescribed by the Chairman, its request for funds for the two (2) 12-month periods beginning on March 1 and extending through and including the last day of February of the 2 following years, which years comprise that Congress. Each such request shall be submitted on the budget form prescribed by the Committee on Rules and Administration, and shall be accompanied by a written justification addressed to the Chairman of the Committee, which shall include (1) a statement of the Subcommittee's area of activities, (2) its accomplishments during the preceding Congress detailed year by year, and (3) a table showing a comparison between (a) the funds authorized for expenditure during the preceding Congress detailed year by year, (b) the funds actually expended during that Congress detailed year by year, (c) the amount requested for each year of the Congress, and (d) the number of professional and clerical staff members and consultants employed by the Subcommittee during the preceding Congress detailed year by year and the number of such personnel requested for each year of the Congress. The Chairman may request additional reports from the Subcommittees regarding their activities and budgets at any time during a Congress. (Rule XXVI, Sec. 9, Standing Rules of the Senate.)

RULE 8. CONFIRMATION STANDARDS AND PROCEDURES

A. Standards. In considering a nomination, the Committee shall inquire into the nominee's experience, qualifications, suitability, and integrity to serve in the position to which he or she has been nominated. The Committee shall recommend confirmation, upon finding that the nominee has the necessary integrity and is affirmatively qualified by reason of training, education, or experience to carry out the functions of the office to which he or she was nominated.

B. Information concerning the Nominee. Each nominee shall submit the following information to the Committee:

(1) A detailed biographical resume which contains information relating to education, employment, and achievements;

(2) Financial information, in such specificity as the Committee deems necessary, including a list of assets and liabilities of the nominee and tax returns for the 3 years preceding the time of his or her nomination, and copies of other relevant documents requested by the Committee, such as a proposed blind trust agreement, necessary for the Committee's consideration; and,

(3) Copies of other relevant documents the Committee may request, such as responses to questions concerning the policies and programs the nominee intends to pursue upon taking office. At the request of the Chairman or the Ranking Minority Member, a nominee shall be required to submit a certified financial statement compiled by an independent auditor. Information received pursuant to this subsection shall be made available for public inspection; provided, however, that tax returns shall, after review by persons designated in subsection (C) of this rule, be placed under seal to ensure confidentiality.

C. Procedures for Committee inquiry. The Committee shall conduct an inquiry into the experience, qualifications, suitability, and

integrity of nominees, and shall give particular attention to the following matters:

(1) A review of the biographical information provided by the nominee, including, but not limited to, any professional activities related to the duties of the office to which he or she is nominated;

(2) A review of the financial information provided by the nominee, including tax returns for the 3 years preceding the time of his or her nomination;

(3) A review of any actions, taken or proposed by the nominee, to remedy conflicts of interest; and

(4) A review of any personal or legal matter which may bear upon the nominee's qualifications for the office to which he or she is nominated. For the purpose of assisting the Committee in the conduct of this inquiry, a Majority investigator or investigators shall be designated by the Chairman and a Minority investigator or investigators shall be designated by the Ranking Minority Member. The Chairman, Ranking Minority Member, other Members of the Committee, and designated investigators shall have access to all investigative reports on nominees prepared by any Federal agency, except that only the Chairman, the Ranking Minority Member, or other Members of the Committee, upon request, shall have access to the report of the Federal Bureau of Investigation. The Committee may request the assistance of the U.S. Government Accountability Office and any other such expert opinion as may be necessary in conducting its review of information provided by nominees.

D. Report on the Nominee. After a review of all information pertinent to the nomination, a confidential report on the nominee shall be made in the case of judicial nominees and may be made in the case of non-judicial nominees by the designated investigators to the Chairman and the Ranking Minority Member and, upon request, to any other Member of the Committee. The report shall summarize the steps taken by the Committee during its investigation of the nominee and the results of the Committee inquiry, including any unresolved matters that have been raised during the course of the inquiry.

E. Hearings. The Committee shall conduct a public hearing during which the nominee shall be called to testify under oath on all matters relating to his or her suitability for office, including the policies and programs which he or she will pursue while in that position. No hearing shall be held until at least 72 hours after the following events have occurred: The nominee has responded to pre-hearing questions submitted by the Committee; and, if applicable, the report described in subsection (D) has been made to the Chairman and Ranking Minority Member, and is available to other Members of the Committee, upon request.

F. Action on confirmation. A mark-up on a nomination shall not occur on the same day that the hearing on the nominee is held. In order to assist the Committee in reaching a recommendation on confirmation, the staff may make an oral presentation to the Committee at the mark-up, factually summarizing the nominee's background and the steps taken during the pre-hearing inquiry.

G. Application. The procedures contained in subsections (C), (D), (E), and (F) of this rule shall apply to persons nominated by the President to positions requiring their full-time service. At the discretion of the Chairman and Ranking Minority Member, those procedures may apply to persons nominated by the President to serve on a part-time basis.

RULE 9. PERSONNEL ACTIONS AFFECTING
COMMITTEE STAFF

In accordance with Rule XLII of the Standing Rules of the Senate and the Congressional Accountability Act of 1995 (P.L. 104-1), all personnel actions affecting the staff of the Committee shall be made free from any discrimination based on race, color, religion, sex, national origin, age, state of physical handicap, or disability.

ADDITIONAL STATEMENTS

TRIBUTE TO LILLY NUTTER

• Mr. LUGAR. Mr. President, today I recognize a remarkable Hoosier, Mrs. Lilly Nutter of Warren, IN, who has worked diligently in her own way to provide a measure of comfort to more than 1,000 servicemembers stationed in Iraq and Afghanistan.

After a career with the Department of Defense that included service in California and at Grissom Air Force Base in my State of Indiana, Mrs. Nutter retired to her husband's hometown of Warren where she is active with the Welcome Wagon, the Chamber of Commerce, the Cancer Society, and the food pantry.

However, I especially admire Mrs. Nutter's work on behalf of our servicemembers. In 2003, Mrs. Nutter was contacted by her grandson Kent Dolasky, who was serving with the U.S. Army in Iraq. Her grandson shared his concern that some of his fellow soldiers did not receive packages from their friends and family during their deployment. Always looking for a new opportunity to help others, Mrs. Nutter got to work collecting candy, toiletries, and other items that would bring a smile to the faces of servicemembers during time away from their loved ones and the comforts of home. Her efforts, however, did not conclude when her grandson and his unit returned home. Since 2003, Mrs. Nutter has worked with her family and friends both in her community and across the country to collect goods that have been assembled into more than 1,000 care packages.

I am hopeful that my fellow Senators will join me in thanking Mrs. Nutter for her remarkable work on behalf of our servicemembers and in recognizing her spirit of care and compassion for those who risk their lives defending our Nation abroad.●

CENTENNIAL ANNIVERSARY OF
THE THEODORE ROOSEVELT DAM

• Mr. MCCAIN. Mr. President, on March 18, 2011, the State of Arizona will celebrate the 100 year anniversary of the Theodore Roosevelt Dam. As that day approaches, I wish to recognize how vital this structure has been in unlocking the tremendous economic potential of my State.

In the arid and often unforgiving desert, the Theodore Roosevelt Dam is the central component and crowning achievement of one of the Nation's first water reclamation projects in the

West. In 1903, a group of visionary territorial Arizonans banded together to mortgage their lands as debt collateral for a Federal loan to build the Roosevelt Dam. The dam was completed 8 years later, in 1911, and stood as the world's largest masonry dam of its day. Located on the Salt River, it serves as both a water storage system and hydroelectric facility that supplies electricity, drinking water and irrigation water to the downstream communities of metropolitan Phoenix.

Those original landowners, who in 1903 formed the Salt River Valley Water Users Association, had a vision of what could be. Indeed, Roosevelt Dam nurtured and ultimately transformed the Salt River Valley into what is today. The dam made Phoenix a boom town, and turned the surrounding area into one of fastest-growing regions in the Nation. People came, and with them a strong and vibrant economy grew to attract new businesses fueled by a diverse labor force. Roosevelt Dam literally changed people's ideas about living in the desert. It is a legacy that continues today with the Salt River Project, a power and water utility that continues to provide the infrastructure that feeds the area's economy.

Over the next several decades, the Phoenix area is projected to expand by twice the national rate once again demonstrating the vitality of the community. No other reclamation project in the history of Arizona has stimulated the economic and population boom in the way Roosevelt Dam did once it was completed. For that reason, I am proud to honor its contributions in my State, for the past 100 years and into its next century of service.●

REMEMBERING EVANGELISTO
RAMIREZ GARCIA

• Mr. UDALL of New Mexico. Mr. President, last month, my home State of New Mexico lost a great man when Mr. Evangelisto "Evans" Ramirez Garcia, a survivor of the Bataan Death March, passed away at the age of 97. The loss of a hero such as Mr. Garcia is felt not only by New Mexicans but by our entire country—which is forever indebted to those brave men captured in Bataan. I would like to take a few moments to honor him today.

Mr. Garcia's life tells a story of patriotism in its finest form. He served in two wars, earning a Purple Heart, Bronze Star, and POW Medal among other commendations, and continued to support veterans' issues long after he completed his military service.

Cutting his university studies short to enlist in the U.S. Army in 1941, Mr. Garcia and his fellow soldiers stationed in the Philippines played a vital role in the eventual victory of the Allied forces. They gave little merit to their own safety or comfort and helped to slow the Japanese advance, giving Allied troops the time to reorganize and reverse Japan's progress.

Mr. Garcia credited his faith as giving him the spiritual strength to survive the three years of inhumane conditions and atrocities he faced at the hands of his captors—including the 55-mile Bataan Death March.

Mr. Garcia's dedication to his country did not waiver in the following years and he reenlisted in the Army as the Korean war escalated. He served another year before settling down in Santa Fe.

As an active member of the Veterans of Foreign Wars, a regular volunteer at the VA Hospital, and a participant in marches commemorating the Bataan Death March, Mr. Garcia touched many lives through his continued support of fellow veterans.

For those who knew him it was evident that he was no less devoted in his personal life. He was a loving father, grandfather, and great-grandfather. For his family, it will be the times spent fishing together that they will remember and miss the most.

While Mr. Garcia was a hero to his country, he was a personal hero to two of his grandsons who followed in his footsteps and joined the military themselves.

Let us honor this hero's legacy, and all those who serve our country, by continuing Mr. Garcia's work and supporting those who have made so many sacrifices for our country.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Pate, 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 appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE
RECEIVED DURING ADJOURNMENT

ENROLLED BILL SIGNED

Under the authority of the order of the Senate of January 5, 2011, the Secretary of the Senate, on February 18, 2011, during the adjournment of the Senate, received a message from the House of Representatives announcing that the Speaker had signed the following enrolled bill:

H.R. 514. An act to extend expiring provisions of the USA PATRIOT Improvement and Reauthorization Act of 2005 and Intelligence Reform and Terrorism Prevention Act of 2004 relating to access to business records, individual terrorists as agents of foreign powers, and roving wiretaps until December 8, 2011.

The message also announced that pursuant to 22 U.S.C. 3003 note, and the

order of the House of January 5, 2011, the Speaker appoints the following Members of the House of Representatives to the Commission on Security and Cooperation in Europe: Mr. HASTINGS of Florida, Ms. SLAUGHTER of New York, Mr. MCINTYRE of North Carolina, and Mr. COHEN of Tennessee.

The message further announced that pursuant to 22 U.S.C. 1928a, and the order of the House of January 5, 2011, the Speaker appoints the following Members of the House of Representatives to the United States Group of the NATO Parliamentary Assembly: Mr. ROSS of Arkansas, Mr. CHANDLER of Kentucky, Mr. SCOTT of Georgia, and Ms. SCHWARTZ of Pennsylvania.

The enrolled bill was subsequently signed by the Acting President pro tempore (Mr. ROCKEFELLER) on Wednesday, February 23, 2011.

MESSAGE FROM THE HOUSE

At 2:03 p.m., a message from the House of Representatives, delivered by Mr. Novotny, 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. 1. An act making appropriations for the Department of Defense and the other departments and agencies of the Government for the fiscal year ending September 30, 2011, and for other purposes.

The message also announced that pursuant to 22 U.S.C. 1928a, and the order of the House of January 5, 2011, the Speaker appointed the following Member of the House of Representatives to the United States Group of the NATO Parliamentary Assembly: Mr. DAVID SCOTT of Georgia (in lieu of Mr. AUSTIN SCOTT of Georgia).

MEASURES DISCHARGED

The following resolution was discharged from the Committee on Rules and Administration, and placed on the calendar:

S. Res. 70. An original resolution authorizing expenditures by the Committee on Rules and Administration.

MEASURES READ THE FIRST TIME

The following bill was read the first time:

H.R. 1. An act making appropriations for the Department of Defense and the other departments and agencies of the Government for the fiscal year ending September 30, 2011, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC-666. A communication from the Director of the Regulatory Management Division, Office of Policy, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Potassium hypo-

chlorite; Exemption from the Requirement of a Tolerance" (FRL No. 8859-5) received during adjournment of the Senate in the Office of the President of the Senate on February 25, 2011; to the Committee on Agriculture, Nutrition, and Forestry.

EC-667. A communication from the Director of the Regulatory Management Division, Office of Policy, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Difenoconazole; Pesticide Tolerances" (FRL No. 8864-9) received during adjournment of the Senate in the Office of the President of the Senate on February 25, 2011; to the Committee on Agriculture, Nutrition, and Forestry.

EC-668. A communication from the Under Secretary of Defense (Policy), transmitting, pursuant to law, a report relative to Cooperative Threat Reduction Programs; to the Committee on Armed Services.

EC-669. A communication from the President of the United States, transmitting, pursuant to law, a report on the continuation of the national emergency that was declared with respect to the Government of Cuba's destruction of two unarmed U.S.-registered civilian aircraft; to the Committee on Banking, Housing, and Urban Affairs.

EC-670. A communication from the President of the United States, transmitting, pursuant to law, a report on the national emergency that was declared on February 25, 2011, blocking property and prohibiting certain transactions related to Libya; to the Committee on Banking, Housing, and Urban Affairs.

EC-671. A communication from the General Counsel of the National Credit Union Administration, transmitting, pursuant to law, the report of a rule entitled "Fiduciary Duties at Federal Credit Unions; Mergers and Conversions of Insured Credit Unions" (RIN3133-AD40) received during adjournment of the Senate in the Office of the President of the Senate on February 24, 2011; to the Committee on Banking, Housing, and Urban Affairs.

EC-672. A communication from the General Counsel of the National Credit Union Administration, transmitting, pursuant to law, the report of a rule entitled "Conversions of Insured Credit Unions" (RIN3133-AD84) received during adjournment of the Senate in the Office of the President of the Senate on February 24, 2011; to the Committee on Banking, Housing, and Urban Affairs.

EC-673. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Suspension of Community Eligibility" ((44 CFR Part 64)(Docket No. FEMA-2011-0002)) received during adjournment of the Senate in the Office of the President of the Senate on February 24, 2011; to the Committee on Banking, Housing, and Urban Affairs.

EC-674. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Final Flood Elevation Determination" ((44 CFR Part 67)(Docket No. FEMA-2011-0002)) received during adjournment of the Senate in the Office of the President of the Senate on February 24, 2011; to the Committee on Banking, Housing, and Urban Affairs.

EC-675. A communication from the Director of the Regulatory Management Division, Office of Policy, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Revisions to the California State Implementation Plan, Santa Barbara County Air Pollution Control District" (FRL No. 9249-3) received during adjournment of the Senate in the Office of

the President of the Senate on February 25, 2011; to the Committee on Environment and Public Works.

EC-676. A communication from the Director of the Regulatory Management Division, Office of Policy, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Wisconsin; The Milwaukee-Racine and Sheboygan Areas; Determination of Attainment of the 1997 8-hour Ozone Standard" (FRL No. 9271-9) received during adjournment of the Senate in the Office of the President of the Senate on February 25, 2011; to the Committee on Environment and Public Works.

EC-677. A communication from the Director of the Regulatory Management Division, Office of Policy, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Revisions to the California State Implementation Plan for Imperial County, Kern County, and Ventura County Air Pollution Control Districts" (FRL No. 9239-6) received during adjournment of the Senate in the Office of the President of the Senate on February 25, 2011; to the Committee on Environment and Public Works.

EC-678. A communication from the Director of the Regulatory Management Division, Office of Policy, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; State of Missouri" (FRL No. 9271-5) received during adjournment of the Senate in the Office of the President of the Senate on February 25, 2011; to the Committee on Environment and Public Works.

EC-679. A communication from the Director of the Regulatory Management Division, Office of Policy, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Ohio; Oxides of Nitrogen Budget Trading Program; Technical Amendment" (FRL No. 9272-1) received during adjournment of the Senate in the Office of the President of the Senate on February 25, 2011; to the Committee on Environment and Public Works.

EC-680. A communication from the Director of the Regulatory Management Division, Office of Policy, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Identification of Non-Hazardous Secondary Materials That Are Solid Waste" (FRL No. 9273-1) received during adjournment of the Senate in the Office of the President of the Senate on February 25, 2011; to the Committee on Environment and Public Works.

EC-681. A communication from the Director of the Regulatory Management Division, Office of Policy, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "National Emission Standards for Hazardous Air Pollutants for Major Sources: Industrial, Commercial, and Institutional Boilers and Process Heaters" (FRL No. 9272-8) received during adjournment of the Senate in the Office of the President of the Senate on February 25, 2011; to the Committee on Environment and Public Works.

EC-682. A communication from the Director of the Regulatory Management Division, Office of Policy, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "National Emission Standards for Hazardous Air Pollutants for Area Sources: Industrial, Commercial, and Institutional Boilers" (FRL No. 9273-5) received during adjournment of the Senate in the Office of the President of the Senate on February 25, 2011; to the Committee on Environment and Public Works.

EC-683. A communication from the Board of Trustees, National Railroad Retirement Investment Trust, transmitting, pursuant to law, an annual management report relative to its operations and financial condition; to the Committee on Finance.

EC-684. A communication from the Regulations Coordinator, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Medicare and Medicaid Programs: Requirements for Long-Term Care (LTC) Facilities; Notice of Facility Closure" (RIN0938-AQ09) received in the Office of the President of the Senate on February 17, 2011; to the Committee on Finance.

EC-685. A communication from the Regulations Coordinator, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Children's Health Insurance Program (CHIP); Allotment Methodology and States' Fiscal Years 2009 through 2015 CHIP Allotments" (RIN0938-AP53) received in the Office of the President of the Senate on February 17, 2011; to the Committee on Finance.

EC-686. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Applicable Federal Rates—March 2011" (Rev. Rul. 2011-6) received during adjournment of the Senate in the Office of the President of the Senate on February 24, 2011; to the Committee on Finance.

EC-687. A communication from the Secretary of the Federal Maritime Commission, transmitting, pursuant to law, the report of a rule entitled "Information Security Program" (RIN3072-AC40) received during adjournment of the Senate in the Office of the President of the Senate on February 25, 2011; to the Committee on Commerce, Science, and Transportation.

EC-688. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to the Case-Zablocki Act, 1 U.S.C. 112b, as amended, the report of the texts and background statements of international agreements, other than treaties (List 2011-0018—2011-0021); to the Committee on Foreign Relations.

EC-689. A communication from the Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting, pursuant to law, a quarterly report to Congress relative to the Uniformed Services Employment and Reemployment Rights Act of 1994; to the Committee on Veterans' Affairs.

EC-690. A communication from the Director of Regulation Policy and Management, Veterans Health Administration, Department of Veterans Affairs, transmitting, pursuant to law, the report of a rule entitled "Update to NFPA 101, Life Safety Code, for State Home Facilities" (RIN2900-AN59) received during adjournment of the Senate in the Office of the President of the Senate on February 25, 2011; to the Committee on Veterans' Affairs.

EC-691. A communication from the Director of Regulation Policy and Management, Veterans Health Administration, Department of Veterans Affairs, transmitting, pursuant to law, the report of a rule entitled "Updating Fire Safety Standards" (RIN2900-AN57) received during adjournment of the Senate in the Office of the President of the Senate on February 18, 2011; to the Committee on Veterans' Affairs.

EC-692. A communication from the Director of Regulation Policy and Management, Veterans Health Administration, Department of Veterans Affairs, transmitting, pur-

suant to law, the report of a rule entitled "Copayments for Medications After June 30, 2010" (RIN2900-AN65) received during adjournment of the Senate in the Office of the President of the Senate on February 18, 2011; to the Committee on Veterans' Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. KERRY, from the Committee on Foreign Relations, without amendment:

S. Res. 79. An original resolution authorizing expenditures by the Committee on Foreign Relations.

EXECUTIVE REPORTS OF COMMITTEE

The following executive reports of nominations were submitted:

By Mr. KERRY for the Committee on Foreign Relations.

*Daniel L. Shields III, of Pennsylvania, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Brunei Darussalam.

Nominee: Daniel Luke Shields, III.

Post: Ambassador to Brunei Darussalam.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, and donee:

1. Self: No contributions.
2. Spouse: No contributions.
3. Children and Spouses: Sonali Eileen Saya Shields: No contributions.
4. Parents: Daniel L. Shields, Jr., Helen M. Shields: \$25, 05/08/2010, Republican Party of Pennsylvania; \$25, 10/21/2009, Republican Party of Pennsylvania; \$50, 01/31/2008, Senator John McCain; \$25, 06/18/2007, Senator John McCain; \$25, 03/21/2007, Senator John McCain 2008; \$25, 10/12/2006, Senator Rick Santorum; \$50, 05/02/2006, Straight Talk America.

5. Grandparents: Daniel L. Shields (deceased), Agnes Shields (deceased), Leo Santry (deceased), Gertrude Santry (deceased): No contributions.

6. Brothers and Spouses: Michael A. Shields, Alison Langley, Gregory T. Shields, Amy Shields: No contributions.

7. Sisters and Spouses: Kathleen A. DeLong, Tod DeLong: No contributions.

*Pamela L. Spratlen, of California, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kyrgyz Republic.

Nominee Pamela L. Spratlen.

Post: Ambassador to Kyrgyzstan.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Contributions, amount, date, and donee:

1. Self: None.
2. Spouse: N/A.
3. Children and Spouses: N/A.
4. Parents: Dr. Thaddeus H. Spratlen and Dr. Lois Price Spratlen—please see addendum.

5. Grandparents: Ora Ferguson Price and Madison Price—deceased. Lela Spratlen and Rev. John B. Spratlen—deceased.

6. Brothers and Spouses: Khalfani Mwamba; spouse, Anita Koyier-Mwamba; Townsend Price-Spratlen.

7. Sisters and Spouses: Patricia Etem—\$250, 2/25/08, Obama for America; spouse, Richard Etem; Paula Mitchell; James Mitchell, deceased.

Federal Campaign Contribution Report—Spratlen Addendum. Political contributions of parents Thaddeus H. and Lois P. Spratlen—combination of Federal, State, Local and National contributions.

2006—amount, date, donee:

T.H. and L.P. Spratlen: \$50, 4/12/06, Democratic National Committee; \$50, 4/12/06, Dem Congressional Campaign Comm.; \$100, 5/15/06, WA State Democratic Party; \$50, 6/19/06, WA State Democratic Party; \$50, 6/19/06, Dem Congressional Campaign Comm.; \$12, 7/17/06, WA State Patrol Officers Association.

2007—T.H. and L.P. Spratlen: \$50, 1/22/07, Democratic National Committee; \$300, 2/20/07, Larry Gossett for King County Council; \$50, 3/4/07, Dem Congressional Campaign Comm.; \$100, 5/10/07, Gregoire for Governor; \$50, 6/25/07, Sally Soriano for School Board; \$200, 7/23/07, Obama for President; \$50, 7/28/07, Dem Congressional Campaign Comm.; \$150, 8/10/07, Bruce Harrell for City Council; \$50, 8/13/07, Dem Congressional Campaign Comm.; \$25, 8/14/07, WA State Law Enforcement Officers; \$200, 8/31/07, Bruce Harrell for City Council; \$300, 10/22/07, Sally Soriano for School Board; \$200, 10/24/07, David Della for City Council; \$500, 12/04/07, Obama for America; \$400, 12/24/07, Obama for America.

2008—T.H. Spratlen: \$400, 1/30/08, Obama for America; \$500, 3/24/08, Obama for America; \$1,000, 8/30/08, Obama for America; \$1,000 10/17/08, Obama Victory Fund; \$1,000, 10/24/08, Obama for America. L.P. Spratlen: \$500, 2/25/08 Obama for America; \$1,000, 10/28/08 Obama for America. T.H. and L.P. Spratlen: \$50, 3/18/08, Democratic National Committee; \$50, 5/5/08, People for Scott White (State Senate); \$1,000, 6/3/08, Ron Sims for King County Executive; \$50, 6/19/08, Jason Osgood for Secretary of State; \$300, 8/5/08, WA Public Campaign Finance Reform.

2009—T.H. and L.P. Spratlen: \$100, 2/2/09, Democratic National Committee; \$1,000, 2/20/09, Larry Gossett for King County Council; \$100, 3/15/09, People for Nick Licata City Council; \$50, 12/5/09, 46th District Democrats.

2010—T.H. and L.P. Spratlen: \$50, 1/25/10, Adam Kline for State Senate (Dem); \$200, 5/06/10, Randy Gordon for State Senate (Dem); \$50, 6/30/10, Scott White for State Senate (Dem); \$250, 8/06/10, Patty Murray for U.S. Senate (Dem); \$100, 8/27/10, WA State Democratic Central Committee (Dem).

*Sue Kathrine Brown, of Texas, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Montenegro.

Nominee: SUE KATHRINE BROWN.

Post nominated: U.S. Ambassador to Montenegro.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Contributions, amount, date, donee:

1. Self: 0.
2. Spouse: n/a.
3. Children and Spouses: Anthony L. Brown: 0. Tisha M. Pryor: 0. Kevin A. Pryor: 0. Kenneth D. Laryea, Jr.: 0. Justin D. Laryea: 0.
4. Parents: Deceased.

5. Grandparents: Deceased.
 6. Brothers and Spouses: n/a.
 7. Sisters and Spouses: Martha L. Blue: 0.

*David Lee Carden, of New York, to be Representative of the United States of America to the Association of Southeast Asian Nations, with the rank of Ambassador Extraordinary and Plenipotentiary.

Nominee: David Lee Carden.

Post: U.S. Representative to ASEAN.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Contributions, amount, date, and donee:

1. Self: \$500, 10/05/06, Democratic Senatorial Campaign Committee; \$1000, 10/19/06, Whitehouse for Senate; \$2300, 01/23/07, Obama for America; \$1000, 05/04/07, John Hall for Congress; \$1000, 05/05/08, Senate 2008; \$1000, 07/31/08, Hillary Clinton for President; \$5000, 10/16/08, Obama Victory Fund; \$2300, 11/03/08, Obama Victory Fund; \$2400, 09/08/09, Julie Hamos for Congress; \$1000, 09/24/09, Hodes for Senate; \$1000, 07/14/10, Democratic National Committee.

2. Spouse: Rebecca R. Riley: \$2300, 08/08/07, Obama for America; \$210, 03/24/08, Obama for America, \$236.01, 08/20/08, Obama Victory Fund; \$3, 08/29/08, Obama for America.

3. Children and Spouses: Dylan D. Carden: \$2000, 06/11/07, Obama for America. Meredith M. Carden: \$2300, 05/18/07, Obama for America.

*Eric G. Postel, of Wisconsin, to be an Assistant Administrator of the United States Agency for International Development.

Mr. KERRY. Mr. President, for the Committee on Foreign Relations I report favorably the following nomination list which was printed in the RECORD on the date indicated, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar that this nomination lie at the Secretary's desk for the information of Senators.

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

*Foreign Service nominations beginning with Irene Arino de la Rubia and ending with Robert Joseph Faucher, which nominations were received by the Senate and appeared in the Congressional Record on February 2, 2011.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Mr. BURR (for himself and Ms. LANDRIEU):

S. 416. A bill to develop a strategy for assisting stateless children from North Korea, and for other purposes; to the Committee on Foreign Relations.

By Mr. ENSIGN:

S. 417. A bill to direct the Secretary of the Interior to transfer to the Secretary of the

Navy certain Federal land in Churchill County, Nevada; to the Committee on Energy and Natural Resources.

By Mr. HARKIN (for himself, Mr. CRAPO, Mr. INOUE, Ms. SNOWE, Mr. WYDEN, and Mr. BEGICH):

S. 418. A bill to award a Congressional Gold Medal to the World War II members of the Civil Air Patrol; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. BAUCUS (for himself and Mr. TESTER):

S. 419. A bill to authorize the Dry-Redwater Regional Water Authority System; to the Committee on Energy and Natural Resources.

By Ms. LANDRIEU (for herself, Mr. BEGICH, and Mr. JOHNSON of South Dakota):

S. 420. A bill to support the establishment or expansion and operation of programs using a network of public and private community entities to provide mentoring for children in foster care; to the Committee on Finance.

By Mrs. HAGAN:

S. 421. A bill to amend the Energy Independence and Security Act of 2007 to require the Secretary of Energy to provide grants for lithium production research and development; to the Committee on Energy and Natural Resources.

By Mr. LEAHY (for himself, Mr. COCHRAN, and Mr. REED):

S.J. Res. 7. A joint resolution providing for the reappointment of Shirley Ann Jackson as a citizen regent of the Board of Regents of the Smithsonian Institution; to the Committee on Rules and Administration.

By Mr. LEAHY (for himself, Mr. COCHRAN, and Mr. REED):

S.J. Res. 8. A joint resolution providing for the appointment of Stephen M. Case as a citizen regent of the Board of Regents of the Smithsonian Institution; to the Committee on Rules and Administration.

By Mr. LEAHY (for himself, Mr. COCHRAN, and Mr. REED):

S.J. Res. 9. A joint resolution providing for the reappointment of Robert P. Kogod as a citizen regent of the Board of Regents of the Smithsonian Institution; to the Committee on Rules and Administration.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mrs. HUTCHISON (for herself, Ms. LANDRIEU, Mr. CORNYN, Mr. WICKER, Ms. MURKOWSKI, Mr. BEGICH, Mr. COCHRAN, Mr. SESSIONS, and Mr. SHELBY):

S. Res. 77. A resolution expressing the sense of the Senate that domestic oil and gas resources are critical to our Nation's security and economy and the Secretary of the Interior should take immediate action to streamline the shallow and deepwater permitting process; to the Committee on Energy and Natural Resources.

By Mr. CRAPO (for himself, Mr. RISCH, Mr. AKAKA, Mr. ALEXANDER, Ms. AYOTTE, Mr. BARRASSO, Mr. BAUCUS, Mr. BEGICH, Mr. BENNET, Mr. BINGAMAN, Mr. BLUMENTHAL, Mr. BLUNT, Mr. BOOZMAN, Mrs. BOXER, Mr. BROWN of Massachusetts, Mr. BROWN of Ohio, Mr. BURR, Mr. CANTWELL, Mr. CARDIN, Mr. CARPER, Mr. CASEY, Mr. CHAMBLISS, Mr. COATS, Mr. COBURN, Mr. COCHRAN, Ms. COLLINS, Mr. CONRAD, Mr. COONS, Mr. CORKER, Mr. CORNYN, Mr. DEMINT, Mr. DURBIN,

Mr. ENSIGN, Mr. ENZI, Mrs. FEINSTEIN, Mr. FRANKEN, Mrs. GILLIBRAND, Mr. GRAHAM, Mr. GRASSLEY, Mrs. HAGAN, Mr. HARKIN, Mr. HATCH, Mr. HOEVEN, Mrs. HUTCHISON, Mr. INHOFE, Mr. INOUE, Mr. ISAKSON, Mr. JOHANNES, Mr. JOHNSON of Wisconsin, Mr. JOHNSON of South Dakota, Mr. KERRY, Mr. KIRK, Ms. KLOBUCHAR, Mr. KOHL, Mr. KYL, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEE, Mr. LEVIN, Mr. LIEBERMAN, Mr. LUGAR, Mr. MANCHIN, Mr. MCCAIN, Mrs. MCCASKILL, Mr. MCCONNELL, Mr. MENENDEZ, Mr. MERKLEY, Ms. MIKULSKI, Mr. MORAN, Ms. MURKOWSKI, Mrs. MURRAY, Mr. NELSON of Nebraska, Mr. NELSON of Florida, Mr. PAUL, Mr. PORTMAN, Mr. PRYOR, Mr. REED, Mr. REID, Mr. ROBERTS, Mr. ROCKEFELLER, Mr. RUBIO, Mr. SANDERS, Mr. SCHUMER, Mr. SESSIONS, Mrs. SHAHEEN, Mr. SHELBY, Ms. SNOWE, Ms. STABENOW, Mr. TESTER, Mr. THUNE, Mr. TOOMEY, Mr. UDALL of Colorado, Mr. UDALL of New Mexico, Mr. VITTER, Mr. WARNER, Mr. WEBB, Mr. WHITEHOUSE, Mr. WICKER, and Mr. WYDEN):

S. Res. 78. A resolution relative to the death of James Albertus McClure, former United States Senator for the State of Idaho; considered and agreed to.

By Mr. KERRY:

S. Res. 79. An original resolution authorizing expenditures by the Committee on Foreign Relations; from the Committee on Foreign Relations; to the Committee on Rules and Administration.

By Mr. BARRASSO (for himself and Mr. NELSON of Nebraska):

S. Con. Res. 7. A concurrent resolution supporting the Local Radio Freedom Act; to the Committee on Commerce, Science, and Transportation.

By Mrs. BOXER (for herself, Mr. BURR, Mrs. HAGAN, Mrs. GILLIBRAND, Mr. SANDERS, Mrs. SHAHEEN, Mr. BENNET, and Mr. LAUTENBERG):

S. Con. Res. 8. A concurrent resolution recognizing women serving in the United States Armed Forces; considered and agreed to.

ADDITIONAL COSPONSORS

S. 23

At the request of Mr. LEAHY, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 23, a bill to amend title 35, United States Code, to provide for patent reform.

S. 81

At the request of Mr. ISAKSON, the name of the Senator from Missouri (Mrs. MCCASKILL) was added as a cosponsor of S. 81, a bill to direct unused appropriations for Senate Official Personnel and Office Expense Accounts to be deposited in the Treasury and used for deficit reduction or to reduce the Federal debt.

S. 102

At the request of Mr. MCCAIN, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of S. 102, a bill to provide an optional fast-track procedure the President may use when submitting rescission requests, and for other purposes.

S. 104

At the request of Mr. JOHANNES, the name of the Senator from Wisconsin

(Mr. KOHL) was added as a cosponsor of S. 104, a bill to require the Administrator of the Environmental Protection Agency to finalize a proposed rule to amend the spill prevention, control, and countermeasure rule to tailor and streamline the requirements for the dairy industry, and for other purposes.

S. 133

At the request of Mrs. MCCASKILL, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 133, a bill to repeal the provision of law that provides automatic pay adjustments for Members of Congress.

S. 211

At the request of Mr. ISAKSON, the name of the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of S. 211, a bill to provide for a biennial budget process and a biennial appropriations process and to enhance oversight and performance of the Federal Government.

S. 239

At the request of Ms. KLOBUCHAR, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 239, a bill to support innovation, and for other purposes.

S. 248

At the request of Mr. WYDEN, the name of the Senator from Nebraska (Mr. NELSON) was added as a cosponsor of S. 248, a bill to allow an earlier start for State health care coverage innovation waivers under the Patient Protection and Affordable Care Act.

S. 260

At the request of Mr. NELSON of Florida, the names of the Senator from Delaware (Mr. COONS), the Senator from Pennsylvania (Mr. CASEY) and the Senator from Colorado (Mr. BENNET) were added as cosponsors of S. 260, a bill to amend title 10, United States Code, to repeal the requirement for reduction of survivor annuities under the Survivor Benefit Plan by veterans' dependency and indemnity compensation.

S. 311

At the request of Mr. KERRY, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 311, a bill to provide for the coverage of medically necessary food under Federal health programs and private health insurance.

S. 339

At the request of Mr. BAUCUS, the name of the Senator from Rhode Island (Mr. WHITEHOUSE) was added as a cosponsor of S. 339, a bill to amend the Internal Revenue Code of 1986 to make permanent the special rule for contributions of qualified conservation contributions.

S. 344

At the request of Mr. REID, the names of the Senator from South Dakota (Mr. JOHNSON), the Senator from Vermont (Mr. SANDERS), the Senator from New York (Mr. SCHUMER), the Senator from Colorado (Mr. BENNET) and the Senator from Oregon (Mr.

WYDEN) were added as cosponsors of S. 344, a bill to amend title 10, United States Code, to permit certain retired members of the uniformed services who have a service-connected disability to receive both disability compensation from the Department of Veterans Affairs for their disability and either retired pay by reason of their years of military service or Combat-Related Special Compensation, and for other purposes.

S. 358

At the request of Mr. ROBERTS, the names of the Senator from Pennsylvania (Mr. TOOMEY) and the Senator from Ohio (Mr. PORTMAN) were added as cosponsors of S. 358, a bill to codify and modify regulatory requirements of Federal agencies.

S. 359

At the request of Mr. JOHANNES, the names of the Senator from West Virginia (Mr. MANCHIN), the Senator from New Hampshire (Ms. AYOTTE), the Senator from Missouri (Mr. BLUNT) and the Senator from Kansas (Mr. MORAN) were added as cosponsors of S. 359, a bill to amend the Internal Revenue Code of 1986 to repeal the expansion of information reporting requirements to payments made to corporations, payments for property and other gross proceeds, and rental property expense payments, and for other purposes.

S. 362

At the request of Mr. WHITEHOUSE, the names of the Senator from Pennsylvania (Mr. CASEY) and the Senator from New Jersey (Mr. MENENDEZ) were added as cosponsors of S. 362, a bill to amend the Public Health Service Act to provide for a Pancreatic Cancer Initiative, and for other purposes.

S. 374

At the request of Mr. KERRY, the name of the Senator from Massachusetts (Mr. BROWN) was added as a cosponsor of S. 374, a bill to amend title XVIII of the Social Security Act to eliminate the 190-day lifetime limit on inpatient psychiatric hospital services under the Medicare program.

S. 388

At the request of Mrs. BOXER, the names of the Senator from Delaware (Mr. COONS), the Senator from Iowa (Mr. HARKIN), the Senator from North Carolina (Mrs. HAGAN), the Senator from New Jersey (Mr. MENENDEZ), the Senator from Michigan (Ms. STABENOW) and the Senator from Oregon (Mr. MERKLEY) were added as cosponsors of S. 388, a bill to prohibit Members of Congress and the President from receiving pay during Government shutdowns.

S. 400

At the request of Mr. CORKER, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 400, a bill to amend the Federal Power Act to ensure that rates and charges for electric energy are assessed in proportion to measurable reliability or economic benefit, and for other purposes.

S.J. RES. 5

At the request of Mr. LEE, the name of the Senator from Missouri (Mr. BLUNT) was added as a cosponsor of S.J. Res. 5, a joint resolution proposing an amendment to the Constitution of the United States requiring that the Federal budget be balanced.

S. CON. RES. 4

At the request of Mr. SCHUMER, the name of the Senator from Missouri (Mrs. MCCASKILL) was added as a cosponsor of S. Con. Res. 4, a concurrent resolution expressing the sense of Congress that an appropriate site on Chaplains Hill in Arlington National Cemetery should be provided for a memorial marker to honor the memory of the Jewish chaplains who died while on active duty in the Armed Forces of the United States.

S. CON. RES. 5

At the request of Mr. ROCKEFELLER, the names of the Senator from Colorado (Mr. UDALL), the Senator from Missouri (Mrs. MCCASKILL) and the Senator from New Jersey (Mr. MENENDEZ) were added as cosponsors of S. Con. Res. 5, a concurrent resolution authorizing the use of the rotunda of the Capitol to honor Frank W. Buckles, the longest surviving United States veteran of the First World War.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 77—EXPRESSING THE SENSE OF THE SENATE THAT DOMESTIC OIL AND GAS RESOURCES ARE CRITICAL TO OUR NATION'S SECURITY AND ECONOMY AND THE SECRETARY OF THE INTERIOR SHOULD TAKE IMMEDIATE ACTION TO STREAMLINE THE SHALLOW AND DEEPWATER PERMITTING PROCESS

Mrs. HUTCHISON (for herself, Ms. LANDRIEU, Mr. CORNYN, Mr. WICKER, Ms. MURKOWSKI, Mr. BEGICH, Mr. COCHRAN, Mr. SESSIONS, and Mr. SHELBY) submitted the following resolution; which was referred to the Committee on Energy and Natural Resources:

S. RES. 77

Whereas the Gulf of Mexico produces about 30 percent of oil in the United States and 10 percent of natural gas in the United States;

Whereas on May 30, 2010, the Department of the Interior enacted a deepwater moratorium which lasted until October 12, 2010;

Whereas more than 400,000 jobs across the Gulf Coast are tied to the offshore drilling industry;

Whereas in 2009, the offshore drilling industry accounted for \$70,000,000,000 in economic value and provided about \$20,000,000,000 in revenue to Federal, State, and local governments through royalties, bonuses, and tax collections;

Whereas the National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling recognized the importance of the industry in a report, stating, "the development of offshore energy resources contributes substantially to local economies, supporting businesses small and large and employing tens of thousands of workers";

Whereas the Department of the Interior has issued less than 35 new shallow water permits since the shallow water moratorium was lifted and has failed to issue any new permits for deepwater exploration; and

Whereas as a result of the de facto moratorium, at least 12 rigs (shallow and deepwater) have departed the Gulf of Mexico, and more are expected to follow: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the Nation's economy and security depends upon full and immediate restoration of shallow and deepwater drilling operations in the Gulf of Mexico;

(2) the long term economic health of the State of Alaska depends upon the responsible development of the oil and natural gas reserves of the Beaufort and Chukchi Seas; and

(3) the Secretary of the Interior should—

(A) streamline the review and appropriate approval of applications for both shallow and deepwater drilling permits in the Outer Continental Shelf;

(B) take immediate action to provide the shallow and deepwater industry with a completed sample application which meets all of the new safety and environmental regulations for use as a template;

(C) provide written guidance and clarification to applicants regarding new safety requirements; and

(D) provide permit applicants with timely and detailed explanations on any areas of a permit which do not satisfy new requirements.

SENATE RESOLUTION 78—RELATIVE TO THE DEATH OF JAMES ALBERTUS MCCLURE, FORMER UNITED STATES SENATOR FOR THE STATE OF IDAHO

Mr. CRAPO (for himself, Mr. RISCH, Mr. AKAKA, Mr. ALEXANDER, Ms. AYOTTE, Mr. BARRASSO, Mr. BAUCUS, Mr. BEGICH, Mr. BENNET, Mr. BINGAMAN, Mr. BLUMENTHAL, Mr. BLUNT, Mr. BOOZMAN, Mrs. BOXER, Mr. BROWN of Massachusetts, Mr. BROWN of Ohio, Mr. BURR, Ms. CANTWELL, Mr. CARDIN, Mr. CARPER, Mr. CASEY, Mr. CHAMBLISS, Mr. COATS, Mr. COBURN, Mr. COCHRAN, Ms. COLLINS, Mr. CONRAD, Mr. COONS, Mr. CORKER, Mr. CORNYN, Mr. DEMINT, Mr. DURBIN, Mr. ENSIGN, Mr. ENZI, Mrs. FEINSTEIN, Mr. FRANKEN, Mrs. GILLIBRAND, Mr. GRAHAM, Mr. GRASSLEY, Mrs. HAGAN, Mr. HARKIN, Mr. HATCH, Mr. HOEVEN, Mrs. HUTCHISON, Mr. INHOFE, Mr. INOUE, Mr. ISAKSON, Mr. JOHANNIS, Mr. JOHNSON of Wisconsin, Mr. JOHNSON of South Dakota, Mr. KERRY, Mr. KIRK, Ms. KLOBUCHAR, Mr. KOHL, Mr. KYL, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEE, Mr. LEVIN, Mr. LIEBERMAN, Mr. LUGAR, Mr. MANCHIN, Mr. MCCAIN, Mrs. MCCASKILL, Mr. MCCONNELL, Mr. MENENDEZ, Mr. MERKLEY, Ms. MIKULSKI, Mr. MORAN, Ms. MURKOWSKI, Mrs. MURRAY, Mr. NELSON of Nebraska, Mr. NELSON of Florida, Mr. PAUL, Mr. PORTMAN, Mr. PRYOR, Mr. REED of Rhode Island, Mr. REID of Nevada, Mr. ROBERTS, Mr. ROCKEFELLER, Mr. RUBIO, Mr. SANDERS, Mr. SCHUMER, Mr. SESSIONS, Mrs. SHAHEEN, Mr. SHELBY, Ms. SNOWE, Ms. STABENOW, Mr. TESTER, Mr. THUNE, Mr. TOOMEY, Mr. UDALL of Colorado, Mr. UDALL of New Mexico, Mr. VITTER, Mr. WARNER, Mr. WEBB, Mr. WHITEHOUSE,

Mr. WICKER, and Mr. WYDEN) submitted the following resolution; which was considered and agreed to:

S. RES. 78

Whereas James A. McClure served in the United States Navy during World War II;

Whereas James A. McClure served the state of Idaho as a prosecuting attorney, a city attorney, a member of the Idaho state Senate, and as a member of the United States House of Representatives;

Whereas James A. McClure served the people of Idaho with distinction for 18 years in the United States Senate;

Whereas James A. McClure served the Senate as Chairman of the Committee on Energy and Natural Resources in the Ninety-seventh through Ninety-ninth Congresses and Chairman of the Senate Republican Conference in the Ninety-seventh and Ninety-eighth Congresses;

Whereas James A. McClure served his caucus as a founding member and Chairman of the Senate Steering Committee in the Ninety-fourth through Ninety-sixth and Ninety-ninth through One Hundredth Congresses; Now therefore be it

Resolved, That the Senate has heard with profound sorrow and deep regret the announcement of the death of the Honorable James Albertus McClure, former member of the United States Senate.

Resolved, That the Secretary of the Senate communicate these resolutions to the House of Representatives and transmit an enrolled copy thereof to the family of the deceased.

Resolved, That when the Senate adjourns today, it stand adjourned as a further mark of respect to the memory of the Honorable James Albertus McClure.

SENATE RESOLUTION 79—AUTHORIZING EXPENDITURES BY THE COMMITTEE ON FOREIGN RELATIONS

Mr. KERRY submitted the following resolution; from the Committee on Foreign Relations; which was referred to the Committee on Rules and Administration:

S. RES. 79

Resolved, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Foreign Relations is authorized from March 1, 2011, through September 30, 2011; October 1, 2011, through September 30, 2012; and October 1, 2012, through February 28, 2013, in its discretion—

(1) to make expenditures from the contingent fund of the Senate;

(2) to employ personnel; and

(3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable or nonreimbursable basis the services of personnel of any such department or agency.

SEC. 2. (a) The expenses of the committee for the period March 1, 2011, through September 30, 2011, under this resolution shall not exceed \$4,393,404, of which amount—

(1) not to exceed \$100,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended); and

(2) not to exceed \$20,000 may be expended for the training of the professional staff of

such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(b) For the period October 1, 2011, through September 30, 2012, expenses of the committee under this resolution shall not exceed \$7,531,549, of which amount—

(1) not to exceed \$100,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended); and

(2) not to exceed \$20,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(c) For the period October 1, 2012, through February 28, 2013, expenses of the committee under this resolution shall not exceed \$3,138,145, of which amount—

(1) not to exceed \$100,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended); and

(2) not to exceed \$20,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3. The Committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 2013.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required—

(1) for the disbursement of salaries of employees paid at an annual rate;

(2) for the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate;

(3) for the payment of stationery supplies purchased through the Keeper of the Stationery, United States Senate;

(4) for payments to the Postmaster, United States Senate;

(5) for the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate;

(6) for the payment of Senate Recording and Photographic Services; or

(7) for payment of franked and mass mail costs by the Sergeant at Arms and Doorkeeper, United States Senate.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 2011, through September 30, 2011; October 1, 2011, through September 30, 2012; and October 1, 2012, through February 28, 2013, to be paid from the Appropriations account for "Expenses of Inquiries and Investigations".

SENATE CONCURRENT RESOLUTION 7—SUPPORTING THE LOCAL RADIO FREEDOM ACT

Mr. BARRASSO (for himself and Mr. NELSON of Nebraska) submitted the following concurrent resolution; which was referred to the Committee on Commerce, Science, and Transportation:

S. CON. RES. 7

Whereas the United States enjoys broadcasting and sound recording industries that are the envy of the world, due to the symbiotic relationship that has existed among these industries for many decades;

Whereas for more than 80 years, Congress has rejected repeated calls by the recording industry to impose a performance fee on local radio stations for simply playing music on the radio, as such fee would upset the mutually beneficial relationship between local radio and the recording industry;

Whereas local radio stations provide free publicity and promotion to the recording industry and performers of music in the form of radio air play, interviews with performers, introduction of new performers, concert promotions, and publicity that promotes the sale of music, concert tickets, ring tones, music videos, and associated merchandise;

Whereas committees in the Senate and House of Representatives have previously reported that “the sale of many sound recordings and the careers of many performers have benefitted considerably from airplay and other promotional activities provided by both noncommercial and advertiser-supported, free over-the-air broadcasting”;

Whereas local radio broadcasters provide tens of thousands of hours of essential local news and weather information during times of national emergencies and natural disasters, such as on September 11, 2001, and during Hurricanes Katrina and Rita, as well as public affairs programming, sports, and hundreds of millions of dollars of time for public service announcements and local fund raising efforts for worthy charitable causes, all of which are jeopardized if local radio stations are forced to divert revenues to pay for a new performance fee;

Whereas there are many thousands of local radio stations that will suffer severe economic hardship if any new performance fee is imposed, as will many other small businesses that play music including bars, restaurants, retail establishments, sports and other entertainment venues, shopping centers, and transportation facilities; and

Whereas the hardship that would result from a new performance fee would hurt businesses in the United States, and ultimately the consumers in the United States who rely on local radio for news, weather, and entertainment, and such a performance fee is not justified when the current system has produced the most prolific and innovative broadcasting, music, and sound recording industries in the world: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress should not impose any new performance fee, tax, royalty, or other charge relating to the public performance of sound recordings on a local radio station for broadcasting sound recordings over the air, or on any business for such public performance of sound recordings.

SENATE CONCURRENT RESOLUTION 8—RECOGNIZING WOMEN SERVING IN THE UNITED STATES ARMED FORCES

Mrs. BOXER (for herself, Mr. BURR, Mrs. HAGAN, Mrs. GILLIBRAND, Mr. SANDERS, Mrs. SHAHEEN, Mr. BENNET, and Mr. LAUTENBERG) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 8

Whereas women have served with distinction in the United States Armed Forces since the American Revolution and have made significant and lasting contributions to the security of the United States;

Whereas in 2011, women comprise nearly 16 percent of the United States Armed Forces and serve in positions of responsibility in the active and reserve components of the Army, Marine Corps, Navy, Air Force, and Coast

Guard, as compared with less than 5 percent in 1976 when women were first integrated into the service academies;

Whereas women serve at the highest levels in the Department of Defense and other governmental organizations contributing to the defense of the United States; and

Whereas the accomplishments of generations of women have contributed to the history of the United States Armed Forces and to the strength of the United States: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) recognizes the importance of women to national defense throughout the history of the United States; and

(2) encourages the people of the United States to honor women who have served and who continue to serve the United States in the United States Armed Forces.

AMENDMENTS SUBMITTED AND PROPOSED

SA 112. Mr. TOOMEY (for himself and Mr. VITTER) proposed an amendment to the bill S. 23, to amend title 35, United States Code, to provide for patent reform.

SA 113. Mr. VITTER submitted an amendment intended to be proposed to amendment SA 112 proposed by Mr. TOOMEY (for himself and Mr. VITTER) to the bill S. 23, supra; which was ordered to lie on the table.

SA 114. Mr. LEAHY proposed an amendment to the bill S. 23, supra.

SA 115. Mr. LEE proposed an amendment to the bill S. 23, supra.

SA 116. Mr. BENNET (for himself and Ms. AYOTTE) proposed an amendment to the bill S. 23, supra.

SA 117. Mr. BENNET (for himself and Mr. UDALL of Colorado) proposed an amendment to the bill S. 23, supra.

TEXT OF AMENDMENTS

SA 112. Mr. TOOMEY (for himself and Mr. VITTER) proposed an amendment to the bill S. 23, to amend title 35, United States Code, to provide for patent reform; as follows:

At the appropriate place, insert the following:

SEC. ____ . FULL FAITH AND CREDIT ACT.

(a) SHORT TITLE.—This section may be cited as the “Full Faith and Credit Act”.

(b) PRIORITIZE OBLIGATIONS ON THE DEBT HELD BY THE PUBLIC.—In the event that the debt of the United States Government, as defined in section 3101 of title 31, United States Code, reaches the statutory limit, the authority of the Department of the Treasury provided in section 3123 of title 31, United States Code, to pay with legal tender the principal and interest on debt held by the public shall take priority over all other obligations incurred by the Government of the United States.

SA 113. Mr. VITTER submitted an amendment intended to be proposed to amendment SA 112 proposed by Mr. TOOMEY (for himself and Mr. VITTER) to the bill S. 23, to amend title 35, United States Code, to provide for patent reform; which was ordered to lie on the table; as follows:

At the end of the amendment, add the following:

(c) PRIORITIZE PAYMENT OF SOCIAL SECURITY BENEFITS.—Notwithstanding subsection (b), in the event that the debt of the United States Government, as so defined, reaches

the statutory limit, the authority described in subsection (b) and the authority of the Commissioner of Social Security to pay monthly old-age, survivors’, and disability insurance benefits under title II of the Social Security Act shall be given equal priority over all other obligations incurred by the Government of the United States.

SA 114. Mr. LEAHY proposed an amendment to the bill S. 23, to amend title 35, United States Code, to provide for patent reform; as follows:

On page 1, strike line 5, and insert the following: “‘America Invents Act’”.

On page 79, strike lines 1 through 17, and insert the following:

(1) IN GENERAL.—The Director shall have authority to set or adjust by rule any fee established, authorized, or charged under title 35, United States Code, and the Trademark Act of 1946 (15 U.S.C. 1051 et seq.), notwithstanding the fee amounts established, authorized, or charged thereunder, for all services performed by or materials furnished by, the Office, provided that patent and trademark fee amounts are in the aggregate set to recover the estimated cost to the Office for processing, activities, services, and materials relating to patents and trademarks, respectively, including proportionate shares of the administrative costs of the Office.

SA 115. Mr. LEE proposed an amendment to the bill S. 23, to amend title 35, United States Code, to provide for patent reform; as follows:

At the appropriate place, insert the following:

SEC. ____ . SENSE OF THE SENATE.

It is the sense of the Senate that Congress should pass and the States should agree to an amendment to the Constitution requiring a Federal balanced budget.

SA 116. Mr. BENNET (for himself and Ms. AYOTTE) proposed an amendment to the bill S. 23, to amend title 35, United States Code, to provide for patent reform; as follows:

On page 86, between lines 8 and 9, insert the following:

(i) REDUCTION IN FEES FOR SMALL ENTITY PATENTS.—The Director shall reduce fees for providing prioritized examination of utility and plant patent applications by 50 percent for small entities that qualify for reduced fees under section 41(h)(1) of title 35, United States Code, so long as the fees of the prioritized examination program are set to recover the estimated cost of the program.

On page 86, line 9, strike “(i)” and insert “(j)”.

SA 117. Mr. BENNET (for himself and Mr. UDALL or Colorado) proposed an amendment to the bill S. 23, to amend title 35, United States Code, to provide for patent reform; as follows:

On page 104, between lines 22 and 23, insert the following:

SEC. 18. SATELLITE OFFICES.

(a) ESTABLISHMENT.—Subject to available resources, the Director shall establish 3 or more satellite offices in the United States to carry out the responsibilities of the Patent and Trademark Office.

(b) PURPOSE.—The purpose of the satellite offices established under subsection (a) are to—

(1) increase outreach activities to better connect patent filers and innovators with the Patent and Trademark Office;

(2) enhance patent examiner retention;

(3) improve recruitment of patent examiners; and

(4) decrease the number of patent applications waiting for examination and improve the quality of patent examination.

(c) **REQUIRED CONSIDERATIONS.**—In selecting the locale of each satellite office to be established under subsection (a), the Director shall—

(1) ensure geographic diversity among the offices, including by ensuring that such offices are established in different States and regions throughout the Nation; and

(2) rely upon any previous evaluations by the Patent and Trademark Office of potential locales for satellite offices, including any evaluations prepared as part of the Patent and Trademark Office's Nationwide Workforce Program that resulted in the 2010 selection of Detroit, Michigan as the first ever satellite office of the Patent and Trademark Office.

(d) **PHASE-IN.**—The Director shall satisfy the requirements of subsection (a) over the 3-year period beginning on the date of enactment of this Act.

(e) **REPORT TO CONGRESS.**—Not later than the end of the first fiscal year that occurs after the date of the enactment of this Act, and each fiscal year thereafter, the Director shall submit a report to Congress on—

(1) the rationale of the Director in selecting the locale of any satellite office required under subsection (a);

(2) the progress of the Director in establishing all such satellite offices; and

(3) whether the operation of existing satellite offices is achieving the purposes required under subsection (b).

(f) **DEFINITIONS.**—In this section, the following definitions shall apply:

(1) **DIRECTOR.**—The term “Director” means the Director of the United States Patent and Trademark Office.

(2) **PATENT AND TRADEMARK OFFICE.**—The term “Patent and Trademark Office” means the United States Patent and Trademark Office.

On page 104, line 23, strike “**SEC. 18.**” and insert “**SEC. 19.**”.

NOTICE OF HEARING

COMMITTEE ON RULES AND ADMINISTRATION

Mr. SCHUMER. Mr. President, I wish to announce that the Committee on Rules and Administration will meet on Tuesday, March 1, 2011, at 10 a.m., to conduct a markup of the Omnibus Budget for Senate Committees.

For further information regarding this meeting, please contact Lynden Armstrong at the Rules and Administration Committee.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. LEAHY. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on February 28, 2011, at 5:30 p.m.

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

PRIVILEGES OF THE FLOOR

Mr. ISAKSON. Mr. President, I ask unanimous consent that my DOD fel-

low, Julius Spain, Francie Powers, and Michael McLaughlin, be allowed to have floor privileges during the reading of Washington's Farewell Address.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HATCH. Mr. President, I ask unanimous consent that Remy Yucel, a detailee in my office from the U.S. Patent and Trademark Office; Ron Rowe, a detailee in my office from the U.S. Secret Service; Ryika Hooshangi, a foreign affairs detailee in my office from the Department of State; LTC Jason Bartolomei, a military fellow in my office from the U.S. Air Force; Paul Williams, a detailee in my office from the Food and Drug Administration; Maureen McLaughlin, a detailee to the Senate Finance Committee from the Federal Communications Commission; and Jesse Baker, a detailee to the Senate Finance Committee from the U.S. Secret Service all be granted the privilege of the floor for the remainder of the first session of the 112th Congress.

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

FAA AIR TRANSPORTATION MODERNIZATION AND SAFETY IMPROVEMENT ACT

On Thursday, February 17, 2011, the Senate passed S. 223, as amended, as follows:

S. 223

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “FAA Air Transportation Modernization and Safety Improvement Act”.

(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Amendments to title 49, United States Code.
Sec. 3. Effective date.

TITLE I—AUTHORIZATIONS

Sec. 101. Operations.
Sec. 102. Air navigation facilities and equipment.
Sec. 103. Research and development.
Sec. 104. Airport planning and development and noise compatibility planning and programs.
Sec. 105. Other aviation programs.
Sec. 106. Delineation of Next Generation Air Transportation System projects.
Sec. 107. Funding for administrative expenses for airport programs.

TITLE II—AIRPORT IMPROVEMENTS

Sec. 201. Reform of passenger facility charge authority.
Sec. 202. Passenger facility charge pilot program.
Sec. 203. Amendments to grant assurances.
Sec. 204. Government share of project costs.
Sec. 205. Amendments to allowable costs.
Sec. 206. Sale of private airport to public sponsor.
Sec. 207. Government share of certain air project costs.
Sec. 207(b). Prohibition on use of passenger facility charges to construct bicycle storage facilities.
Sec. 208. Miscellaneous amendments.

Sec. 209. State block grant program.
Sec. 210. Airport funding of special studies or reviews.
Sec. 211. Grant eligibility for assessment of flight procedures.
Sec. 212. Safety-critical airports.
Sec. 213. Environmental mitigation demonstration pilot program.
Sec. 214. Allowable project costs.
Sec. 215. Glycol recovery vehicles.
Sec. 216. Research improvement for aircraft.
Sec. 217. United States Territory minimum guarantee.
Sec. 218. Merrill Field Airport, Anchorage, Alaska.
Sec. 219. Release from restrictions.
Sec. 220. Designation of former military airports.
Sec. 221. Airport sustainability planning working group.
Sec. 222. Inclusion of measures to improve the efficiency of airport buildings in airport improvement projects.
Sec. 223. Study on apportioning amounts for airport improvement in proportion to amounts of air traffic.
Sec. 224. Use of mineral revenue at certain airports.

TITLE III—AIR TRAFFIC CONTROL MODERNIZATION AND FAA REFORM

Sec. 301. Air Traffic Control Modernization Oversight Board.
Sec. 302. NextGen management.
Sec. 303. Facilitation of next generation air traffic services.
Sec. 304. Clarification of authority to enter into reimbursable agreements.
Sec. 305. Clarification to acquisition reform authority.
Sec. 306. Assistance to other aviation authorities.
Sec. 307. Presidential rank award program.
Sec. 308. Next generation facilities needs assessment.
Sec. 309. Next generation air transportation system implementation office.
Sec. 310. Definition of air navigation facility.
Sec. 311. Improved management of property inventory.
Sec. 312. Educational requirements.
Sec. 313. FAA personnel management system.
Sec. 314. Acceleration of NextGen technologies.
Sec. 315. ADS-B development and implementation.
Sec. 316. Equipage incentives.
Sec. 317. Performance metrics.
Sec. 318. Certification standards and resources.
Sec. 319. Report on funding for NextGen technology.
Sec. 320. Unmanned aerial systems.
Sec. 321. Surface Systems Program Office.
Sec. 322. Stakeholder coordination.
Sec. 323. FAA task force on air traffic control facility conditions.
Sec. 324. State ADS-B equipage bank pilot program.
Sec. 325. Implementation of Inspector General ATC recommendations.
Sec. 326. Semiannual report on status of Greener Skies project.
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TITLE IV—AIRLINE SERVICE AND SMALL COMMUNITY AIR SERVICE IMPROVEMENTS
SUBTITLE A—CONSUMER PROTECTION
Sec. 401. Airline customer service commitment.
Sec. 402. Publication of customer service data and flight delay history.

- Sec. 403. Expansion of DOT airline consumer complaint investigations.
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- Sec. 405. Disclosure of passenger fees.
- Sec. 406. Disclosure of air carriers operating flights for tickets sold for air transportation.
- Sec. 407. Notification requirements with respect to the sale of airline tickets.
- Sec. 408. Disclosure of seat dimensions to facilitate the use of child safety seats on aircraft.

SUBTITLE B—ESSENTIAL AIR SERVICE; SMALL COMMUNITIES

- Sec. 411. EAS connectivity program.
- Sec. 412. Extension of final order establishing mileage adjustment eligibility.
- Sec. 413. EAS contract guidelines.
- Sec. 414. Conversion of former EAS airports.
- Sec. 415. EAS reform.
- Sec. 416. Small community air service.
- Sec. 417. EAS marketing.
- Sec. 418. Rural aviation improvement.
- Sec. 419. Repeal of essential air service local participation program.
- Sec. 420. Limitation on essential air service to locations that are 90 or more miles away from the nearest medium or large hub airport.
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SUBTITLE C—MISCELLANEOUS

- Sec. 431. Clarification of air carrier fee disputes.
- Sec. 432. Contract tower program.
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SUBTITLE A—AVIATION SAFETY

- Sec. 501. Runway safety equipment plan.
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- Sec. 519. Modification of customer service initiative.
- Sec. 520. Headquarters review of air transportation oversight system database.

- Sec. 521. Inspection of foreign repair stations.
- Sec. 522. Non-certificated maintenance providers.
- Sec. 523. Use of explosive pest control devices.

SUBTITLE B—FLIGHT SAFETY

- Sec. 551. FAA pilot records database.
- Sec. 552. Air carrier safety management systems.
- Sec. 553. Secretary of Transportation responses to safety recommendations.
- Sec. 554. Improved Flight Operational Quality Assurance, Aviation Safety Action, and Line Operational Safety Audit programs.
- Sec. 555. Re-evaluation of flight crew training, testing, and certification requirements.
- Sec. 556. Flightcrew member mentoring, professional development, and leadership.
- Sec. 557. Flightcrew member screening and qualifications.
- Sec. 558. Prohibition on personal use of certain devices on flight deck.
- Sec. 559. Safety inspections of regional air carriers.
- Sec. 560. Establishment of safety standards with respect to the training, hiring, and operation of aircraft by pilots.
- Sec. 561. Oversight of pilot training schools.
- Sec. 562. Enhanced training for flight attendants and gate agents.
- Sec. 563. Definitions.
- Sec. 564. Study of air quality in aircraft cabins.

TITLE VI—AVIATION RESEARCH

- Sec. 601. Airport cooperative research program.
- Sec. 602. Reduction of noise, emissions, and energy consumption from civilian aircraft.
- Sec. 603. Production of alternative fuel technology for civilian aircraft.
- Sec. 604. Production of clean coal fuel technology for civilian aircraft.
- Sec. 605. Research program to improve airfield pavements.
- Sec. 606. Wake turbulence, volcanic ash, and weather research.
- Sec. 607. Incorporation of unmanned aircraft systems into FAA plans and policies.
- Sec. 608. Reauthorization of center of excellence in applied research and training in the use of advanced materials in transport aircraft.
- Sec. 609. Pilot program for zero emission airport vehicles.
- Sec. 610. Reduction of emissions from airport power sources.
- Sec. 611. Siting of windfarms near FAA navigational aides and other assets.
- Sec. 612. Research and development for equipment to clean and monitor the engine and APU bleed air supplied on pressurized aircraft.

TITLE VII—MISCELLANEOUS

- Sec. 701. General authority.
- Sec. 702. Human intervention management study.
- Sec. 703. Airport program modifications.
- Sec. 704. Miscellaneous program extensions.
- Sec. 705. Extension of competitive access reports.
- Sec. 706. Update on overflights.
- Sec. 707. Technical corrections.
- Sec. 708. FAA technical training and staffing.
- Sec. 709. Commercial air tour operators in national parks.
- Sec. 710. Phaseout of Stage 1 and 2 aircraft.

- Sec. 711. Weight restrictions at Teterboro Airport.
- Sec. 712. Pilot program for redevelopment of airport properties.
- Sec. 713. Transporting musical instruments.
- Sec. 714. Recycling plans for airports.
- Sec. 715. Disadvantaged Business Enterprise Program adjustments.
- Sec. 716. Front line manager staffing.
- Sec. 717. Study of helicopter and fixed wing air ambulance services.
- Sec. 718. Repeal of certain limitations on Metropolitan Washington Airports Authority.
- Sec. 719. Study of aeronautical mobile telemetry.
- Sec. 720. Flightcrew member pairing and crew resource management techniques.
- Sec. 721. Consolidation or elimination of obsolete, redundant, or otherwise unnecessary reports; use of electronic media format.
- Sec. 722. Line check evaluations.
- Sec. 723. Report on Newark Liberty Airport air traffic control tower.
- Sec. 724. Priority review of construction projects in cold weather States.
- Sec. 725. Air-rail codeshare study.
- Sec. 726. On-going monitoring of and report on the New York/New Jersey/Philadelphia Metropolitan Area Airspace Redesign.
- Sec. 727. Study on aviation fuel prices.
- Sec. 728. Land conveyance for Southern Nevada Supplemental Airport.
- Sec. 729. Clarification of requirements for volunteer pilots operating charitable medical flights.
- Sec. 730. Cylinders of compressed oxygen, nitrous oxide, or other oxidizing gases.
- Sec. 731. Technical correction.
- Sec. 732. Plan for flying scientific instruments on commercial flights.
- Sec. 733. Prohibition against aiming a laser pointer at an aircraft.
- Sec. 734. Criminal penalty for unauthorized recording or distribution of security screening images.
- Sec. 735. Approval of applications for the security screening opt-out program.
- Sec. 736. Conveyance of land to city of Mesquite, Nevada.
- Sec. 737. Ronald Reagan Washington National Airport Slots.
- Sec. 738. Orphan Earmarks Act.
- Sec. 739. Privacy protections for aircraft passenger screening with advanced imaging technology.
- Sec. 740. Controlling helicopter noise pollution in residential areas.

TITLE VIII—AIRPORT AND AIRWAY TRUST FUND PROVISIONS AND RELATED TAXES

- Sec. 800. Amendment of 1986 code.
- Sec. 801. Extension of taxes funding airport and airway trust fund.
- Sec. 802. Extension of airport and airway trust fund expenditure authority.
- Sec. 803. Modification of excise tax on kerosene used in aviation.
- Sec. 804. Air traffic control system modernization account.
- Sec. 805. Treatment of fractional aircraft ownership programs.
- Sec. 806. Termination of exemption for small jet aircraft on nonestablished lines.
- Sec. 807. Transparency in passenger tax disclosures.
- Sec. 808. Tax-exempt bond financing for fixed-wing emergency medical aircraft.
- Sec. 809. Protection of Airport and Airway Trust Fund solvency.

- Sec. 810. Rollover of amounts received in airline carrier bankruptcy.
- Sec. 811. Application of levy to payments to Federal vendors relating to property.
- Sec. 812. Modification of control definition for purposes of section 249.

TITLE IX—BUDGETARY EFFECTS

- Sec. 901. Budgetary effects.

TITLE X—RESCISSION OF UNUSED TRANSPORTATION EARMARKS AND GENERAL REPORTING REQUIREMENT

- Sec. 1001. Definition.
- Sec. 1002. Rescission.
- Sec. 1003. Agency wide identification and reports.

TITLE XI—REPEAL OF EXPANSION OF INFORMATION REPORTING REQUIREMENTS

- Sec. 1101. Repeal of expansion of information reporting requirements.

TITLE XII—EMERGENCY MEDICAL SERVICE PROVIDERS PROTECTION AND LIABILITY PROTECTION FOR CERTAIN VOLUNTEER PILOTS

Subtitle A—Emergency Medical Service Providers Protection

- Sec. 1201. Dale Long Emergency Medical Service Providers Protection Act.

Subtitle B—Liability Protection

- Sec. 1211. Short title.
- Sec. 1212. Findings and purpose.
- Sec. 1213. Liability protection for volunteer pilots that fly for public benefit.

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.

SEC. 3. EFFECTIVE DATE.

Except as otherwise expressly provided, this Act and the amendments made by this Act shall take effect on the date of enactment of this Act.

TITLE I—AUTHORIZATIONS

SEC. 101. OPERATIONS.

Section 106(k)(1) is amended by striking subparagraphs (A) through (E) and inserting the following:

- “(A) \$9,336,000,000 for fiscal year 2010; and
- “(B) \$9,620,000,000 for fiscal year 2011.”.

SEC. 102. AIR NAVIGATION FACILITIES AND EQUIPMENT.

Section 48101(a) is amended by striking paragraphs (1) through (5) and inserting the following:

- “(1) \$3,500,000,000 for fiscal year 2010, of which \$500,000,000 is derived from the Air Traffic Control System Modernization Account of the Airport and Airways Trust Fund; and

- “(2) \$3,600,000,000 for fiscal year 2011, of which \$500,000,000 is derived from the Air Traffic Control System Modernization Account of the Airport and Airways Trust Fund.”.

SEC. 103. RESEARCH AND DEVELOPMENT.

Section 48102 is amended—

- (1) by striking subsection (a) and inserting the following:

“(a) IN GENERAL.—Not more than the following amounts may be appropriated to the Secretary of Transportation out of the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502) for conducting civil aviation research and development under sections 44504, 44505, 44507, 44509, and 44511 through 44513 of this title:

- “(1) \$200,000,000 for fiscal year 2010.
- “(2) \$206,000,000 for fiscal year 2011.”;
- (2) by striking subsections (c) through (h); and
- (3) by adding at the end the following:
- “(c) RESEARCH GRANTS PROGRAM INVOLVING UNDERGRADUATE STUDENTS.—The Administrator of the Federal Aviation Administration shall establish a program to utilize undergraduate and technical colleges, including Historically Black Colleges and Universities, Hispanic Serving Institutions, tribally controlled colleges and universities, and Alaska Native and Native Hawaiian serving institutions in research on subjects of relevance to the Federal Aviation Administration. Grants may be awarded under this subsection for—

“(1) research projects to be carried out at primarily undergraduate institutions and technical colleges;

“(2) research projects that combine research at primarily undergraduate institutions and technical colleges with other research supported by the Federal Aviation Administration;

“(3) research on future training requirements on projected changes in regulatory requirements for aircraft maintenance and power plant licensees; or

“(4) research on the impact of new technologies and procedures, particularly those related to aircraft flight deck and air traffic management functions, and on training requirements for pilots and air traffic controllers.”.

SEC. 104. AIRPORT PLANNING AND DEVELOPMENT AND NOISE COMPATIBILITY PLANNING AND PROGRAMS.

Section 48103 is amended by striking paragraphs (1) through (6) and inserting the following:

- “(1) \$4,000,000,000 for fiscal year 2010; and
- “(2) \$4,100,000,000 for fiscal year 2011.”.

SEC. 105. OTHER AVIATION PROGRAMS.

Section 48114 is amended—

- (1) by striking “2007” in subsection (a)(1)(A) and inserting “2011”;
- (2) by striking “2007,” in subsection (a)(2) and inserting “2011.”; and
- (3) by striking “2007” in subsection (c)(2) and inserting “2011”.

SEC. 106. DELINEATION OF NEXT GENERATION AIR TRANSPORTATION SYSTEM PROJECTS.

Section 44501(b) is amended—

- (1) by striking “and” after the semicolon in paragraph (3);
- (2) by striking “defense.” in paragraph (4) and inserting “defense; and”; and
- (3) by adding at the end thereof the following:

“(5) a list of projects that are part of the Next Generation Air Transportation System and do not have as a primary purpose to operate or maintain the current air traffic control system.”.

SEC. 107. FUNDING FOR ADMINISTRATIVE EXPENSES FOR AIRPORT PROGRAMS.

(a) IN GENERAL.—Section 48105 is amended to read as follows:

“§ 48105. Airport programs administrative expenses

“Of the amount made available under section 48103 of this title, the following may be available for administrative expenses relating to the Airport Improvement Program, passenger facility charge approval and oversight, national airport system planning, airport standards development and enforcement, airport certification, airport-related environmental activities (including legal services), and other airport-related activities (including airport technology research), to remain available until expended—

- “(1) for fiscal year 2010, \$94,000,000; and
- “(2) for fiscal year 2011, \$98,000,000.”.

(b) CONFORMING AMENDMENT.—The table of contents for chapter 481 is amended by striking the item relating to section 48105 and inserting the following:

“48105. Airport programs administrative expenses”.

(c) PASSENGER ENPLANEMENT REPORT.—

(1) IN GENERAL.—The Administrator of the Federal Aviation Administration shall prepare a report on every airport in the United States that reported between 10,000 and 15,000 passenger enplanements during each of the 2 most recent years for which such data is available.

(2) REPORT OBJECTIVES.—In carrying out the report under paragraph (1), the Administrator shall document the methods used by each subject airport to reach the 10,000 passenger enplanement threshold, including whether airports subsidize commercial flights to reach such threshold.

(3) REVIEW.—The Inspector General of the Department of Transportation shall review the process of the Administrator in developing the report under paragraph (1).

(4) REPORT.—The Administrator shall submit the report prepared under paragraph (1) to Congress and the Secretary of Transportation.

TITLE II—AIRPORT IMPROVEMENTS

SEC. 201. REFORM OF PASSENGER FACILITY CHARGE AUTHORITY.

(a) PASSENGER FACILITY CHARGE STREAMLINING.—Section 40117(c) is amended to read as follows:

“(c) PROCEDURAL REQUIREMENTS FOR IMPOSITION OF PASSENGER FACILITY CHARGE.—

“(1) IN GENERAL.—An eligible agency must submit to those air carriers and foreign air carriers operating at the airport with a significant business interest, as defined in paragraph (3), and to the Secretary and make available to the public annually a report, in the form required by the Secretary, on the status of the eligible agency’s passenger facility charge program, including—

“(A) the total amount of program revenue held by the agency at the beginning of the 12 months covered by the report;

“(B) the total amount of program revenue collected by the agency during the period covered by the report;

“(C) the amount of expenditures with program revenue made by the agency on each eligible airport-related project during the period covered by the report;

“(D) each airport-related project for which the agency plans to collect and use program revenue during the next 12-month period covered by the report, including the amount of revenue projected to be used for such project;

“(E) the level of program revenue the agency plans to collect during the next 12-month period covered by the report;

“(F) a description of the notice and consultation process with air carriers and foreign air carriers under paragraph (3), and with the public under paragraph (4), including a copy of any adverse comments received and how the agency responded; and

“(G) any other information on the program that the Secretary may require.

“(2) IMPLEMENTATION.—Subject to the requirements of paragraphs (3), (4), (5), and (6), the eligible agency may implement the planned collection and use of passenger facility charges in accordance with its report upon filing the report as required in paragraph (1).

“(3) CONSULTATION WITH CARRIERS FOR NEW PROJECTS.—

“(A) An eligible agency proposing to collect or use passenger facility charge revenue for a project not previously approved by the Secretary or not included in a report required by paragraph (1) that was submitted in a prior year shall provide to air carriers

and foreign air carriers operating at the airport reasonable notice, and an opportunity to comment on the planned collection and use of program revenue before providing the report required under paragraph (1). The Secretary shall prescribe by regulation what constitutes reasonable notice under this paragraph, which shall at a minimum include—

“(i) that the eligible agency provide to air carriers and foreign air carriers operating at the airport written notice of the planned collection and use of passenger facility charge revenue;

“(ii) that the notice include a full description and justification for a proposed project;

“(iii) that the notice include a detailed financial plan for the proposed project; and

“(iv) that the notice include the proposed level for the passenger facility charge.

“(B) An eligible agency providing notice and an opportunity for comment shall be deemed to have satisfied the requirements of this paragraph if the eligible agency provides such notice to air carriers and foreign air carriers that have a significant business interest at the airport. For purposes of this subparagraph, the term ‘significant business interest’ means an air carrier or foreign air carrier that—

“(i) had not less than 1.0 percent of passenger boardings at the airport in the prior calendar year;

“(ii) had at least 25,000 passenger boardings at the airport in the prior calendar year; and

“(iii) provides scheduled service at the airport.

“(C) Not later than 45 days after written notice is provided under subparagraph (A), each air carrier and foreign air carrier may provide written comments to the eligible agency indicating its agreement or disagreement with the project or, if applicable, the proposed level for a passenger facility charge.

“(D) The eligible agency may include, as part of the notice and comment process, a consultation meeting to discuss the proposed project or, if applicable, the proposed level for a passenger facility charge. If the agency provides a consultation meeting, the written comments specified in subparagraph (C) shall be due not later than 30 days after the meeting.

“(4) PUBLIC NOTICE AND COMMENT.—

“(A) An eligible agency proposing to collect or use passenger facility charge revenue for a project not previously approved by the Secretary or not included in a report required by paragraph (1) that was filed in a prior year shall provide reasonable notice and an opportunity for public comment on the planned collection and use of program revenue before providing the report required in paragraph (1).

“(B) The Secretary shall prescribe by regulation what constitutes reasonable notice under this paragraph, which shall at a minimum require—

“(i) that the eligible agency provide public notice of intent to collect a passenger facility charge so as to inform those interested persons and agencies that may be affected;

“(ii) appropriate methods of publication, which may include notice in local newspapers of general circulation or other local media, or posting of the notice on the agency’s Internet website; and

“(iii) submission of public comments no later than 45 days after the date of the publication of the notice.

“(5) OBJECTIONS.—

“(A) Any interested person may file with the Secretary a written objection to a proposed project included in a notice under this paragraph provided that the filing is made within 30 days after submission of the report specified in paragraph (1).

“(B) The Secretary shall provide not less than 30 days for the eligible agency to respond to any filed objection.

“(C) Not later than 90 days after receiving the eligible agency’s response to a filed objection, the Secretary shall make a determination whether or not to terminate authority to collect the passenger facility charge for the project, based on the filed objection. The Secretary shall state the reasons for any determination. The Secretary may only terminate authority if—

“(i) the project is not an eligible airport related project;

“(ii) the eligible agency has not complied with the requirements of this section or the Secretary’s implementing regulations in proposing the project;

“(iii) the eligible agency has been found to be in violation of section 47107(b) of this title and has failed to take corrective action, prior to the filing of the objection; or

“(iv) in the case of a proposed increase in the passenger facility charge level, the level is not authorized by this section.

“(D) Upon issuance of a decision terminating authority, the public agency shall prepare an accounting of passenger facility revenue collected under the terminated authority and restore the funds for use on other authorized projects.

“(E) Except as provided in subparagraph (C), the eligible agency may implement the planned collection and use of a passenger facility charge in accordance with its report upon filing the report as specified in paragraph (1)(A).

“(6) APPROVAL REQUIREMENT FOR INCREASED PASSENGER FACILITY CHARGE OR INTERMODAL GROUND ACCESS PROJECT.—

“(A) An eligible agency may not collect or use a passenger facility charge to finance an intermodal ground access project, or increase a passenger facility charge, unless the project is first approved by the Secretary in accordance with this paragraph.

“(B) The eligible agency may submit to the Secretary an application for authority to impose a passenger facility charge for an intermodal ground access project or to increase a passenger facility charge. The application shall contain information and be in the form that the Secretary may require by regulation but, at a minimum, must include copies of any comments received by the agency during the comment period described by subparagraph (C).

“(C) Before submitting an application under this paragraph, an eligible agency must provide air carriers and foreign air carriers operating at the airport, and the public, reasonable notice of and an opportunity to comment on a proposed intermodal ground access project or the increased passenger facility charge. Such notice and opportunity to comment shall conform to the requirements of paragraphs (3) and (4).

“(D) After receiving an application, the Secretary may provide air carriers, foreign air carriers and other interested persons notice and an opportunity to comment on the application. The Secretary shall make a final decision on the application not later than 120 days after receiving it.”.

(b) CONFORMING AMENDMENTS.—

(1) REFERENCES.—

(A) Section 40117(a) is amended—

(i) by striking “FEE” in the heading for paragraph (5) and inserting “CHARGE”; and

(ii) by striking “fee” each place it appears in paragraphs (5) and (6) and inserting “charge”.

(B) Subsections (b), and subsections (d) through (m), of section 40117 are amended—

(i) by striking “fee” or “fees” each place either appears and inserting “charge” or “charges”, respectively; and

(ii) by striking “FEE” in the subsection caption for subsection (1), and “FEES” in the subsection captions for subsections (e) and (m), and inserting “CHARGE” and “CHARGES”, respectively.

(C) The caption for section 40117 is amended to read as follows:

“§ 40117. Passenger facility charges”.

(D) The table of contents for chapter 401 is amended by striking the item relating to section 40117 and inserting the following:

“40117. Passenger facility charges”.

(2) LIMITATIONS ON APPROVING APPLICATIONS.—Section 40117(d) is amended—

(A) by striking “subsection (c) of this section to finance a specific” and inserting “subsection (c)(6) of this section to finance an intermodal ground access”; and

(B) by striking “specific” in paragraph (1);

(C) by striking paragraph (2) and inserting the following:

“(2) the project is an eligible airport-related project; and”;

(D) by striking “each of the specific projects; and” in paragraph (3) and inserting “the project.”; and

(E) by striking paragraph (4).

(3) LIMITATIONS ON IMPOSING CHARGES.—Section 40117(e)(1) is amended to read as follows: “(1) An eligible agency may impose a passenger facility charge only subject to terms the Secretary may prescribe to carry out the objectives of this section.”.

(4) LIMITATIONS ON CONTRACTS, LEASES, AND USE AGREEMENTS.—Section 40117(f)(2) is amended by striking “long-term”.

(5) COMPLIANCE.—Section 40117(h) is amended—

(A) by redesignating paragraph (3) as paragraph (4); and

(B) by inserting after paragraph (2) the following:

“(3) The Secretary may, on complaint of an interested person or on the Secretary’s own initiative, conduct an investigation into an eligible agency’s collection and use of passenger facility charge revenue to determine whether a passenger facility charge is excessive or that passenger facility revenue is not being used as provided in this section. The Secretary shall prescribe regulations establishing procedures for complaints and investigations. The regulations may provide for the issuance of a final agency decision without resort to an oral evidentiary hearing. The Secretary shall not accept complaints filed under this paragraph until after the issuance of regulations establishing complaint procedures.”.

(6) PILOT PROGRAM FOR PFC AT NONHUB AIRPORTS.—Section 40117(l) is amended—

(A) by striking “(c)(2)” in paragraph (2) and inserting “(c)(3)”;

(B) by striking “October 1, 2009,” in paragraph (7) and inserting “the date of issuance of regulations to carry out subsection (c) of this section, as amended by the FAA Air Transportation Modernization and Safety Improvement Act.”.

(7) PROHIBITION ON APPROVING PFC APPLICATIONS FOR AIRPORT REVENUE DIVERSION.—Section 4711(e) is amended by striking “sponsor” the second place it appears in the first sentence and all that follows and inserting “sponsor. A sponsor shall not propose collection or use of passenger facility charges for any new projects under paragraphs (3) through (6) of section 40117(c) unless the Secretary determines that the sponsor has taken corrective action to address the violation and the violation no longer exists.”.

SEC. 202. PASSENGER FACILITY CHARGE PILOT PROGRAM.

(a) IN GENERAL.—Section 40117 is amended by adding at the end thereof the following:

“(n) ALTERNATIVE PASSENGER FACILITY CHARGE COLLECTION PILOT PROGRAM.—

“(1) IN GENERAL.—The Secretary shall establish and conduct a pilot program at not more than 6 airports under which an eligible agency may impose a passenger facility charge under this section without regard to the dollar amount limitations set forth in paragraph (1) or (4) of subsection (b) if the participating eligible agency meets the requirements of paragraph (2).”

“(2) COLLECTION REQUIREMENTS.—

“(A) DIRECT COLLECTION.—An eligible agency participating in the pilot program—

“(i) may collect the charge from the passenger at the facility, via the Internet, or in any other reasonable manner; but

“(ii) may not require or permit the charge to be collected by an air carrier or foreign air carrier for the flight segment.

“(B) PFC COLLECTION REQUIREMENT NOT TO APPLY.—Subpart C of part 158 of title 14, Code of Federal Regulations, does not apply to the collection of the passenger facility charge imposed by an eligible agency participating in the pilot program.”

(b) GAO STUDY OF ALTERNATIVE MEANS OF COLLECTING PFCs.—

(1) IN GENERAL.—The Comptroller General shall conduct a study of alternative means of collection passenger facility charges imposed under section 40117 of title 49, United States Code, that would permit such charges to be collected without being included in the ticket price. In the study, the Comptroller General shall consider, at a minimum—

(A) collection options for arriving, connecting, and departing passengers at airports;

(B) cost sharing or fee allocation methods based on passenger travel to address connecting traffic; and

(C) examples of airport fees collected by domestic and international airports that are not included in ticket prices.

(2) REPORT.—No later than 1 year after the date of enactment of this Act, the Comptroller General shall submit a report on the study to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure containing the Comptroller General's findings, conclusions, and recommendations.

SEC. 203. AMENDMENTS TO GRANT ASSURANCES.

Section 47107 is amended—

(1) by striking “made;” in subsection (a)(16)(D)(ii) and inserting “made, except that, if there is a change in airport design standards that the Secretary determines is beyond the owner or operator's control that requires the relocation or replacement of an existing airport facility, the Secretary, upon the request of the owner or operator, may grant funds available under section 47114 to pay the cost of relocating or replacing such facility;”;

(2) in subsection (c)—

(A) in paragraph (2)—

(i) in subparagraph (A)(i), by striking “purpose;” and inserting the following: “purpose, which includes serving as noise buffer land that may be—

“(I) undeveloped; or

“(II) developed in a way that is compatible with using the land for noise buffering purposes;”;

(ii) in subparagraph (B)(iii), by striking “paid to the Secretary for deposit in the Fund if another eligible project does not exist.” and inserting “reinvested in another project at the airport or transferred to another airport as the Secretary prescribes.”;

(B) by redesignating paragraph (3) as paragraph (5); and

(C) by inserting after paragraph (2) the following:

“(3)(A) A lease by an airport owner or operator of land acquired for a noise compat-

ibility purpose using a grant provided under this subchapter shall not be considered a disposal for purposes of paragraph (2).

“(B) The airport owner or operator may use revenues from a lease described in subparagraph (A) for capital purposes.

“(C) The Administrator of the Federal Aviation Administration shall coordinate with each airport owner or operator to ensure that leases described in subparagraph (A) are consistent with noise buffering purposes.

“(D) The provisions of this paragraph apply to all land acquired before, on, or after the date of the enactment of this paragraph.

“(4) In approving the reinvestment or transfer of proceeds under paragraph (2)(C)(iii), the Secretary shall give preference, in descending order, to—

“(i) reinvestment in an approved noise compatibility project;

“(ii) reinvestment in an approved project that is eligible for funding under section 47117(e);

“(iii) reinvestment in an airport development project that is eligible for funding under section 47114, 47115, or 47117 and meets the requirements of this chapter;

“(iv) transfer to the sponsor of another public airport to be reinvested in an approved noise compatibility project at such airport; and

“(v) payment to the Secretary for deposit in the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502).”

SEC. 204. GOVERNMENT SHARE OF PROJECT COSTS.

(a) FEDERAL SHARE.—Section 47109 is amended—

(1) by striking “subsection (b) or subsection (c)” in subsection (a) and inserting “subsection (b), (c), or (e)”;

(2) by adding at the end the following:

“(e) SPECIAL RULE FOR TRANSITION FROM SMALL HUB TO MEDIUM HUB STATUS.—If the status of a small hub primary airport changes to a medium hub primary airport, the United States Government's share of allowable project costs for the airport may not exceed 95 percent for 2 fiscal years following such change in hub status.”

(b) TRANSITIONING AIRPORTS.—Section 47114(f)(3)(B) is amended by striking “year 2004.” and inserting “years 2010 and 2011.”

SEC. 205. AMENDMENTS TO ALLOWABLE COSTS.

Section 47110 is amended—

(1) by striking subsection (d) and inserting the following:

“(d) RELOCATION OF AIRPORT-OWNED FACILITIES.—The Secretary may determine that the costs of relocating or replacing an airport-owned facility are allowable for an airport development project at an airport only if—

“(1) the Government's share of such costs is paid with funds apportioned to the airport sponsor under sections 47114(c)(1) or 47114(d)(2);

“(2) the Secretary determines that the relocation or replacement is required due to a change in the Secretary's design standards; and

“(3) the Secretary determines that the change is beyond the control of the airport sponsor.”;

(2) by striking “facilities, including fuel farms and hangars,” in subsection (h) and inserting “facilities, as defined by section 47102.”;

(3) by adding at the end the following:

“(i) BIRD-DETECTING RADAR SYSTEMS.—Within 180 days after the date of enactment of the FAA Air Transportation Modernization and Safety Improvement Act, the Administrator shall analyze the conclusions of ongoing studies of various types of commer-

cially-available bird radar systems, based upon that analysis, if the Administrator determines such systems have no negative impact on existing navigational aids and that the expenditure of such funds is appropriate, the Administrator shall allow the purchase of bird-detecting radar systems as an allowable airport development project costs subject to subsection (b). If a determination is made that such radar systems will not improve or negatively impact airport safety, the Administrator shall issue a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on why that determination was made.”

SEC. 206. SALE OF PRIVATE AIRPORT TO PUBLIC SPONSOR.

Section 47133(b) is amended—

(1) by resetting the text of the subsection as an indented paragraph 2 ems from the left margin;

(2) by inserting “(1)” before “Subsection”; and

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

“(2) In the case of a privately owned airport, subsection (a) shall not apply to the proceeds from the sale of the airport to a public sponsor if—

“(A) the sale is approved by the Secretary;

“(B) funding is provided under this title for the public sponsor's acquisition; and

“(C) an amount equal to the remaining unamortized portion of the original grant, amortized over a 20-year period, is repaid to the Secretary by the private owner for deposit in the Trust Fund for airport acquisitions.

“(3) This subsection shall apply to grants issued on or after October 1, 1996.”

SEC. 207. GOVERNMENT SHARE OF CERTAIN AIR PROJECT COSTS.

Notwithstanding section 47109(a) of title 49, United States Code, the Federal Government's share of allowable project costs for a grant made in fiscal year 2008, 2009, 2010, or 2011 under chapter 471 of that title for a project described in paragraph (2) or (3) of that section shall be 95 percent.

SEC. 207(b). PROHIBITION ON USE OF PASSENGER FACILITY CHARGES TO CONSTRUCT BICYCLE STORAGE FACILITIES.

Section 40117(a)(3) is amended—

(1) by redesignating subparagraphs (A) through (G) as clauses (i) through (vii);

(2) by striking “The term” and inserting the following:

“(A) IN GENERAL.—The term”; and

(3) by adding at the end the following:

“(B) BICYCLE STORAGE FACILITIES.—A project to construct a bicycle storage facility may not be considered an eligible airport-related project.”

SEC. 208. MISCELLANEOUS AMENDMENTS.

(a) TECHNICAL CHANGES TO NATIONAL PLAN OF INTEGRATED AIRPORT SYSTEMS.—Section 47103 is amended—

(1) by striking “each airport to—” in subsection (a) and inserting “the airport system to—”;

(2) by striking “system in the particular area,” in subsection (a)(1) and inserting “system, including connection to the surface transportation network; and”;

(3) by striking “aeronautics; and” in subsection (a)(2) and inserting “aeronautics.”;

(4) by striking subsection (a)(3);

(5) by inserting “and” after the semicolon in subsection (b)(1);

(6) by striking paragraph (2) of subsection (b) and redesignating paragraph (3) as paragraph (2);

(7) by striking “operations, Short Takeoff and Landing/Very Short Takeoff and Landing aircraft operations,” in subsection (b)(2),

as redesignated, and inserting “operations”; and

(8) by striking “status of the” in subsection (d).

(b) UPDATE VETERANS PREFERENCE DEFINITION.—Section 47112(c) is amended—

(1) by striking “separated from” in paragraph (1)(B) and inserting “discharged or released from active duty in”;

(2) by adding at the end of paragraph (1) the following:

“(C) ‘Afghanistan-Iraq war veteran’ means an individual who served on active duty, as defined by section 101(21) of title 38, at any time in the armed forces for a period of more than 180 consecutive days, any part of which occurred during the period beginning on September 11, 2001, and ending on the date prescribed by Presidential proclamation or by law as the last date of Operation Iraqi Freedom.”;

(3) by striking “veterans and” in paragraph (2) and inserting “veterans, Afghanistan-Iraq war veterans, and”;

(4) by adding at the end the following:

“(3) A contract involving labor for carrying out an airport development project under a grant agreement under this subchapter must require that a preference be given to the use of small business concerns (as defined in section 3 of the Small Business Act (15 U.S.C. 632)) owned and controlled by disabled veterans.”.

(c) ANNUAL REPORT.—Section 47131(a) is amended—

(1) by striking “April 1” and inserting “June 1”; and

(2) by striking paragraphs (1) through (4) and inserting the following:

“(1) a summary of airport development and planning completed;

“(2) a summary of individual grants issued;

“(3) an accounting of discretionary and apportioned funds allocated; and

“(4) the allocation of appropriations; and”.

(d) SUNSET OF PROGRAM.—Section 47137 is repealed effective September 30, 2008.

(e) CORRECTION TO EMISSION CREDITS PROVISION.—Section 47139 is amended—

(1) by striking “47102(3)(F),” in subsection (a);

(2) by striking “47102(3)(F), 47102(3)(K), 47102(3)(L), or 47140” in subsection (b) and inserting “47102(3)(K) or 47102(3)(L)”;

(3) by striking “40117(a)(3)(G), 47103(3)(F), 47102(3)(K), 47102(3)(L), or 47140,” in subsection (b) and inserting “40117(a)(3)(G), 47102(3)(K), or 47102(3)(L),”;

(f) CORRECTION TO SURPLUS PROPERTY AUTHORITY.—Section 47151(e) is amended by striking “(other than real property that is subject to section 2687 of title 10, section 201 of the Defense Authorization Amendments and Base Closure and Realignment Act (10 U.S.C. 2687 note), or section 2905 of the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note)).”.

(g) AIRPORT CAPACITY BENCHMARK REPORTS; DEFINITION OF JOINT USE AIRPORT.—Section 47175 is amended—

(1) by striking “Airport Capacity Benchmark Report 2001.” in paragraph (2) and inserting “2001 and 2004 Airport Capacity Benchmark Reports or of the most recent Benchmark report, Future Airport Capacity Task Report, or other comparable FAA report.”; and

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

“(7) JOINT USE AIRPORT.—The term ‘joint use airport’ means an airport owned by the United States Department of Defense, at which both military and civilian aircraft make shared use of the airfield.”.

(h) USE OF APPORTIONED AMOUNTS.—Section 47117(e)(1)(A) is amended—

(1) by striking “35 percent” in the first sentence and inserting “\$300,000,000”;

(2) by striking “and” after “47141.”;

(3) by striking “et seq.” and inserting “et seq.”, and for water quality mitigation projects to comply with the Act of June 30, 1948 (33 U.S.C. 1251 et seq.), approved in an environmental record of decision for an airport development project under this title.”; and

(4) by striking “such 35 percent requirement is” in the second sentence and inserting “the requirements of the preceding sentence are”.

(i) USE OF PREVIOUS FISCAL YEAR’S APPORTIONMENT.—Section 47114(c)(1) is amended—

(1) by striking “and” after the semicolon in subparagraph (E)(ii);

(2) by striking “airport.” in subparagraph (E)(iii) and inserting “airport; and”;

(3) by adding at the end of subparagraph (E) the following:

“(iv) the airport received scheduled or unscheduled air service from a large certified air carrier (as defined in part 241 of title 14, Code of Federal Regulations, or such other regulations as may be issued by the Secretary under the authority of section 41709) and the Secretary determines that the airport had more than 10,000 passenger boardings in the preceding calendar year, based on data submitted to the Secretary under part 241 of title 14, Code of Federal Regulations.”;

(4) in subparagraph (G)—

(A) by striking “FISCAL YEAR 2006” in the heading and inserting “FISCAL YEARS 2008 THROUGH 2011”;

(B) by striking “fiscal year 2006” and inserting “fiscal years 2008 through 2011”;

(C) by striking clause (i) and inserting the following:

“(i) the average annual passenger boardings at the airport for calendar years 2004 through 2006 were below 10,000 per year.”; and

(D) by striking “2000 or 2001;” in clause (ii) and inserting “2003.”; and

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

“(H) SPECIAL RULE FOR FISCAL YEARS 2010 AND 2011.—Notwithstanding subparagraph (A), for an airport that had more than 10,000 passenger boardings and scheduled passenger aircraft service in calendar year 2007, but in either calendar years 2008 or 2009, or both years, the number of passenger boardings decreased to a level below 10,000 boardings per year at such airport, the Secretary may apportion in fiscal years 2010 or 2011 to the sponsor of such an airport an amount equal to the amount apportioned to that sponsor in fiscal year 2009.”.

(J) MOBILE REFUELER PARKING CONSTRUCTION.—Section 47102(3) is amended by adding at the end the following:

“(M) construction of mobile refueler parking within a fuel farm at a nonprimary airport meeting the requirements of section 112.8 of title 40, Code of Federal Regulations.”.

(K) DISCRETIONARY FUND.—Section 47115(g)(1) is amended by striking “of—” and all that follows and inserting “of \$520,000,000. The amount credited is exclusive of amounts that have been apportioned in a prior fiscal year under section 47114 of this title and that remain available for obligation.”.

SEC. 209. STATE BLOCK GRANT PROGRAM.

Section 47128 is amended—

(1) by striking “regulations” each place it appears in subsection (a) and inserting “guidance”;

(2) by striking “grant;” in subsection (b)(4) and inserting “grant, including Federal environmental requirements or an agreed upon equivalent;”;

(3) by redesignating subsection (c) as subsection (d) and inserting after subsection (b) the following:

“(c) PROJECT ANALYSIS AND COORDINATION REQUIREMENTS.—Any Federal agency that must approve, license, or permit a proposed action by a participating State shall coordinate and consult with the State. The agency shall utilize the environmental analysis prepared by the State, provided it is adequate, or supplement that analysis as necessary to meet applicable Federal requirements.”; and

(4) by adding at the end the following:

“(e) PILOT PROGRAM.—The Secretary shall establish a pilot program for up to 3 States that do not participate in the program established under subsection (a) that is consistent with the program under subsection (a).”.

SEC. 210. AIRPORT FUNDING OF SPECIAL STUDIES OR REVIEWS.

Section 47173(a) is amended by striking “project.” and inserting “project, or to conduct special environmental studies related to a federally funded airport project or for special studies or reviews to support approved noise compatibility measures in a Part 150 program or environmental mitigation in a Federal Aviation Administration Record of Decision or Finding of No Significant Impact.”.

SEC. 211. GRANT ELIGIBILITY FOR ASSESSMENT OF FLIGHT PROCEDURES.

Section 47504 is amended by adding at the end the following:

“(e) GRANTS FOR ASSESSMENT OF FLIGHT PROCEDURES.—

“(1) The Secretary is authorized in accordance with subsection (c)(1) to make a grant to an airport operator to assist in completing environmental review and assessment activities for proposals to implement flight procedures that have been approved for airport noise compatibility planning purposes under subsection (b).

“(2) The Administrator of the Federal Aviation Administration may accept funds from an airport sponsor, including funds provided to the sponsor under paragraph (1), to hire additional staff or obtain the services of consultants in order to facilitate the timely processing, review and completion of environmental activities associated with proposals to implement flight procedures submitted and approved for airport noise compatibility planning purposes in accordance with this section. Funds received under this authority shall not be subject to the procedures applicable to the receipt of gifts by the Administrator.”.

SEC. 212. SAFETY-CRITICAL AIRPORTS.

Section 47118(c) is amended—

(1) by striking “or” after the semicolon in paragraph (1);

(2) by striking “delays.” in paragraph (2) and inserting “delays; or”;

(3) by adding at the end the following:

“(3) be critical to the safety of commercial, military, or general aviation in transoceanic flights.”.

SEC. 213. ENVIRONMENTAL MITIGATION DEMONSTRATION PILOT PROGRAM.

(a) PILOT PROGRAM.—Subchapter I of chapter 471 is amended by adding at the end thereof the following:

“§ 47143. Environmental mitigation demonstration pilot program

“(a) IN GENERAL.—The Secretary of Transportation shall carry out a pilot program involving not more than 6 projects at public-use airports under which the Secretary may make grants to sponsors of such airports from funds apportioned under paragraph 47117(e)(1)(A) for use at such airports for environmental mitigation demonstration projects that will measurably reduce or mitigate aviation impacts on noise, air quality or water quality in the vicinity of the airport. Notwithstanding any other provision of this subchapter, an environmental mitigation demonstration project approved under

this section shall be treated as eligible for assistance under this subchapter.

“(b) PARTICIPATION IN PILOT PROGRAM.—A public-use airport shall be eligible for participation in the pilot.

“(c) SELECTION CRITERIA.—In selecting from among applicants for participation in the pilot program, the Secretary may give priority consideration to environmental mitigation demonstration projects that—

“(1) will achieve the greatest reductions in aircraft noise, airport emissions, or airport water quality impacts either on an absolute basis, or on a per-dollar-of-funds expended basis; and

“(2) will be implemented by an eligible consortium.

“(d) FEDERAL SHARE.—Notwithstanding any other provision of this subchapter, the United States Government's share of the costs of a project carried out under this section shall be 50 percent.

“(e) MAXIMUM AMOUNT.—Not more than \$2,500,000 may be made available by the Secretary in grants under this section for any single project.

“(f) IDENTIFYING BEST PRACTICES.—The Administrator may develop and publish information identifying best practices for reducing or mitigating aviation impacts on noise, air quality, or water quality in the vicinity of airports, based on the projects carried out under the pilot program.

“(g) DEFINITIONS.—In this section:

“(1) ELIGIBLE CONSORTIUM.—The term ‘eligible consortium’ means a consortium that comprises 2 or more of the following entities:

“(A) Businesses operating in the United States.

“(B) Public or private educational or research organizations located in the United States.

“(C) Entities of State or local governments in the United States.

“(D) Federal laboratories.

“(2) ENVIRONMENTAL MITIGATION DEMONSTRATION PROJECT.—The term ‘environmental mitigation demonstration project’ means a project that—

“(A) introduces new conceptual environmental mitigation techniques or technology with associated benefits, which have already been proven in laboratory demonstrations;

“(B) proposes methods for efficient adaptation or integration of new concepts to airport operations; and

“(C) will demonstrate whether new techniques or technology for environmental mitigation identified in research are—

“(i) practical to implement at or near multiple public use airports; and

“(ii) capable of reducing noise, airport emissions, or water quality impacts in measurably significant amounts.”.

(b) CONFORMING AMENDMENT.—The table of contents for chapter 471 is amended by inserting after the item relating to section 47142 the following:

“47143. Environmental mitigation demonstration pilot program”.

SECTION 214. ALLOWABLE PROJECT COSTS.

(a) ALLOWABLE PROJECT COSTS.—Section 47110(b)(2)(D) is amended to read as follows:

“(D) if the cost is for airport development and is incurred before execution of the grant agreement, but in the same fiscal year as execution of the grant agreement, and if—

“(i) the cost was incurred before execution of the grant agreement due to the short construction season in the vicinity of the airport;

“(ii) the cost is in accordance with an airport layout plan approved by the Secretary and with all statutory and administrative requirements that would have been applicable to the project if the project had been carried out after execution of the grant agreement,

including submission of a complete grant application to the appropriate regional or district office of the Federal Aviation Administration;

“(iii) the sponsor notifies the Secretary before authorizing work to commence on the project;

“(iv) the sponsor has an alternative funding source available to fund the project; and

“(v) the sponsor's decision to proceed with the project in advance of execution of the grant agreement does not affect the priority assigned to the project by the Secretary for the allocation of discretionary funds.”.

SEC. 215. GLYCOL RECOVERY VEHICLES.

Section 47102(3)(G) is amended by inserting “including acquiring glycol recovery vehicles,” after “aircraft.”.

SEC. 216. RESEARCH IMPROVEMENT FOR AIRCRAFT.

Section 44504(b) is amended—

(1) by striking “and” after the semicolon in paragraph (6);

(2) by striking “aircraft.” in paragraph (7) and inserting “aircraft; and”; and

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

“(8) to conduct research to support programs designed to reduce gases and particulates emitted.”.

SEC. 217. UNITED STATES TERRITORY MINIMUM GUARANTEE.

Section 47114(e) is amended—

(1) by inserting “AND ANY UNITED STATES TERRITORY” after “ALASKA” in the subsection heading; and

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

“(5) UNITED STATES TERRITORY MINIMUM GUARANTEE.—In any fiscal year in which the total amount apportioned to airports in a United States Territory under subsections (c) and (d) is less than 1.5 percent of the total amount apportioned to all airports under those subsections, the Secretary may apportion to the local authority in any United States Territory responsible for airport development projects in that fiscal year an amount equal to the difference between 1.5 percent of the total amounts apportioned under subsections (c) and (d) in that fiscal year and the amount otherwise apportioned under those subsections to airports in a United States Territory in that fiscal year.”.

SEC. 218. MERRILL FIELD AIRPORT, ANCHORAGE, ALASKA.

(a) IN GENERAL.—Notwithstanding any other provision of law, including the Federal Airport Act (as in effect on August 8, 1958), the United States releases, without monetary consideration, all restrictions, conditions, and limitations on the use, encumbrance, or conveyance of certain land located in the municipality of Anchorage, Alaska, more particularly described as Tracts 22 and 24 of the Fourth Addition to the Town Site of Anchorage, Alaska, as shown on the plat of U.S. Survey No. 1456, accepted June 13, 1923, on file in the Bureau of Land Management, Department of Interior.

(b) GRANTS.—Notwithstanding any other provision of law, the municipality of Anchorage shall be released from the repayment of any outstanding grant obligations owed by the municipality to the Federal Aviation Administration with respect to any land described in subsection (a) that is subsequently conveyed to or used by the Department of Transportation and Public Facilities of the State of Alaska for the construction or reconstruction of a federally subsidized highway project.

SEC. 219. RELEASE FROM RESTRICTIONS.

(a) IN GENERAL.—Subject to subsection (b), and notwithstanding section 16 of the Federal Airport Act (as in effect on August 28,

1973) and sections 47125 and 47153 of title 49, United States Code, the Secretary of Transportation is authorized to grant releases from any of the terms, conditions, reservations, and restrictions contained in the deed of conveyance dated August 28, 1973, under which the United States conveyed certain property to the city of St. George, Utah, for airport purposes.

(b) CONDITION.—Any release granted by the Secretary of Transportation pursuant to subsection (a) shall be subject to the following conditions:

(1) The city of St. George, Utah, shall agree that in conveying any interest in the property which the United States conveyed to the city by deed on August 28, 1973, the city will receive an amount for such interest which is equal to its fair market value.

(2) Any amount received by the city under paragraph (1) shall be used by the city of St. George, Utah, for the development or improvement of a replacement public airport.

(c) ADDITIONAL RELEASE FROM RESTRICTIONS.—

(1) IN GENERAL.—In addition to any release granted under subsection (a), the Secretary of Transportation may, subject to paragraph (2), grant releases from any of the terms, conditions, reservations, and restrictions contained in the deed of conveyance numbered 30-82-0048 and dated August 4, 1982, under which the United States conveyed certain land to Doña Ana County, New Mexico, for airport purposes.

(2) CONDITIONS.—Any release granted by the Secretary under paragraph (1) shall be subject to the following conditions:

(A) The County shall agree that in conveying any interest in the land that the United States conveyed to the County by the deed described in paragraph (1), the County shall receive an amount for the interest that is equal to the fair market value.

(B) Any amount received by the County for the conveyance shall be used by the County for the development, improvement, operation, or maintenance of the airport.

SEC. 220. DESIGNATION OF FORMER MILITARY AIRPORTS.

Section 47118(g) is amended by striking “one” and inserting “three” in its place.

SEC. 221. AIRPORT SUSTAINABILITY PLANNING WORKING GROUP.

(a) IN GENERAL.—The Administrator shall establish an airport sustainability working group to assist the Administrator with issues pertaining to airport sustainability practices.

(b) MEMBERSHIP.—The Working Group shall be comprised of not more than 15 members including—

(1) the Administrator;

(2) 5 member organizations representing aviation interests including:

(A) an organization representing airport operators;

(B) an organization representing airport employees;

(C) an organization representing air carriers;

(D) an organization representing airport development and operations experts;

(E) a labor organization representing aviation employees.

(3) 9 airport chief executive officers which shall include:

(A) at least one from each of the FAA Regions;

(B) at least 1 large hub;

(C) at least 1 medium hub;

(D) at least 1 small hub;

(E) at least 1 non hub;

(F) at least 1 general aviation airport.

(c) FUNCTIONS.—

(1) develop consensus-based best practices and metrics for the sustainable design, construction, planning, maintenance, and operation of an airport that comply with the guidelines prescribed by the Administrator;

(2) develop standards for a consensus-based rating system based on the aforementioned best practices, metrics, and ratings; and

(3) develop standards for a voluntary ratings process, based on the aforementioned best practices, metrics, and ratings;

(4) examine and submit recommendations for the industry's next steps with regard to sustainability.

(d) **DETERMINATION.**—The Administrator shall provide assurance that the best practices developed by the working group under paragraph (a) are not in conflict with any federal aviation or federal, state or local environmental regulation.

(e) **UNPAID POSITION.**—Working Group members shall serve at their own expense and receive no salary, reimbursement of travel expenses, or other compensation from the Federal Government.

(f) **NONAPPLICABILITY OF FACA.**—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Working Group under this section.

(g) **REPORT.**—Not later than one year after the date of enactment the Working Group shall submit a report to the Administrator containing the best practices and standards contained in paragraph (c). After receiving the report, the Administrator may publish such best practices in order to disseminate the information to support the sustainable design, construction, planning, maintenance, and operations of airports.

(h) No funds may be authorized to carry out this provision.

SEC. 222. INCLUSION OF MEASURES TO IMPROVE THE EFFICIENCY OF AIRPORT BUILDINGS IN AIRPORT IMPROVEMENT PROJECTS.

Section 47101(a) is amended—

(1) in paragraph (12), by striking “; and” and inserting a semicolon;

(2) in paragraph (13), by striking the period and inserting “; and”; and

(3) by adding at the end the following:

“(14) that the airport improvement program should be administered to allow measures to improve the efficiency of airport buildings to be included in airport improvement projects, such as measures designed to meet one or more of the criteria for being a high-performance green building set forth in section 401(13) of the Energy Independence and Security Act of 2007 (42 U.S.C. 17061(13)), if any significant increase in upfront project costs from any such measure is justified by expected savings over the lifecycle of the project.”.

SEC. 223. STUDY ON APPORTIONING AMOUNTS FOR AIRPORT IMPROVEMENT IN PROPORTION TO AMOUNTS OF AIR TRAFFIC.

(a) **STUDY AND REPORT REQUIRED.**—Not later than 180 days after the date of the enactment of this Act, the Administrator of the Federal Aviation Administration shall—

(1) complete a study on the feasibility and advisability of apportioning amounts under section 47114(c)(1) of title 49, United States Code, to the sponsor of each primary airport for each fiscal year an amount that bears the same ratio to the amount subject to the apportionment for fiscal year 2009 as the number of passenger boardings at the airport during the prior calendar year bears to the aggregate of all passenger boardings at all primary airports during that calendar year; and

(2) submit to Congress a report on the study completed under paragraph (1).

(b) **REPORT CONTENTS.**—The report required by subsection (a)(2) shall include the following:

(1) A description of the study carried out under subsection (a)(1).

(2) The findings of the Administrator with respect to such study.

(3) A list of each sponsor of a primary airport that received an amount under section 47114(c)(1) of title 49, United States Code, in 2009.

(4) For each sponsor listed in accordance with paragraph (3), the following:

(A) The amount such sponsor received, if any, in 2005, 2006, 2007, 2008, and 2009 under such section 47114(c)(1).

(B) An explanation of how the amount awarded to such sponsor was determined.

(C) The average number of air passenger flights serviced each month at the airport of such sponsor in 2009.

(D) The number of enplanements for air passenger transportation at such airport in 2005, 2006, 2007, 2008, and 2009.

SEC. 224. USE OF MINERAL REVENUE AT CERTAIN AIRPORTS.

(a) **DEFINITIONS.**—In this section:

(1) **ADMINISTRATOR.**—The term “Administrator” means the Administrator of the Federal Aviation Administration.

(2) **GENERAL AVIATION AIRPORT.**—The term “general aviation airport” means an airport that does not receive scheduled passenger aircraft service.

(b) **IN GENERAL.**—Notwithstanding any other provision of law, the Administrator of the Federal Aviation Administration (referred to in this section as the “Administrator”) may declare certain revenue derived from or generated by mineral extraction, production, lease or other means at any general aviation airport to be revenue greater than the amount needed to carry out the 5-year projected maintenance needs of the airport in order to comply with the applicable design and safety standards of the Federal Aviation Administration.

(c) **USE OF REVENUE.**—An airport sponsor that is in compliance with the conditions under subsection (d) may allocate revenue identified by the Administrator under subsection (b) for Federal, State, or local transportation infrastructure projects carried out by the airport sponsor or by a governing body within the geographical limits of the airport sponsor's jurisdiction.

(d) **CONDITIONS.**—An airport sponsor may not allocate revenue identified by the Administrator under subsection (b) unless the airport sponsor—

(1) enters into a written agreement with the Administrator that sets forth a 5-year capital improvement program for the airport, which—

(A) includes the projected costs for the operation, maintenance, and capacity needs of the airport in order to comply with applicable design and safety standards of the Federal Aviation Administration; and

(B) appropriately adjusts such costs to account for inflation;

(2) agrees in writing—

(A) to waive all rights to receive entitlement funds or discretionary funds to be used at the airport under section 47114 or 47115 of title 49, United States Code, during the 5-year period of the capital improvement plan described in paragraph (1);

(B) to perpetually comply with sections 47107(b) and 47133 of such title, unless granted specific exceptions by the Administrator in accordance with this section; and

(C) to operate the airport as a public-use airport, unless the Administrator specifically grants a request to allow the airport to close; and

(3) complies with all grant assurance obligations in effect as of the date of the enactment of this Act during the 20-year period beginning on the date of enactment of this Act;

(e) **COMPLETION OF DETERMINATION.**—Not later than 90 days after receiving an airport sponsor's application and requisite supporting documentation to declare that certain mineral revenue is not needed to carry out the 5-year capital improvement program at such airport, the Administrator shall determine whether the airport sponsor's request should be granted. The Administrator may not unreasonably deny an application under this subsection.

(f) **RULEMAKING.**—Not later than 90 days after the date of the enactment of this Act, the Administrator shall promulgate regulations to carry out this section.

TITLE III—AIR TRAFFIC CONTROL MODERNIZATION AND FAA REFORM

SEC. 301. AIR TRAFFIC CONTROL MODERNIZATION OVERSIGHT BOARD.

Section 106(p) is amended to read as follows:

“(p) **AIR TRAFFIC CONTROL MODERNIZATION OVERSIGHT BOARD.**—

“(1) **ESTABLISHMENT.**—Within 90 days after the date of enactment of the FAA Air Transportation Modernization and Safety Improvement Act, the Secretary shall establish and appoint the members of an advisory Board which shall be known as the Air Traffic Control Modernization Oversight Board.

“(2) **MEMBERSHIP.**—The Board shall be comprised of the individual appointed or designated under section 302 of the FAA Air Transportation Modernization and Safety Improvement Act (who shall serve ex officio without the right to vote) and 9 other members, who shall consist of—

“(A) the Administrator and a representative from the Department of Defense;

“(B) 1 member who shall have a fiduciary responsibility to represent the public interest; and

“(C) 6 members representing aviation interests, as follows:

“(i) 1 representative that is the chief executive officer of an airport.

“(ii) 1 representative that is the chief executive officer of a passenger or cargo air carrier.

“(iii) 1 representative of a labor organization representing employees at the Federal Aviation Administration that are involved with the operation of the air traffic control system.

“(iv) 1 representative with extensive operational experience in the general aviation community.

“(v) 1 representative from an aircraft manufacturer.

“(vi) 1 representative of a labor organization representing employees at the Federal Aviation Administration who are involved with maintenance of the air traffic control system.

“(3) **APPOINTMENT AND QUALIFICATIONS.**—

“(A) Members of the Board appointed under paragraphs (2)(B) and (2)(C) shall be appointed by the President, by and with the advice and consent of the Senate.

“(B) Members of the Board appointed under paragraph (2)(B) shall be citizens of the United States and shall be appointed without regard to political affiliation and solely on the basis of their professional experience and expertise in one or more of the following areas and, in the aggregate, should collectively bring to bear expertise in—

“(i) management of large service organizations;

“(ii) customer service;

“(iii) management of large procurements;

“(iv) information and communications technology;

“(v) organizational development; and

“(vi) labor relations.

“(C) Of the members first appointed under paragraphs (2)(B) and (2)(C)—

“(i) 2 shall be appointed for terms of 1 year;

“(ii) 1 shall be appointed for a term of 2 years;

“(iii) 1 shall be appointed for a term of 3 years; and

“(iv) 1 shall be appointed for a term of 4 years.

“(4) FUNCTIONS.—

“(A) IN GENERAL.—The Board shall—

“(i) review and provide advice on the Administration's modernization programs, budget, and cost accounting system;

“(ii) review the Administration's strategic plan and make recommendations on the non-safety program portions of the plan, and provide advice on the safety programs of the plan;

“(iii) review the operational efficiency of the air traffic control system and make recommendations on the operational and performance metrics for that system;

“(iv) approve procurements of air traffic control equipment in excess of \$100,000,000;

“(v) approve by July 31 of each year the Administrator's budget request for facilities and equipment prior to its submission to the Office of Management and budget, including which programs are proposed to be funded from the Air Traffic control system Modernization Account of the Airport and Airway Trust Fund;

“(vi) approve the Federal Aviation Administration's Capital Investment Plan prior to its submission to the Congress;

“(vii) annually review and make recommendations on the NextGen Implementation Plan;

“(viii) approve the Administrator's selection of the Chief NextGen Officer appointed or designated under section 302(a) of the FAA Air Transportation Modernization and Safety Improvement Act; and

“(ix) approve the selection of the head of the Joint Planning and Development Office.

“(B) MEETINGS.—The Board shall meet on a regular and periodic basis or at the call of the Chairman or of the Administrator.

“(C) ACCESS TO DOCUMENTS AND STAFF.—The Administration may give the Board appropriate access to relevant documents and personnel of the Administration, and the Administrator shall make available, consistent with the authority to withhold commercial and other proprietary information under section 552 of title 5, cost data associated with the acquisition and operation of air traffic control systems. Any member of the Board who receives commercial or other proprietary data from the Administrator shall be subject to the provisions of section 1905 of title 18, pertaining to unauthorized disclosure of such information.

“(5) FEDERAL ADVISORY COMMITTEE ACT NOT TO APPLY.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Board or such rulemaking committees as the Administrator shall designate.

“(6) ADMINISTRATIVE MATTERS.—

“(A) TERMS OF MEMBERS.—Except as provided in paragraph (3)(C), members of the Board appointed under paragraph (2)(B) and (2)(C) shall be appointed for a term of 4 years.

“(B) REAPPOINTMENT.—No individual may be appointed to the Board for more than 8 years total.

“(C) VACANCY.—Any vacancy on the Board shall be filled in the same manner as the original position. Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed for a term of 4 years.

“(D) CONTINUATION IN OFFICE.—A member of the Board whose term expires shall continue to serve until the date on which the member's successor takes office.

“(E) REMOVAL.—Any member of the Board appointed under paragraph (2)(B) or (2)(C) may be removed by the President for cause.

“(F) CLAIMS AGAINST MEMBERS OF THE BOARD.—

“(i) IN GENERAL.—A member appointed to the Board shall have no personal liability under State or Federal law with respect to any claim arising out of or resulting from an act or omission by such member within the scope of service as a member of the Board.

“(ii) EFFECT ON OTHER LAW.—This subparagraph shall not be construed—

“(I) to affect any other immunity or protection that may be available to a member of the Board under applicable law with respect to such transactions;

“(II) to affect any other right or remedy against the United States under applicable law; or

“(III) to limit or alter in any way the immunities that are available under applicable law for Federal officers and employees.

“(G) ETHICAL CONSIDERATIONS.—Each member of the Board appointed under paragraph (2)(B) must certify that the member—

“(i) does not have a pecuniary interest in, or own stock in or bonds of, an aviation or aeronautical enterprise, except an interest in a diversified mutual fund or an interest that is exempt from the application of section 208 of title 18;

“(ii) does not engage in another business related to aviation or aeronautics; and

“(iii) is not a member of any organization that engages, as a substantial part of its activities, in activities to influence aviation-related legislation.

“(H) CHAIRMAN; VICE CHAIRMAN.—The Board shall elect a chair and a vice chair from among its members, each of whom shall serve for a term of 2 years. The vice chair shall perform the duties of the chairman in the absence of the chairman.

“(I) COMPENSATION.—No member shall receive any compensation or other benefits from the Federal Government for serving on the Board, except for compensation benefits for injuries under subchapter I of chapter 81 of title 5 and except as provided under subparagraph (J).

“(J) EXPENSES.—Each member of the Board shall be paid actual travel expenses and per diem in lieu of subsistence expenses when away from his or her usual place of residence, in accordance with section 5703 of title 5.

“(K) BOARD RESOURCES.—From resources otherwise available to the Administrator, the Chairman shall appoint such staff to assist the board and provide impartial analysis, and the Administrator shall make available to the Board such information and administrative services and assistance, as may reasonably be required to enable the Board to carry out its responsibilities under this subsection.

“(L) QUORUM AND VOTING.—A simple majority of members of the Board duly appointed shall constitute a quorum. A majority vote of members present and voting shall be required for the Committee to take action.

“(7) AIR TRAFFIC CONTROL SYSTEM DEFINED.—In this subsection, the term ‘air traffic control system’ has the meaning given that term in section 40102(a).”.

SEC. 302. NEXTGEN MANAGEMENT.

(a) IN GENERAL.—The Administrator shall appoint or designate an individual, as the Chief NextGen Officer, to be responsible for implementation of all Administration programs associated with the Next Generation Air Transportation System.

(b) SPECIFIC DUTIES.—The individual appointed or designated under subsection (a) shall—

(1) oversee the implementation of all Administration NextGen programs;

(2) coordinate implementation of those NextGen programs with the Office of Management and Budget;

(3) develop an annual NextGen implementation plan;

(4) ensure that Next Generation Air Transportation System implementation activities are planned in such a manner as to require that system architecture is designed to allow for the incorporation of novel and currently unknown technologies into the System in the future and that current decisions do not bias future decisions unfairly in favor of existing technology at the expense of innovation; and

(5) oversee the Joint Planning and Development Office's facilitation of cooperation among all Federal agencies whose operations and interests are affected by implementation of the NextGen programs.

SEC. 303. FACILITATION OF NEXT GENERATION AIR TRAFFIC SERVICES.

Section 106(l) is amended by adding at the end the following:

“(7) AIR TRAFFIC SERVICES.—In determining what actions to take, by rule or through an agreement or transaction under paragraph (6) or under section 44502, to permit non-Government providers of communications, navigation, surveillance or other services to provide such services in the National Airspace System, or to require the usage of such services, the Administrator shall consider whether such actions would—

“(A) promote the safety of life and property;

“(B) improve the efficiency of the National Airspace System and reduce the regulatory burden upon National Airspace System users, based upon sound engineering principles, user operational requirements, and marketplace demands;

“(C) encourage competition and provide services to the largest feasible number of users; and

“(D) take into account the unique role served by general aviation.”.

SEC. 304. CLARIFICATION OF AUTHORITY TO ENTER INTO REIMBURSABLE AGREEMENTS.

Section 106(m) is amended by striking “without” in the last sentence and inserting “with or without”.

SEC. 305. CLARIFICATION TO ACQUISITION REFORM AUTHORITY.

Section 40110(c) is amended—

(1) by inserting “and” after the semicolon in paragraph (3);

(2) by striking paragraph (4); and

(3) by redesignating paragraph (5) as paragraph (4).

SEC. 306. ASSISTANCE TO OTHER AVIATION AUTHORITIES.

Section 40113(e) is amended—

(1) by inserting “(whether public or private)” in paragraph (1) after “authorities”;

(2) by striking “safety” in paragraph (1) and inserting “safety or efficiency. The Administrator is authorized to participate in, and submit offers in response to, competitions to provide these services, and to contract with foreign aviation authorities to provide these services consistent with the provisions under section 106(l)(6) of this title. The Administrator is also authorized, notwithstanding any other provision of law or policy, to accept payments in arrears.”; and

(3) by striking “appropriation from which expenses were incurred in providing such services.” in paragraph (3) and inserting “appropriation current when the expenditures are or were paid, or the appropriation current when the amount is received.”.

SEC. 307. PRESIDENTIAL RANK AWARD PROGRAM.

Section 40122(g)(2) is amended—

(1) by striking “and” after the semicolon in subparagraph (G);

(2) by striking “Board.” in subparagraph (H) and inserting “Board; and”; and

(3) by inserting at the end the following new subparagraph:

“(I) subsections (b), (c), and (d) of section 4507 (relating to Meritorious Executive or Distinguished Executive rank awards), and subsections (b) and (c) of section 4507a (relating to Meritorious Senior Professional or Distinguished Senior Professional rank awards), except that—

“(i) for purposes of applying such provisions to the personnel management system—

“(I) the term ‘agency’ means the Department of Transportation; and

“(II) the term ‘senior executive’ means a Federal Aviation Administration executive; and

“(III) the term ‘career appointee’ means a Federal Aviation Administration career executive; and

“(IV) the term ‘senior career employee’ means a Federal Aviation Administration career senior professional; and

“(ii) receipt by a career appointee of the rank of Meritorious Executive or Meritorious Senior Professional entitles such individual to a lump-sum payment of an amount equal to 20 percent of annual basic pay, which shall be in addition to the basic pay paid under the Federal Aviation Administration Executive Compensation Plan; and

“(iii) receipt by a career appointee of the rank of Distinguished Executive or Distinguished Senior Professional entitles the individual to a lump-sum payment of an amount equal to 35 percent of annual basic pay, which shall be in addition to the basic pay paid under the Federal Aviation Administration Executive Compensation Plan.”.

SEC. 308. NEXT GENERATION FACILITIES NEEDS ASSESSMENT.

(a) **FAA CRITERIA FOR FACILITIES REALIGNMENT.**—Within 9 months after the date of enactment of this Act, the Administrator, after providing an opportunity for public comment, shall publish final criteria to be used in making the Administrator’s recommendations for the realignment of services and facilities to assist in the transition to next generation facilities and help reduce capital, operating, maintenance, and administrative costs with no adverse effect on safety.

(b) **REALIGNMENT RECOMMENDATIONS.**—Within 9 months after publication of the criteria, the Administrator shall publish a list of the services and facilities that the Administrator recommends for realignment, including a justification for each recommendation and a description of the costs and savings of such transition, in the Federal Register and allow 45 days for the submission of public comments to the Board. In addition, the Administrator upon request shall hold a public hearing in any community that would be affected by a recommendation in the report.

(c) **STUDY BY BOARD.**—The Air Traffic Control Modernization Oversight Board established by section 106(p) of title 49, United States Code, shall study the Administrator’s recommendations for realignment and the opportunities, risks, and benefits of realigning services and facilities of the Administration to help reduce capital, operating, maintenance, and administrative costs with no adverse effect on safety.

(d) **REVIEW AND RECOMMENDATIONS.**—

(1) Based on its review and analysis of the Administrator’s recommendations and any public comment it may receive, the Board shall make its independent recommendations for realignment of aviation services or facilities and submit its recommendations in a report to the President, the Senate Committee on Commerce, Science, and Transportation, and the House of Representatives Committee on Transportation and Infrastructure.

(2) The Board shall explain and justify in its report any recommendation made by the Board that is different from the recommendations made by the Administrator pursuant to subsection (b).

(3) The Administrator may not realign any air traffic control facilities or regional offices until the Board’s recommendations are complete, unless for each proposed realignment the Administrator and each exclusive bargaining representative certified under section 7114 of title 5, United States Code, of affected employees execute a written agreement regarding the proposed realignment.

(e) **REALIGNMENT DEFINED.**—In this section, the term “realignment”—

(1) means a relocation or reorganization of functions, services, or personnel positions, including a facility closure, consolidation, deconsolidation, collocation, decombining, decoupling, split, or inter-facility or inter-regional reorganization that requires a reassignment of employees; but

(2) does not include a reduction in personnel resulting from workload adjustments.

SEC. 309. NEXT GENERATION AIR TRANSPORTATION SYSTEM IMPLEMENTATION OFFICE.

(a) **IMPROVED COOPERATION AND COORDINATION AMONG PARTICIPATING AGENCIES.**—Section 709 of the Vision 100—Century of Aviation Reauthorization Act (49 U.S.C. 40101 note) is amended—

(1) by inserting “strategic and cross-agency” after “manage” in subsection (a)(1);

(2) by adding at the end of subsection (a)(1) “The office shall be headed by a Director, who shall report to the Chief NextGen Officer appointed or designated under section 302(a) of the FAA Air Transportation Modernization and Safety Improvement Act.”;

(3) by inserting “(A)” after “(3)” in subsection (a)(3);

(4) by inserting after subsection (a)(3) the following:

“(B) The Administrator, the Secretary of Defense, the Administrator of the National Aeronautics and Space Administration, the Secretary of Commerce, the Secretary of Homeland Security, and the head of any other Department or Federal agency from which the Secretary of Transportation requests assistance under subparagraph (A) shall designate an implementation office to be responsible for—

“(i) carrying out the Department or agency’s Next Generation Air Transportation System implementation activities with the Office;

“(ii) liaison and coordination with other Departments and agencies involved in Next Generation Air Transportation System activities; and

“(iii) managing all Next Generation Air Transportation System programs for the Department or agency, including necessary budgetary and staff resources, including, for the Federal Aviation Administration, those projects described in section 44501(b)(5) of title 49, United States Code).

“(C) The head of any such Department or agency shall ensure that—

“(i) the Department’s or agency’s Next Generation Air Transportation System responsibilities are clearly communicated to the designated office; and

“(ii) the performance of supervisory personnel in that office in carrying out the Department’s or agency’s Next Generation Air Transportation System responsibilities is reflected in their annual performance evaluations and compensation decisions.

“(D)(i) Within 6 months after the date of enactment of the FAA Air Transportation Modernization and Safety Improvement Act, the head of each such Department or agency shall execute a memorandum of understanding with the Office and with the other

Departments and agencies participating in the Next Generation Air Transportation System project that—

“(I) describes the respective responsibilities of each such Department and agency, including budgetary commitments; and

“(II) the budgetary and staff resources committed to the project.

“(ii) The memorandum shall be revised as necessary to reflect any changes in such responsibilities or commitments and be reflected in each Department or agency’s budget request.”;

(5) by striking “beyond those currently included in the Federal Aviation Administration’s operational evolution plan” in subsection (b);

(6) by striking “research and development roadmap” in subsection (b)(3) and inserting “implementation plan”;

(7) by striking “and” after the semicolon in subsection (b)(3)(B);

(8) by inserting after subsection (b)(3)(C) the following:

“(D) a schedule of rulemakings required to issue regulations and guidelines for implementation of the Next Generation Air Transportation System within a timeframe consistent with the integrated plan; and”;

(9) by inserting “and key technologies” after “concepts” in subsection (b)(4);

(10) by striking “users” in subsection (b)(4) and inserting “users, an implementation plan,”;

(11) by adding at the end of subsection (b) the following:

“Within 6 months after the date of enactment of the FAA Air Transportation Modernization and Safety Improvement Act, the Administrator shall develop the implementation plan described in paragraph (3) of this subsection and shall update it annually thereafter.”; and

(12) by striking “2010.” in subsection (e) and inserting “2011.”.

(b) **SENIOR POLICY COMMITTEE MEETINGS.**—Section 710(a) of such Act (49 U.S.C. 40101 note) is amended by striking “Secretary.” and inserting “Secretary and shall meet at least once each quarter.”.

SEC. 310. DEFINITION OF AIR NAVIGATION FACILITY.

Section 40102(a)(4) is amended—

(1) by striking subparagraph (B) and inserting the following:

“(B) runway lighting and airport surface visual and other navigation aids;”;

(2) by striking “weather information, signaling, radio-directional finding, or radio or other electromagnetic communication; and” in subparagraph (C) and inserting “aeronautical and meteorological information to air traffic control facilities or aircraft, supplying communication, navigation or surveillance equipment for air-to-ground or air-to-air applications;”;

(3) by striking “another structure” in subparagraph (D) and inserting “any structure, equipment,”;

(4) by striking “aircraft.” in subparagraph (D) and inserting “aircraft; and”; and

(5) by adding at the end the following:

“(E) buildings, equipment, and systems dedicated to the National Airspace System.”.

SEC. 311. IMPROVED MANAGEMENT OF PROPERTY INVENTORY.

Section 40110(a)(2) is amended by striking “compensation; and” and inserting “compensation, and the amount received may be credited to the appropriation current when the amount is received; and”.

SEC. 312. EDUCATIONAL REQUIREMENTS.

The Administrator shall make payments to the Department of Defense for the education of dependent children of those Administration employees in Puerto Rico and

Guam as they are subject to transfer by policy and practice and meet the eligibility requirements of section 2164(c) of title 10, United States Code.

SEC. 313. FAA PERSONNEL MANAGEMENT SYSTEM.

Section 40122(a)(2) is amended to read as follows:

“(2) DISPUTE RESOLUTION.—

“(A) MEDIATION.—If the Administrator does not reach an agreement under paragraph (1) or subsection (g)(2)(C) with the exclusive bargaining representatives, the services of the Federal Mediation and Conciliation Service shall be used to attempt to reach such agreement in accordance with part 1425 of title 29, Code of Federal Regulations. The Administrator and bargaining representatives may by mutual agreement adopt procedures for the resolution of disputes or impasses arising in the negotiation of a collective-bargaining agreement.

“(B) BINDING ARBITRATION.—If the services of the Federal Mediation and Conciliation Service under subparagraph (A) do not lead to an agreement, the Administrator and the bargaining representatives shall submit their issues in controversy to the Federal Service Impasses Panel in accordance with section 7119 of title 5. The Panel shall assist the parties in resolving the impasse by asserting jurisdiction and ordering binding arbitration by a private arbitration board consisting of 3 members in accordance with section 2471.6(a)(2)(ii) of title 5, Code of Federal Regulations. The executive director of the Panel shall request a list of not less than 15 names of arbitrators with Federal sector experience from the director of the Federal Mediation and Conciliation Service to be provided to the Administrator and the bargaining representatives. Within 10 days after receiving the list, the parties shall each select 1 person. The 2 arbitrators shall then select a third person from the list within 7 days. If the 2 arbitrators are unable to agree on the third person, the parties shall select the third person by alternately striking names from the list until only 1 name remains. If the parties do not agree on the framing of the issues to be submitted, the arbitration board shall frame the issues. The arbitration board shall give the parties a full and fair hearing, including an opportunity to present evidence in support of their claims, and an opportunity to present their case in person, by counsel, or by other representative as they may elect. Decisions of the arbitration board shall be conclusive and binding upon the parties. The arbitration board shall render its decision within 90 days after its appointment. The Administrator and the bargaining representative shall share costs of the arbitration equally. The arbitration board shall take into consideration the effect of its arbitration decisions on the Federal Aviation Administration's ability to attract and retain a qualified workforce and the Federal Aviation Administration's budget.

“(C) EFFECT.—Upon reaching a voluntary agreement or at the conclusion of the binding arbitration under subparagraph (B) above, the final agreement, except for those matters decided by the arbitration board, shall be subject to ratification by the exclusive representative, if so requested by the exclusive representative, and approval by the head of the agency in accordance with subsection (g)(2)(C).

“(D) ENFORCEMENT.—Enforcement of the provisions of this paragraph shall be in the United States District Court for the District of Columbia.”

SEC. 314. ACCELERATION OF NEXTGEN TECHNOLOGIES.

(A) OEP AIRPORT PROCEDURES.—

(1) IN GENERAL.—Within 6 months after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall publish a report, after consultation with representatives of appropriate Administration employee groups, airport operators, air carriers, general aviation representatives, aircraft and avionics manufacturers, and third parties that have received letters of qualification from the Administration to design and validate required navigation performance flight paths for public use (in this section referred to as “qualified third parties”) that includes the following:

(A) RNP OPERATIONS.—A list of required navigation performance procedures (as defined in FAA order 8260.52(d)) to be developed, certified, and published, and the air traffic control operational changes, to maximize the efficiency and capacity of NextGen commercial operations at the 137 small, medium, and large hub airports. The Administrator shall clearly identify each required navigation performance operation that is an overlay of an existing instrument flight procedure.

(B) COORDINATION AND IMPLEMENTATION ACTIVITIES.—A description of the activities and operational changes and approvals required to coordinate and to utilize those procedures at each of the airports in subparagraph (A).

(C) IMPLEMENTATION PLAN.—A plan for implementation of those procedures that establishes—

(i) clearly defined budget, schedule, project organization, environmental, and leadership requirements;

(ii) specific implementation and transition steps;

(iii) coordination and communications mechanisms with qualified third parties;

(iv) specific procedures for engaging the appropriate Administration employee groups to ensure that human factors, training and other issues surrounding the adoption of required navigation performance procedures in the en route and terminal environments are addressed;

(v) baseline and performance metrics for measuring the Administration's progress in implementing the plan, including the percentage utilization of required navigation performance in the National Airspace System;

(vi) outcome-based performance metrics to measure progress in implementing RNP procedures that reduce fuel burn and emissions;

(vii) a description of the software and database information, such as a current version of the Noise Integrated Routing System or the Integrated Noise Model that the Administration will need to make available to qualified third parties to enable those third parties to design procedures that will meet the broad range of requirements of the Administration;

(viii) lifecycle management for RNP procedures; and

(ix) an expedited validation process that allows an air carrier using a RNP procedure validated by the Administrator at an airport for a specific model of aircraft and equipment to transfer all of the information associated with the use of that procedure to another air carrier for use at the same airport for the same model of aircraft and equipment.

(2) IMPLEMENTATION SCHEDULE.—The Administrator shall certify, publish, and implement—

(A) 30 percent of the required procedures within 18 months after the date of enactment of this Act;

(B) 60 percent of the procedures within 36 months after the date of enactment of this Act; and

(C) 100 percent of the procedures before January 1, 2014.

(D) OTHER AIRPORTS.—

(1) IN GENERAL.—Within one year after the date of enactment of this Act, the Administration shall publish a report, after consultation with representatives of appropriate Administration employee groups, airport operators, air carriers, general aviation representatives, aircraft and avionics manufacturers, and qualified third parties, that includes a plan for applying the procedures, requirements, criteria, and metrics described in subsection (a)(1) to other airports across the Nation, with priority given to those airports where procedures developed, certified, and published under this section will provide the greatest benefits in terms of safety, capacity, fuel burn, and emissions.

(2) SURVEYING OBSTACLES SURROUNDING REGIONAL AIRPORTS.—Not later than 1 year after the date of enactment of that Act, the Administrator, in consultation with the State secretaries of transportation and state, shall identify options and funding mechanisms for surveying obstacles in areas around airports such that can be used as an input to future RNP procedures.

(3) IMPLEMENTATION SCHEDULE.—The Administration shall certify, publish, and implement—

(A) 25 percent of the required procedures at such other airports within 18 months after the date of enactment of this Act;

(B) 50 percent of the procedures at such other airports within 30 months after the date of enactment of this Act;

(C) 75 percent of the procedures at such other airports within 42 months after the date of enactment of this Act; and

(D) 100 percent of the procedures before January 1, 2016.

(c) ESTABLISHMENT OF PRIORITIES.—The Administration shall extend the charter of the Performance Based Navigation Aviation Rulemaking Committee as necessary to authorize and request it to establish priorities for the development, certification, publication, and implementation of the navigation performance procedures based on their potential safety, efficiency, and congestion benefits.

(d) COORDINATED AND EXPEDITED REVIEW.—Required Navigation Performance and other performance-based navigation procedures developed, certified, published, and implemented under this section that will measurably reduce aircraft emissions and result in an absolute reduction or no net increase in noise levels shall be presumed to have no significant environmental impact and the Administrator shall issue and file a categorical exclusion for such procedures.

(e) DEPLOYMENT PLAN FOR NATIONWIDE DATA COMMUNICATIONS SYSTEM.—Within 1 year after the date of enactment of this Act, the Administrator shall submit a plan for implementation of a nationwide communications system to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure. The plan shall include—

(1) clearly defined budget, schedule, project organization, and leadership requirements;

(2) specific implementation and transition steps; and

(3) baseline and performance metrics for measuring the Administration's progress in implementing the plan.

(f) IMPROVED PERFORMANCE STANDARDS.—Within 90 days after the date of enactment of this Act, the Administrator shall submit a report to the Senate committee on commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure that—

(1) evaluates whether utilization of ADS-B, RNP, and other technologies as part of the NextGen Air Transportation System implementation plan will display the position of

aircraft more accurately and frequently so as to enable a more efficient use of existing airspace and result in reduced consumption of aviation fuel and aircraft engine emissions;

(2) evaluates the feasibility of reducing aircraft separation standards in a safe manner as a result of implementation of such technologies; and

(3) if the Administrator determines that such standards can be reduced safely, includes a timetable for implementation of such reduced standards.

SEC. 315. ADS-B DEVELOPMENT AND IMPLEMENTATION.

(a) IN GENERAL.—

(1) REPORT REQUIRED.—Within 90 days after the date of enactment of this Act, the Administrator shall submit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure detailing the Administration's program and schedule for integrating ADS-B technology into the National Airspace System. The report shall include—

(A) a clearly defined budget, schedule, project organization, leadership, and the specific implementation or transition steps required to achieve these ADS-B ground station installation goals;

(B) a transition plan for ADS-B that includes date-specific milestones for the implementation of new capabilities into the National Airspace System;

(C) identification of any potential operational or workforce changes resulting from deployment of ADS-B;

(D) detailed plans and schedules for implementation of advanced operational procedures and ADS-B air-to-air applications; and

(E) baseline and performance metrics in order to measure the agency's progress.

(2) IDENTIFICATION AND MEASUREMENT OF BENEFITS.—In the report required by paragraph (1), the Administrator shall identify actual benefits that will accrue to National Airspace System users, small and medium-sized airports, and general aviation users from deployment of ADS-B and provide an explanation of the metrics used to quantify those benefits.

(b) RULEMAKINGS.—

(1) ADS-B OUT.—Not later than 45 days after the date of enactment of this Act the Administrator shall—

(A) complete the initial rulemaking proceeding (Docket No. FAA-2007-29305; Notice No. 07-15; 72 FR 56947) to issue guidelines and regulations for ADS-B Out technology that—

(i) identify the ADS-B Out technology that will be required under NextGen;

(ii) subject to paragraph (3), require all aircraft to be equipped with such technology by 2015; and

(iii) identify—

(I) the type of such avionics required of aircraft for all classes of airspace;

(II) the expected costs associated with the avionics; and

(III) the expected uses and benefits of the avionics; and

(B) initiate a rulemaking proceeding to issue any additional guidelines and regulations for ADS-B Out technology not addressed in the initial rulemaking.

(2) ADS-B IN.—Not later than 45 days after the date of enactment of this Act the Administrator shall initiate a rulemaking proceeding to issue guidelines and regulations for ADS-B In technology that—

(A) identify the ADS-B In technology that will be required under NextGen;

(B) subject to paragraph (3), require all aircraft to be equipped with such technology by 2018; and

(C) identify—

(i) the type of such avionics required of aircraft for all classes of airspace;

(ii) the expected costs associated with the avionics; and

(iii) the expected uses and benefits of the avionics.

(3) READINESS VERIFICATION.—Before the date on which all aircraft are required to be equipped with ADS-B technology pursuant to rulemakings under paragraphs (1) and (2), the Air Traffic Control Modernization Oversight Board shall verify that—

(A) the necessary ground infrastructure is installed and functioning properly;

(B) certification standards have been approved; and

(C) appropriate operational platforms interface safely and efficiently.

(c) USES.—Within 18 months after the date of enactment of this Act, the Administrator shall develop, in consultation with appropriate employee groups, a plan for the use of ADS-B technology for surveillance and active air traffic control by 2015. The plans shall—

(1) include provisions to test the use of ADS-B prior to the 2015 deadline for surveillance and active air traffic control in specific regions of the country with the most congested airspace;

(2) identify the equipment required at air traffic control facilities and the training required for air traffic controllers;

(3) develop procedures, in consultation with appropriate employee groups, to conduct air traffic management in mixed equipage environments; and

(4) establish a policy in these test regions, with consultation from appropriate employee groups, to provide incentives for equipage with ADS-B technology by giving priority to aircraft equipped with such technology before the 2015 and 2018 equipage deadlines.

(d) CONDITIONAL EXTENSION OF DEADLINES FOR EQUIPPING AIRCRAFT WITH ADS-B TECHNOLOGY.—

(1) ADS-B OUT.—In the case that the Administrator fails to complete the initial rulemaking described in subparagraph (A) of subsection (b)(1) on or before the date that is 45 days after the date of the enactment of this Act, the deadline described in clause (ii) of such subparagraph shall be extended by an amount of time that is equal to the amount of time of the period beginning on the date that is 45 days after the date of the enactment of this Act and ending on the date on which the Administrator completes such initial rulemaking.

(2) ADS-B IN.—In the case that the Administrator fails to initiate the rulemaking required by paragraph (2) of subsection (b) on or before the date that is 45 days after the date of the enactment of this Act, the deadline described in subparagraph (B) of such paragraph shall be extended by an amount of time that is equal to the amount of time of the period beginning on the date that is 45 days after the date of the enactment of this Act and ending on the date on which the Administrator initiates such rulemaking.

SEC. 316. EQUIPAGE INCENTIVES.

(a) IN GENERAL.—The Administrator shall issue a report that—

(1) identifies incentive options to encourage the equipage of aircraft with NextGen technologies, including a policy that gives priority to aircraft equipped with ADS-B technology;

(2) identifies the costs and benefits of each option; and

(3) includes input from industry stakeholders, including passenger and cargo air carriers, aerospace manufacturers, and general aviation aircraft operators.

(b) DEADLINE.—The Administrator shall issue the report before the earlier of—

(1) the date that is 6 months after the date of enactment of this Act; or

(2) the date on which aircraft are required to be equipped with ADS-B technology pursuant to rulemakings under section 315(b) of this Act.

SEC. 317. PERFORMANCE METRICS.

(a) IN GENERAL.—No later than June 1, 2010, the Administrator shall establish and track National Airspace System performance metrics, including, at a minimum—

(1) the allowable operations per hour on runways;

(2) average gate-to-gate times;

(3) fuel burned between key city pairs;

(4) operations using the advanced procedures implemented under section 314 of this Act;

(5) average distance flown between key city pairs;

(6) time between pushing back from the gate and taking off;

(7) uninterrupted climb or descent;

(8) average gate arrival delay for all arrivals;

(9) flown versus filed flight times for key city pairs; and

(10) metrics to demonstrate reduced fuel burn and reduced emissions.

(b) OPTIMAL BASELINES.—The Administrator, in consultation with aviation industry stakeholders, shall identify optimal baselines for each of these metrics and appropriate methods to measure deviations from these baselines.

(c) PUBLICATION.—The Administration shall make the data obtained under subsection (a) available to the public in a searchable, sortable, downloadable format through its website and other appropriate media.

(d) REPORTS.—

(1) INITIAL REPORT.—Not later than 90 days after the date of enactment of this Act, the Administrator shall submit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure that contains—

(A) a description of the metrics that will be used to measure the Administration's progress in implementing NextGen Air Transportation System capabilities and operational results; and

(B) information about how any additional metrics were developed.

(2) ANNUAL PROGRESS REPORT.—The Administrator shall submit an annual progress report to those committees on the Administration's progress in implementing NextGen Air Transportation System.

SEC. 318. CERTIFICATION STANDARDS AND RESOURCES.

(a) IN GENERAL.—Within 6 months after the date of enactment of this Act, the Administrator shall develop a plan to accelerate and streamline the process for certification of NextGen technologies, including—

(1) updated project plans and timelines to meet the deadlines established by this title;

(2) identification of the specific activities needed to certify core NextGen technologies, including the establishment of NextGen technical requirements for the manufacture of equipage, installation of equipage, airline operational procedures, pilot training standards, air traffic control procedures, and air traffic controller training;

(3) staffing requirements for the Air Certification Service and the Flight Standards Service, and measures addressing concerns expressed by the Department of Transportation Inspector General and the Comptroller General regarding staffing needs for modernization;

(4) an assessment of the extent to which the Administration will use third parties in

the certification process, and the cost and benefits of this approach; and

(5) performance metrics to measure the Administration's progress.

(b) **CERTIFICATION INTEGRITY.**—The Administrator shall make no distinction between public or privately owned equipment, systems, or services used in the National Airspace System when determining certification requirements.

SEC. 319. REPORT ON FUNDING FOR NEXTGEN TECHNOLOGY.

Not later than 120 days after the date of the enactment of this Act, the Administrator of the Federal Aviation Administration shall submit to Congress a report that contains—

(1) a financing proposal that—

(A) uses innovative methods to fully fund the development and implementation of technology for the Next Generation Air Transportation System in a manner that does not increase the Federal deficit; and

(B) takes into consideration opportunities for involvement by public-private partnerships; and

(C) recommends creative financing proposals other than user fees or higher taxes; and

(2) recommendations with respect to how the Administrator and Congress can provide operational benefits, such as benefits relating to preferred airspace, routings, or runway access, for all aircraft, including air carriers and general aviation, that equip their aircraft with technology necessary for the operation of the Next Generation Air Transportation System before the date by which the Administrator requires the use of such technology.

SEC. 320. UNMANNED AERIAL SYSTEMS.

(a) **IN GENERAL.**—Within 1 year after the date of enactment of this Act, the Administrator shall develop a plan to accelerate the integration of unmanned aerial systems into the National Airspace System that—

(1) creates a pilot project to integrate such vehicles into the National Airspace System at 4 test sites in the National Airspace System by 2012;

(2) creates a safe, non-exclusionary airspace designation for cooperative manned and unmanned flight operations in the National Airspace System;

(3) establishes a process to develop—

(A) air traffic requirements for all unmanned aerial systems at the test sites; and

(B) certification and flight standards for nonmilitary unmanned aerial systems at the test sites;

(4) dedicates funding for unmanned aerial systems research and development relating to—

(A) air traffic requirements; and

(B) certification and flight standards for nonmilitary unmanned aerial systems in the National Airspace System;

(5) encourages leveraging and coordination of such research and development activities with the National Aeronautics and Space Administration and the Department of Defense;

(6) addresses both military and nonmilitary unmanned aerial system operations;

(7) ensures that the unmanned aircraft systems integration plan is incorporated in the Administration's NextGen Air Transportation System implementation plan; and

(8) provides for integration into the National Airspace System of safety standards and navigation procedures validated—

(A) under the pilot project created pursuant to paragraph (1); or

(B) through other related research and development activities carried out pursuant to paragraph (4).

(b) **SELECTION OF TEST SITES.**—

(1) **INCREASED NUMBER OF TEST SITES; DEADLINE FOR PILOT PROJECT.**—Notwithstanding subsection (a)(1), the plan developed under subsection (a) shall include a pilot project to integrate unmanned aerial systems into the National Airspace System at 6 test sites in the National Airspace System by December 31, 2012.

(2) **TEST SITE CRITERIA.**—The Administrator of the Federal Aviation Administration shall take into consideration geographical and climate diversity and appropriate facilities in determining where the test sites to be established under the pilot project required by subsection (a)(1) are to be located.

(c) **CERTIFICATION AND FLIGHT STANDARDS FOR MILITARY UNMANNED AERIAL SYSTEMS.**—The Secretary of Defense shall establish a process to develop certification and flight standards for military unmanned aerial systems at the test sites referred to in subsection (a)(1).

(d) **CERTIFICATION PROCESS.**—The Administrator of the Federal Aviation Administration shall expedite the approval process for requests for certificates of authorization at test sites referred to in subsection (a)(1).

(e) **REPORT ON SYSTEMS AND DETECTION TECHNIQUES.**—Not later than 180 days after the date of the enactment of this Act, the Administrator of the Federal Aviation Administration shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report describing and assessing the progress being made in establishing special use airspace to fill the immediate need of the Department of Defense to develop detection techniques for small unmanned aerial vehicles and to validate sensor integration and operation of unmanned aerial systems.

SEC. 321. SURFACE SYSTEMS PROGRAM OFFICE.

(a) **IN GENERAL.**—The Air Traffic Organization shall—

(1) evaluate the Airport Surface Detection Equipment-Model X program for its potential contribution to implementation of the NextGen initiative;

(2) evaluate airport surveillance technologies and associated collaborative surface management software for potential contributions to implementation of NextGen surface management;

(3) accelerate implementation of the program; and

(4) carry out such additional duties as the Administrator may require.

(b) **EXPEDITED CERTIFICATION AND UTILIZATION.**—The Administrator shall—

(1) consider options for expediting the certification of Ground Based Augmentation System technology; and

(2) develop a plan to utilize such a system at the 35 Operational Evolution Partnership airports by September 30, 2012.

SEC. 322. STAKEHOLDER COORDINATION.

(a) **IN GENERAL.**—The Administrator shall establish a process for including qualified employees selected by each exclusive collective bargaining representative of employees of the Administration who are likely to be affected by the planning, development, and deployment of air traffic control modernization projects (including the Next Generation Air Transportation System) in, and collaborating with, such employees in the planning, development, and deployment of those projects.

(b) **PARTICIPATION.**—

(1) **BARGAINING OBLIGATIONS AND RIGHTS.**—Participation in the process described in subsection (a) shall not be construed as a waiver of any bargaining obligations or rights under section 40122(a)(1) or 40122(g)(2)(C) of title 49, United States Code.

(2) **CAPACITY AND COMPENSATION.**—Exclusive collective bargaining representatives and selected employees participating in the process described in subsection (a) shall—

(A) serve in a collaborative and advisory capacity; and

(B) receive appropriate travel and per diem expenses in accordance with the travel policies of the Administration in addition to any regular compensation and benefits.

(c) **REPORT.**—No later than 180 days after the date of enactment of this Act, the Administrator shall submit a report on the implementation of this section to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.

SEC. 323. FAA TASK FORCE ON AIR TRAFFIC CONTROL FACILITY CONDITIONS.

(a) **ESTABLISHMENT.**—The Administrator shall establish a special task force to be known as the "FAA Task Force on Air Traffic Control Facility Conditions".

(b) **MEMBERSHIP.**—

(1) **COMPOSITION.**—The Task Force shall be composed of 11 members of whom—

(A) 7 members shall be appointed by the Administrator; and

(B) 4 members shall be appointed by labor unions representing employees who work at field facilities of the Administration.

(2) **QUALIFICATIONS.**—Of the members appointed by the Administrator under paragraph (1)(A)—

(A) 4 members shall be specialists on toxic mold abatement, "sick building syndrome," and other hazardous building conditions that can lead to employee health concerns and shall be appointed by the Administrator in consultation with the Director of the National Institute for Occupational Safety and Health; and

(B) 2 members shall be specialists on the rehabilitation of aging buildings.

(3) **TERMS.**—Members shall be appointed for the life of the Task Force.

(4) **VACANCIES.**—A vacancy in the Task Force shall be filled in the manner in which the original appointment was made.

(5) **TRAVEL EXPENSES.**—Members shall serve without pay but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with subchapter I of chapter 57 of title 5, United States Code.

(c) **CHAIRPERSON.**—The Administrator shall designate, from among the individuals appointed under subsection (b)(1), an individual to serve as chairperson of the Task Force.

(d) **TASK FORCE PERSONNEL MATTERS.**—

(1) **STAFF.**—The Task Force may appoint and fix the pay of such personnel as it considers appropriate.

(2) **STAFF OF FEDERAL AGENCIES.**—Upon request of the Chairperson of the Task Force, the head of any department or agency of the United States may detail, on a reimbursable basis, any of the personnel of that department or agency to the Task Force to assist it in carrying out its duties under this section.

(3) **OTHER STAFF AND SUPPORT.**—Upon request of the Task Force or a panel of the Task Force, the Administrator shall provide the Task Force or panel with professional and administrative staff and other support, on a reimbursable basis, to the Task Force to assist it in carrying out its duties under this section.

(e) **OBTAINING OFFICIAL DATA.**—The Task Force may secure directly from any department or agency of the United States information (other than information required by any statute of the United States to be kept confidential by such department or agency) necessary for the Task Force to carry out its duties under this section. Upon request of the chairperson of the Task Force, the head

of that department or agency shall furnish such information to the Task Force.

(f) DUTIES.—

(1) STUDY.—The Task Force shall undertake a study of—

(A) the conditions of all air traffic control facilities across the Nation, including towers, centers, and terminal radar air control;

(B) reports from employees of the Administration relating to respiratory ailments and other health conditions resulting from exposure to mold, asbestos, poor air quality, radiation and facility-related hazards in facilities of the Administration;

(C) conditions of such facilities that could interfere with such employees' ability to effectively and safely perform their duties;

(D) the ability of managers and supervisors of such employees to promptly document and seek remediation for unsafe facility conditions;

(E) whether employees of the Administration who report facility-related illnesses are treated fairly;

(F) utilization of scientifically approved remediation techniques in a timely fashion once hazardous conditions are identified in a facility of the Administration; and

(G) resources allocated to facility maintenance and renovation by the Administration.

(2) FACILITY CONDITION INDICES.—The Task Force shall review the facility condition indices of the Administration for inclusion in the recommendations under subsection (g).

(g) RECOMMENDATIONS.—Based on the results of the study and review of the facility condition indices under subsection (f), the Task Force shall make recommendations as it considers necessary to—

(1) prioritize those facilities needing the most immediate attention in order of the greatest risk to employee health and safety;

(2) ensure that the Administration is using scientifically approved remediation techniques in all facilities; and

(3) assist the Administration in making programmatic changes so that aging air traffic control facilities do not deteriorate to unsafe levels.

(h) REPORT.—Not later than 6 months after the date on which initial appointments of members to the Task Force are completed, the Task Force shall submit a report to the Administrator, the Senate Committee on Commerce, Science, and Transportation, and the House of Representatives Committee on Transportation and Infrastructure on the activities of the Task Force, including the recommendations of the Task Force under subsection (g).

(i) IMPLEMENTATION.—Within 30 days after receipt of the Task Force report under subsection (h), the Administrator shall submit to the House of Representatives Committee on Transportation and Infrastructure and the Senate Committee on Commerce, Science, and Transportation a report that includes a plan and timeline to implement the recommendations of the Task Force and to align future budgets and priorities of the Administration accordingly.

(j) TERMINATION.—The Task Force shall terminate on the last day of the 30-day period beginning on the date on which the report under subsection (h) is submitted.

(k) APPLICABILITY OF THE FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Task Force.

SEC. 324. STATE ADS-B EQUIPAGE BANK PILOT PROGRAM.

(a) IN GENERAL.—

(1) COOPERATIVE AGREEMENTS.—Subject to the provisions of this section, the Secretary of Transportation may enter into cooperative agreements with not to exceed 5 States for the establishment of State ADS-B equipage banks for making loans and providing

other assistance to public entities for projects eligible for assistance under this section.

(b) FUNDING.—

(1) SEPARATE ACCOUNT.—An ADS-B equipage bank established under this section shall maintain a separate aviation trust fund account for Federal funds contributed to the bank under paragraph (2). No Federal funds contributed or credited to an account of an ADS-B equipage bank established under this section may be commingled with Federal funds contributed or credited to any other account of such bank.

(2) AUTHORIZATION.—There are authorized to be appropriated to the Secretary \$25,000,000 for each of fiscal years 2010 through 2014.

(c) FORMS OF ASSISTANCE FROM ADS-B EQUIPAGE BANKS.—An ADS-B equipage bank established under this section may make loans or provide other assistance to a public entity in an amount equal to all or part of the cost of carrying out a project eligible for assistance under this section. The amount of any loan or other assistance provided for such project may be subordinated to any other debt financing for the project.

(d) QUALIFYING PROJECTS.—Federal funds in the ADS-B equipage account of an ADS-B equipage bank established under this section may be used only to provide assistance with respect to aircraft ADS-B and related avionics equipage.

(e) REQUIREMENTS.—In order to establish an ADS-B equipage bank under this section, each State establishing such a bank shall—

(1) contribute, at a minimum, in each account of the bank from non-Federal sources an amount equal to 50 percent of the amount of each capitalization grant made to the State and contributed to the bank;

(2) ensure that the bank maintains on a continuing basis an investment grade rating on its debt issuances or has a sufficient level of bond or debt financing instrument insurance to maintain the viability of the bank;

(3) ensure that investment income generated by funds contributed to an account of the bank will be—

(A) credited to the account;

(B) available for use in providing loans and other assistance to projects eligible for assistance from the account; and

(C) invested in United States Treasury securities, bank deposits, or such other financing instruments as the Secretary may approve to earn interest to enhance the leveraging of projects assisted by the bank;

(4) ensure that any loan from the bank will bear interest at or below market interest rates, as determined by the State, to make the project that is the subject of the loan feasible;

(5) ensure that the term for repaying any loan will not exceed 10 years after the date of the first payment on the loan; and

(6) require the bank to make an annual report to the Secretary on its status no later than September 30 of each year for which funds are made available under this section, and to make such other reports as the Secretary may require by guidelines.

SEC. 325. IMPLEMENTATION OF INSPECTOR GENERAL ATC RECOMMENDATIONS.

(a) IN GENERAL.—As soon as practicable after the date of enactment of this Act, but no later than 1 year after that date, the Administrator of the Federal Aviation Administration shall—

(1) provide the Los Angeles International Air Traffic Control Tower facility, the Southern California Terminal Radar Approach Control facility, and the Northern California Terminal Radar Approach Control facility a sufficient number of contract instructors, classroom space (including off-site locations as needed), and simulators for a

surge in the number of new air traffic controllers at those facilities;

(2) to the greatest extent practicable, distribute the placement of new trainee air traffic controllers at those facilities evenly across the calendar year in order to avoid training bottlenecks;

(3) commission an independent analysis, in consultation with the Administration and the exclusive bargaining representative of air traffic controllers certified under section 7111 of title 5, United States Code, of overtime scheduling practices at those facilities; and

(4) to the greatest extent practicable, provide priority to certified professional controllers-in-training when filling staffing vacancies at those facilities.

(b) STAFFING ANALYSES AND REPORTS.—For the purposes of—

(1) the Federal Aviation Administration's annual controller workforce plan,

(2) the Administration's facility-by-facility authorized staffing ranges, and

(3) any report of air traffic controller staffing levels submitted to the Congress,

the Administrator may not consider an individual to be an air traffic controller unless that individual is a certified professional controller.

SEC. 326. SEMIANNUAL REPORT ON STATUS OF GREENER SKIES PROJECT.

(a) INITIAL REPORT.—Not later than 180 days after the date of the enactment of this Act, the Administrator shall submit to Congress a report on the strategy of the Administrator for implementing, on an accelerated basis, the NextGen operational capabilities produced by the Greener Skies project, as recommended in the final report of the RTCA NextGen Mid-Term Implementation Task Force that was issued on September 9, 2009.

(b) SUBSEQUENT REPORTS.—

(1) IN GENERAL.—Not later than 180 days after the Administrator submits to Congress the report required by subsection (a) and not less frequently than once every 180 days thereafter until September 30, 2011, the Administrator shall submit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Transportation and Infrastructure of the House of Representatives a report on the progress of the Administrator in carrying out the strategy described in the report submitted under subsection (a).

(2) CONTENTS.—Each report submitted under paragraph (1) shall include the following:

(A) A timeline for full implementation of the strategy described in the report submitted under subsection (a).

(B) A description of the progress made in carrying out such strategy.

(C) A description of the challenges, if any, encountered by the Administrator in carrying out such strategy.

SEC. 327. DEFINITIONS.

In this title:

(1) ADMINISTRATION.—The term "Administration" means the Federal Aviation Administration.

(2) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Federal Aviation Administration.

(3) NEXTGEN.—The term "NextGen" means the Next Generation Air Transportation System.

(4) SECRETARY.—The term "Secretary" means the Secretary of Transportation.

SEC. 328. FINANCIAL INCENTIVES FOR NEXTGEN EQUIPAGE.

(a) IN GENERAL.—The Administrator of the Federal Aviation Administration may enter

into agreements to fund the costs of equipping aircraft with communications, surveillance, navigation, and other avionics to enable NextGen air traffic control capabilities.

(b) **FUNDING INSTRUMENT.**—The Administrator may make grants or other instruments authorized under section 106(1)(6) of title 49, United States Code, to carry out subsection (a).

TITLE IV—AIRLINE SERVICE AND SMALL COMMUNITY AIR SERVICE IMPROVEMENTS

SUBTITLE A—CONSUMER PROTECTION

SEC. 401. AIRLINE CUSTOMER SERVICE COMMITMENT.

(a) **IN GENERAL.**—Chapter 417 is amended by adding at the end the following:

“SUBCHAPTER IV—AIRLINE CUSTOMER SERVICE

“§41781. Air carrier and airport contingency plans for long on-board tarmac delays

“(a) **DEFINITION OF TARMAC DELAY.**—The term ‘tarmac delay’ means the holding of an aircraft on the ground before taking off or after landing with no opportunity for its passengers to deplane.

“(b) **SUBMISSION OF AIR CARRIER AND AIRPORT PLANS.**—Not later than 60 days after the date of the enactment of the FAA Air Transportation Modernization and Safety Improvement Act, each air carrier and airport operator shall submit, in accordance with the requirements under this section, a proposed contingency plan to the Secretary of Transportation for review and approval.

“(c) **MINIMUM STANDARDS.**—The Secretary of Transportation shall establish minimum standards for elements in contingency plans required to be submitted under this section to ensure that such plans effectively address long on-board tarmac delays and provide for the health and safety of passengers and crew.

“(d) **AIR CARRIER PLANS.**—The plan shall require each air carrier to implement at a minimum the following:

“(1) **PROVISION OF ESSENTIAL SERVICES.**—Each air carrier shall provide for the essential needs of passengers on board an aircraft at an airport in any case in which the departure of a flight is delayed or disembarkation of passengers on an arriving flight that has landed is substantially delayed, including—

“(A) adequate food and potable water;

“(B) adequate restroom facilities;

“(C) cabin ventilation and comfortable cabin temperatures; and

“(D) access to necessary medical treatment.

“(2) **RIGHT TO DEPLANE.**—

“(A) **IN GENERAL.**—Each air carrier shall submit a proposed contingency plan to the Secretary of Transportation that identifies a clear time frame under which passengers would be permitted to deplane a delayed aircraft. After the Secretary has reviewed and approved the proposed plan, the air carrier shall make the plan available to the public.

“(B) **DELAYS.**—

“(i) **IN GENERAL.**—As part of the plan, except as provided under clause (iii), an air carrier shall provide passengers with the option of deplaning and returning to the terminal at which such deplaning could be safely completed, or deplaning at the terminal if—

“(I) 3 hours have elapsed after passengers have boarded the aircraft, the aircraft doors are closed, and the aircraft has not departed; or

“(II) 3 hours have elapsed after the aircraft has landed and the passengers on the aircraft have been unable to deplane.

“(ii) **FREQUENCY.**—The option described in clause (i) shall be offered to passengers at a minimum not less often than once during each successive 3-hour period that the plane remains on the ground.

“(iii) **EXCEPTIONS.**—This subparagraph shall not apply if—

“(I) the pilot of such aircraft reasonably determines that the aircraft will depart or be unloaded at the terminal not later than 30 minutes after the 3 hour delay; or

“(II) the pilot of such aircraft reasonably determines that permitting a passenger to deplane would jeopardize passenger safety or security.

“(C) **APPLICATION TO DIVERTED FLIGHTS.**—This section applies to aircraft without regard to whether they have been diverted to an airport other than the original destination.

“(D) **REPORTS.**—Not later than 30 days after any flight experiences a tarmac delay lasting at least 3 hours, the air carrier responsible for such flight shall submit a written description of the incident and its resolution to the Aviation Consumer Protection Office of the Department of Transportation.

“(e) **AIRPORT PLANS.**—Each airport operator shall submit a proposed contingency plan under subsection (b) that contains a description of—

“(1) how the airport operator will provide for the deplanement of passengers following a long tarmac delay; and

“(2) how, to the maximum extent practicable, the airport operator will provide for the sharing of facilities and make gates available at the airport for use by aircraft experiencing such delays.

“(f) **UPDATES.**—The Secretary shall require periodic reviews and updates of the plans as necessary.

“(g) **APPROVAL.**—

“(1) **IN GENERAL.**—Not later than 6 months after the date of the enactment of this section, the Secretary of Transportation shall—

“(A) review the initial contingency plans submitted under subsection (b); and

“(B) approve plans that closely adhere to the standards described in subsections (d) or (e), whichever is applicable.

“(2) **UPDATES.**—Not later than 60 days after the submission of an update under subsection (f) or an initial contingency plan by a new air carrier or airport, the Secretary shall—

“(A) review the plan; and

“(B) approve the plan if it closely adheres to the standards described in subsections (d) or (e), whichever is applicable.

“(h) **CIVIL PENALTIES.**—The Secretary may assess a civil penalty under section 46301 against any air carrier or airport operator that does not submit, obtain approval of, or adhere to a contingency plan submitted under this section.

“(i) **PUBLIC ACCESS.**—Each air carrier and airport operator required to submit a contingency plan under this section shall ensure public access to an approved plan under this section by—

“(1) including the plan on the Internet Web site of the carrier or airport; or

“(2) disseminating the plan by other means, as determined by the Secretary.

“§41782. Air passenger complaints hotline and information

“(a) **AIR PASSENGER COMPLAINTS HOTLINE TELEPHONE NUMBER.**—The Secretary of Transportation shall establish a consumer complaints hotline telephone number for the use of air passengers.

“(b) **PUBLIC NOTICE.**—The Secretary shall notify the public of the telephone number established under subsection (a).

“(c) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated such sums as may be necessary to carry out this section, which sums shall remain available until expended.”.

(b) **CONFORMING AMENDMENT.**—The table of contents for chapter 417 is amended by adding at the end the following:

“SUBCHAPTER IV—AIRLINE CUSTOMER SERVICE

“41781. Air carrier and airport contingency plans for long on-board tarmac delays

“41782. Air passenger complaints hotline and information”.

SEC. 402. PUBLICATION OF CUSTOMER SERVICE DATA AND FLIGHT DELAY HISTORY.

(a) **IN GENERAL.**—Section 41722 is amended by adding at the end the following:

“(f) **CHRONICALLY DELAYED FLIGHTS.**—

“(1) **PUBLICATION OF LIST OF FLIGHTS.**—Each air carrier holding a certificate issued under section 41102 that conducts scheduled passenger air transportation shall, on a monthly basis—

“(A) publish and update on the Internet website of the air carrier a list of chronically delayed flights operated by such air carrier; and

“(B) share such list with each entity that is authorized to book passenger air transportation for such air carrier for inclusion on the Internet website of such entity.

“(2) **DISCLOSURE TO CUSTOMERS WHEN PURCHASING TICKETS.**—For each individual who books passenger air transportation on the Internet website of an air carrier, or the Internet website of an entity that is authorized to book passenger air transportation for an air carrier, for any flight for which data is reported to the Department of Transportation under part 234 of title 14, Code of Federal Regulations, such air carrier or entity, as the case may be, shall prominently disclose to such individual, before such individual makes such booking, the following:

“(A) The on-time performance for the flight if the flight is a chronically delayed flight.

“(B) The cancellation rate for the flight if the flight is a chronically canceled flight.

“(3) **DEFINITIONS.**—In this subsection:

“(A) **CHRONICALLY DELAYED FLIGHT.**—The term ‘chronically delayed flight’ means a regularly scheduled flight that has failed to arrive on time (as such term is defined in section 234.2 of title 14, Code of Federal Regulations) at least 40 percent of the time during the most recent 3-month period for which data is available.

“(B) **CHRONICALLY CANCELED FLIGHT.**—The term ‘chronically canceled flight’ means a regularly scheduled flight at least 30 percent of the departures of which have been canceled during the most recent 3-month period for which data is available.”.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall take effect 180 days after the date of enactment of this Act.

SEC. 403. EXPANSION OF DOT AIRLINE CONSUMER COMPLAINT INVESTIGATIONS.

(a) **IN GENERAL.**—Subject to the availability of appropriations, the Secretary of Transportation shall investigate consumer complaints regarding—

(1) flight cancellations;

(2) compliance with Federal regulations concerning overbooking seats flights;

(3) lost, damaged, or delayed baggage, and difficulties with related airline claims procedures;

(4) problems in obtaining refunds for unused or lost tickets or fare adjustments;

(5) incorrect or incomplete information about fares, discount fare conditions and availability, overcharges, and fare increases;

(6) the rights of passengers who hold frequent flier miles, or equivalent redeemable awards earned through customer-loyalty programs; and

(7) deceptive or misleading advertising.

(b) **BUDGET NEEDS REPORT.**—The Secretary shall provide, as an annex to its annual budget request, an estimate of resources which would have been sufficient to investigate all such claims the Department of

Transportation received in the previous fiscal year. The annex shall be transmitted to the Congress when the President submits the budget of the United States to the Congress under section 1105 of title 31, United States Code.

SEC. 404. ESTABLISHMENT OF ADVISORY COMMITTEE FOR AVIATION CONSUMER PROTECTION.

(a) IN GENERAL.—The Secretary of Transportation shall establish an advisory committee for aviation consumer protection to advise the Secretary in carrying out airline customer service improvements, including those required by subchapter IV of chapter 417 of title 49, United States Code.

(b) MEMBERSHIP.—The Secretary shall appoint members of the advisory committee comprised of one representative each of—

- (1) air carriers;
- (2) airport operators;
- (3) State or local governments who has expertise in consumer protection matters; and
- (4) a nonprofit public interest group who has expertise in consumer protection matters.

(c) VACANCIES.—A vacancy in the advisory committee shall be filled in the manner in which the original appointment was made.

(d) TRAVEL EXPENSES.—Members of the advisory committee shall serve without pay but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with subchapter I of chapter 57 of title 5, United States Code.

(e) CHAIRPERSON.—The Secretary shall designate, from among the individuals appointed under subsection (b), an individual to serve as chairperson of the advisory committee.

(f) DUTIES.—The duties of the advisory committee shall include—

- (1) evaluating existing aviation consumer protection programs and providing recommendations for the improvement of such programs, if needed; and

(2) providing recommendations to establish additional aviation consumer protection programs, if needed.

(g) REPORT.—Not later than February 1 of each of the first 2 calendar years beginning after the date of enactment of this Act, the Secretary shall transmit to Congress a report containing—

- (1) the recommendations made by the advisory committee during the preceding calendar year; and
- (2) an explanation of how the Secretary has implemented each recommendation and, for each recommendation not implemented, the Secretary's reason for not implementing the recommendation.

SEC. 405. DISCLOSURE OF PASSENGER FEES.

(a) IN GENERAL.—Within 180 days after the date of enactment of this Act, the Secretary of Transportation shall complete a rulemaking that requires each air carrier operating in the United States under part 121 of title 49, Code of Federal Regulations, to make available to the public and to the Secretary a list of all passenger fees and charges (other than airfare) that may be imposed by the air carrier, including fees for—

- (1) checked baggage or oversized or heavy baggage;
- (2) meals, beverages, or other refreshments;
- (3) seats in exit rows, seats with additional space, or other preferred seats in any given class of travel;
- (4) purchasing tickets from an airline ticket agent or a travel agency; or
- (5) any other good, service, or amenity provided by the air carrier, as required by the Secretary.

(b) PUBLICATION; UPDATES.—In order to ensure that the fee information required by

subsection (a) is both current and widely available to the travelling public, the Secretary—

(1) may require an air carrier to make such information on any public website maintained by an air carrier, to make such information available to travel agencies, and to notify passengers of the availability of such information when advertising airfares; and

(2) shall require air carriers to update the information as necessary, but no less frequently than every 90 days unless there has been no increase in the amount or type of fees shown in the most recent publication.

SEC. 406. DISCLOSURE OF AIR CARRIERS OPERATING FLIGHTS FOR TICKETS SOLD FOR AIR TRANSPORTATION.

Section 41712 is amended by adding at the end the following:

“(c) DISCLOSURE REQUIREMENT FOR SELLERS OF TICKETS FOR FLIGHTS.—

“(1) IN GENERAL.—It shall be an unfair or deceptive practice under subsection (a) for any ticket agent, air carrier, foreign air carrier, or other person offering to sell tickets for air transportation on a flight of an air carrier to not disclose, whether verbally in oral communication or in writing in written or electronic communication, prior to the purchase of a ticket—

“(A) the name (including any business or corporate name) of the air carrier providing the air transportation; and

“(B) if the flight has more than one flight segment, the name of each air carrier providing the air transportation for each such flight segment.

“(2) INTERNET OFFERS.—In the case of an offer to sell tickets described in paragraph (1) on an Internet Web site, disclosure of the information required by paragraph (1) shall be provided on the first display of the Web site following a search of a requested itinerary in a format that is easily visible to a viewer.”.

SEC. 407. NOTIFICATION REQUIREMENTS WITH RESPECT TO THE SALE OF AIRLINE TICKETS.

(a) IN GENERAL.—The Office of Aviation Consumer Protection and Enforcement of the Department of Transportation shall establish rules to ensure that all consumers are able to easily and fairly compare airfares and charges paid when purchasing tickets for air transportation, including all taxes and fees.

(b) NOTICE OF TAXES AND FEES APPLICABLE TO TICKETS FOR AIR TRANSPORTATION.—Section 41712, as amended by this Act, is further amended by adding at the end the following:

“(d) NOTICE OF TAXES AND FEES APPLICABLE TO TICKETS FOR AIR TRANSPORTATION.—

“(1) IN GENERAL.—It shall be an unfair or deceptive practice under subsection (a) for an air carrier, foreign air carrier, or ticket agent to sell a ticket for air transportation on the Internet unless the air carrier, foreign air carrier, or ticket agent, as the case may be—

“(A) displays information with respect to the taxes and fees described in paragraph (2), including the amount and a description of each such tax or fee, in reasonable proximity to the price listed for the ticket; and

“(B) provides to the purchaser of the ticket information with respect to the taxes and fees described in paragraph (2), including the amount and a description of each such tax or fee, before requiring the purchaser to provide any personal information, including the name, address, phone number, e-mail address, or credit card information of the purchaser.

“(2) TAXES AND FEES DESCRIBED.—The taxes and fees described in this paragraph are all taxes, fees, and charges applicable to a ticket for air transportation, consisting of—

“(A) all taxes, fees, charges, and surcharges included in the price paid by a pur-

chaser for the ticket, including fuel surcharges and surcharges relating to peak or holiday travel; and

“(B) any fees for baggage, seating assignments; and

“(C) operational services that are charged when the ticket is purchased.”.

(c) REGULATIONS.—The Secretary of Transportation, in consultation with the Administrator of the Federal Aviation Administration, shall prescribe such regulations as may be necessary to carry out subsection (d) of section 41712 of title 49, United States Code, as added by subsection (b) of this section.

SEC. 408. DISCLOSURE OF SEAT DIMENSIONS TO FACILITATE THE USE OF CHILD SAFETY SEATS ON AIRCRAFT.

Not later than 180 days after the date of the enactment of this Act, the Administrator of the Federal Aviation Administration shall prescribe regulations requiring each air carrier operating under part 121 of title 14, Code of Federal Regulations, to post on the website of the air carrier the maximum dimensions of a child safety seat that can be used on each aircraft operated by the air carrier to enable passengers to determine which child safety seats can be used on those aircraft.

SUBTITLE B—ESSENTIAL AIR SERVICE; SMALL COMMUNITIES

SEC. 411. EAS CONNECTIVITY PROGRAM.

Section 406(a) of the Vision 100—Century of Aviation Reauthorization Act (49 U.S.C. 40101 note) is amended by striking “may” and inserting “shall”.

SEC. 412. EXTENSION OF FINAL ORDER ESTABLISHING MILEAGE ADJUSTMENT ELIGIBILITY.

Section 409(d) of the Vision 100—Century of Aviation Reauthorization Act (49 U.S.C. 41731 note) is amended by striking “September 30, 2010.” and inserting “September 30, 2013.”.

SEC. 413. EAS CONTRACT GUIDELINES.

Section 41737(a)(1) is amended—

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

(2) by striking “provided.” in subparagraph (C) and inserting “provided;”;

(3) by adding at the end the following:

“(D) include provisions under which the Secretary may encourage carriers to improve air service to small and rural communities by incorporating financial incentives in essential air service contracts based on specified performance goals; and

“(E) include provisions under which the Secretary may execute long-term essential air service contracts to encourage carriers to provide air service to small and rural communities where it would be in the public interest to do so.”.

SEC. 414. CONVERSION OF FORMER EAS AIRPORTS.

(a) IN GENERAL.—Section 41745 is amended to read as follows:

“§ 41745. Conversion of lost eligibility airports

“(a) IN GENERAL.—The Secretary shall establish a program to provide general aviation conversion funding for airports serving eligible places that the Secretary has determined no longer qualify for a subsidy.

“(b) GRANTS.—A grant under this section—

“(1) may not exceed twice the compensation paid to provide essential air service to the airport in the fiscal year preceding the fiscal year in which the Secretary determines that the place served by the airport is no longer an eligible place; and

“(2) may be used—

“(A) for airport development (as defined in section 41702(3)) that will enhance general aviation capacity at the airport;

“(B) to defray operating expenses, if such use is approved by the Secretary; or

“(C) to develop innovative air service options, such as on-demand or air taxi operations, if such use is approved by the Secretary.

“(c) AIP REQUIREMENTS.—An airport sponsor that uses funds provided under this section for an airport development project shall comply with the requirements of subchapter I of chapter 471 applicable to airport development projects funded under that subchapter with respect to the project funded under this section.

“(d) LIMITATION.—The sponsor of an airport receiving funding under this section is not eligible for funding under section 41736.”.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 417 is amended by striking the item relating to section 41745 and inserting the following:

“41745. Conversion of lost eligibility airports.”.

SEC. 415. EAS REFORM.

Section 41742(a) is amended—

(1) by adding at the end of paragraph (1) “Any amount in excess of \$50,000,000 credited for any fiscal year to the account established under section 45303(c) shall be obligated for programs under section 406 of the Vision 100—Century of Aviation Reauthorization Act (49 U.S.C. 40101 note) and section 41745 of this title. Amounts appropriated pursuant to this section shall remain available until expended.”; and

(2) by striking “\$77,000,000” in paragraph (2) and inserting “\$150,000,000”.

SEC. 416. SMALL COMMUNITY AIR SERVICE.

(a) PRIORITIES.—Section 41743(c)(5) is amended—

(1) by striking “and” after the semicolon in subparagraph (D);

(2) by striking “fashion.” in subparagraph (E) and inserting “fashion; and”; and

(3) by adding at the end the following:

“(F) multiple communities cooperate to submit a region or multistate application to improve air service.”.

(b) EXTENSION OF AUTHORIZATION.—Section 41743(e)(2) is amended—

(1) by striking “is appropriated” and inserting “are appropriated”; and

(2) by striking “2009” and inserting “2011”.

SEC. 417. EAS MARKETING.

The Secretary of Transportation shall require all applications to provide service under subchapter II of chapter 417 of title 49, United States Code, include a marketing plan.

SEC. 418. RURAL AVIATION IMPROVEMENT.

(a) COMMUNITIES ABOVE PER PASSENGER SUBSIDY CAP.—

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

“§ 41749. Essential air service for eligible places above per passenger subsidy cap

“(a) PROPOSALS.—A State or local government may submit a proposal to the Secretary of Transportation for compensation for an air carrier to provide air transportation to a place described in subsection (b).

“(b) PLACE DESCRIBED.—A place described in this subsection is a place—

“(1) that is otherwise an eligible place; and

“(2) for which the per passenger subsidy exceeds the dollar amount allowable under this subchapter.

“(c) DECISIONS.—Not later than 90 days after receiving a proposal under subsection (a) for compensation for an air carrier to provide air transportation to a place described in subsection (b), the Secretary shall—

“(1) decide whether to provide compensation for the air carrier to provide air transportation to the place; and

“(2) approve the proposal if the State or local government or a person is willing and able to pay the difference between—

“(A) the per passenger subsidy; and

“(B) the dollar amount allowable for such subsidy under this subchapter.

“(d) COMPENSATION PAYMENTS.—

“(1) IN GENERAL.—The Secretary shall pay compensation under this section at such time and in such manner as the Secretary determines is appropriate.

“(2) DURATION OF PAYMENTS.—The Secretary shall continue to pay compensation under this section only as long as—

“(A) the State or local government or person agreeing to pay compensation under subsection (c)(2) continues to pay such compensation; and

“(B) the Secretary decides the compensation is necessary to maintain air transportation to the place.

“(e) REVIEW.—

“(1) IN GENERAL.—The Secretary shall periodically review the type and level of air service provided under this section.

“(2) CONSULTATION.—The Secretary may make appropriate adjustments in the type and level of air service to a place under this section based on the review under paragraph (1) and consultation with the affected community and the State or local government or person agreeing to pay compensation under subsection (c)(2).

“(f) ENDING, SUSPENDING, AND REDUCING AIR TRANSPORTATION.—An air carrier providing air transportation to a place under this section may end, suspend, or reduce such air transportation if, not later than 30 days before ending, suspending, or reducing such air transportation, the air carrier provides notice of the intent of the air carrier to end, suspend, or reduce such air transportation to—

“(1) the Secretary;

“(2) the affected community; and

“(3) the State or local government or person agreeing to pay compensation under subsection (c)(2).”.

(2) CLERICAL AMENDMENT.—The table of contents for chapter 417 is amended by adding after the item relating to section 41748 the following new item:

“41749. Essential air service for eligible places above per passenger subsidy cap”.

(b) PREFERRED ESSENTIAL AIR SERVICE.—

(1) IN GENERAL.—Subchapter II of chapter 417, as amended by subsection (a), is further amended by adding after section 41749 the following:

“§ 41750. Preferred essential air service

“(a) PROPOSALS.—A State or local government may submit a proposal to the Secretary of Transportation for compensation for a preferred air carrier described in subsection (b) to provide air transportation to an eligible place.

“(b) PREFERRED AIR CARRIER DESCRIBED.—A preferred air carrier described in this subsection is an air carrier that—

“(1) submits an application under section 41733(c) to provide air transportation to an eligible place;

“(2) is not the air carrier that submits the lowest cost bid to provide air transportation to the eligible place; and

“(3) is an air carrier that the affected community prefers to provide air transportation to the eligible place instead of the air carrier that submits the lowest cost bid.

“(c) DECISIONS.—Not later than 90 days after receiving a proposal under subsection (a) for compensation for a preferred air carrier described in subsection (b) to provide air transportation to an eligible place, the Secretary shall—

“(1) decide whether to provide compensation for the preferred air carrier to provide air transportation to the eligible place; and

“(2) approve the proposal if the State or local government or a person is willing and able to pay the difference between—

“(A) the rate of compensation the Secretary would provide to the air carrier that submits the lowest cost bid to provide air transportation to the eligible place; and

“(B) the rate of compensation the preferred air carrier estimates to be necessary to provide air transportation to the eligible place.

“(d) COMPENSATION PAYMENTS.—

“(1) IN GENERAL.—The Secretary shall pay compensation under this section at such time and in such manner as the Secretary determines is appropriate.

“(2) DURATION OF PAYMENTS.—The Secretary shall continue to pay compensation under this section only as long as—

“(A) the State or local government or person agreeing to pay compensation under subsection (c)(2) continues to pay such compensation; and

“(B) the Secretary decides the compensation is necessary to maintain air transportation to the eligible place.

“(e) REVIEW.—

“(1) IN GENERAL.—The Secretary shall periodically review the type and level of air service provided under this section.

“(2) CONSULTATION.—The Secretary may make appropriate adjustments in the type and level of air service to an eligible place under this section based on the review under paragraph (1) and consultation with the affected community and the State or local government or person agreeing to pay compensation under subsection (c)(2).

“(f) ENDING, SUSPENDING, AND REDUCING AIR TRANSPORTATION.—A preferred air carrier providing air transportation to an eligible place under this section may end, suspend, or reduce such air transportation if, not later than 30 days before ending, suspending, or reducing such air transportation, the preferred air carrier provides notice of the intent of the preferred air carrier to end, suspend, or reduce such air transportation to—

“(1) the Secretary;

“(2) the affected community; and

“(3) the State or local government or person agreeing to pay compensation under subsection (c)(2).”.

(2) CLERICAL AMENDMENT.—The table of contents for chapter 417, as amended by subsection (a), is further amended by adding after the item relating to section 41749 the following new item:

“41750. Preferred essential air service”.

(c) RESTORATION OF ELIGIBILITY TO A PLACE DETERMINED BY THE SECRETARY TO BE INELIGIBLE FOR SUBSIDIZED ESSENTIAL AIR SERVICE.—Section 41733 is amended by adding at the end the following:

“(f) RESTORATION OF ELIGIBILITY FOR SUBSIDIZED ESSENTIAL AIR SERVICE.—

“(1) IN GENERAL.—If the Secretary of Transportation terminates the eligibility of an otherwise eligible place to receive basic essential air service by an air carrier for compensation under subsection (c), a State or local government may submit to the Secretary a proposal for restoring such eligibility.

“(2) DETERMINATION BY SECRETARY.—If the per passenger subsidy required by the proposal submitted by a State or local government under paragraph (1) does not exceed the per passenger subsidy cap provided under this subchapter, the Secretary shall issue an order restoring the eligibility of the otherwise eligible place to receive basic essential air service by an air carrier for compensation under subsection (c).”.

(d) OFFICE OF RURAL AVIATION.—

(1) ESTABLISHMENT.—There is established within the Office of the Secretary of Transportation the Office of Rural Aviation.

(e) **FUNCTIONS.**—The functions of the Office are—

(1) to develop a uniform 4-year contract for air carriers providing essential air service to communities under subchapter II of chapter 417 of title 49, United States Code;

(2) to develop a mechanism for comparing applications submitted by air carriers under section 4173(c) to provide essential air service to communities, including comparing—

(A) estimates from air carriers on—

(i) the cost of providing essential air service; and

(ii) the revenues air carriers expect to receive when providing essential air service; and

(B) estimated schedules for air transportation; and

(3) to select an air carrier from among air carriers applying to provide essential air service, based on the criteria described in paragraph (2).

(f) **EXTENSION OF AUTHORITY TO MAKE AGREEMENTS UNDER THE ESSENTIAL AIR SERVICE PROGRAM.**—Section 4174(e)(2) is amended by striking “2009” and inserting “2011”.

(g) **ADJUSTMENTS TO COMPENSATION FOR SIGNIFICANTLY INCREASED COSTS.**—Section 4177 is amended by adding at the end thereof the following:

“(f) **FUEL COST SUBSIDY DISREGARD.**—Any amount provided as an adjustment in compensation pursuant to subsection (a)(1)(D) shall be disregarded for the purpose of determining whether the amount of compensation provided under this subchapter with respect to an eligible place exceeds the per passenger subsidy exceeds the dollar amount allowable under this subchapter.”.

SEC. 419. REPEAL OF ESSENTIAL AIR SERVICE LOCAL PARTICIPATION PROGRAM.

(a) **IN GENERAL.**—Subchapter II of chapter 417 of title 49, United States Code, is amended by striking section 41747, and such title 49 shall be applied as if such section 41747 had not been enacted.

(b) **CLERICAL AMENDMENT.**—The table of sections for chapter 417 of title 49, United States Code, is amended by striking the item relating to section 41747.

SEC. 420. LIMITATION ON ESSENTIAL AIR SERVICE TO LOCATIONS THAT ARE 90 OR MORE MILES AWAY FROM THE NEAREST MEDIUM OR LARGE HUB AIRPORT.

(a) **IN GENERAL.**—Section 41731(a)(1) is amended—

(1) in subparagraph (A), by redesignating clauses (i) through (iii) as subclauses (I) through (III), respectively;

(2) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(3) in clause (i)(I), as redesignated, by inserting “(A)” before “(i)(I)”;

(4) in subparagraph (A)(ii), as redesignated, by striking the period at the end and inserting “; and”;

(5) by adding at the end the following:

“(B) is located not less than 90 miles from the nearest medium or large hub airport.”.

(6) The Secretary may waive the requirements of this subsection as a result of geographic characteristics resulting in undue difficulty accessing the nearest medium or large hub airport.

(b) **EXCEPTIONS FOR LOCATIONS IN ALASKA.**—Section 41731 is amended by adding at the end the following:

“(c) **EXCEPTION FOR LOCATIONS IN ALASKA.**—Subsection (a)(1)(B) shall not apply with respect to locations in the State of Alaska.”.

SEC. 421. LIMITATION ON ESSENTIAL AIR SERVICE TO LOCATIONS THAT AVERAGE 10 OR MORE ENPLANEMENTS PER DAY.

(a) **IN GENERAL.**—Section 41731(a)(1) is amended—

(1) in subparagraph (A), by redesignating clauses (i) through (iii) as subclauses (I) through (III), respectively;

(2) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(3) in clause (i)(I), as redesignated, by inserting “(A)” before “(i)(I)”;

(4) in subparagraph (A)(ii), as redesignated, by striking the period at the end and inserting “; and”;

(5) by adding at the end the following:

“(B) had an average of 10 enplanements per day or more in the most recent calendar year for which enplanement data is available to the Administrator.”.

(b) **EXCEPTIONS FOR LOCATIONS IN ALASKA.**—Section 41731 is amended by adding at the end the following:

“(c) **EXCEPTION FOR LOCATIONS IN ALASKA.**—Subsection (a)(1)(B) shall not apply with respect to locations in the State of Alaska.”.

(c) **WAIVERS.**—Such section is further amended by adding at the end the following:

“(d) **WAIVERS.**—The Administrator may waive subsection (a)(1)(B) with respect to a location if the Administrator determines that the reason the location averages fewer than 10 enplanements per day is not because of inherent issues with the location.”.

SUBTITLE C—MISCELLANEOUS

SEC. 431. CLARIFICATION OF AIR CARRIER FEE DISPUTES.

(a) **IN GENERAL.**—Section 47129 is amended—

(1) by striking the section heading and inserting the following:

“**§ 47129. Resolution of airport-air carrier and foreign air carrier disputes concerning airport fees**”;

(2) by inserting “AND FOREIGN AIR CARRIER” after “CARRIER” in the heading for subsection (d);

(3) by inserting “AND FOREIGN AIR CARRIER” after “CARRIER” in the heading for subsection (d)(2);

(4) by striking “air carrier” each place it appears and inserting “air carrier or foreign air carrier”;

(5) by striking “air carrier’s” each place it appears and inserting “air carrier’s or foreign air carrier’s”;

(6) by striking “air carriers” and inserting “air carriers or foreign air carriers”; and

(7) by striking “(as defined in section 40102 of this title)” in subsection (a) and inserting “(as those terms are defined in section 40102 of this title)”.

(b) **CONFORMING AMENDMENT.**—The table of contents for chapter 471 is amended by striking the item relating to section 47129 and inserting the following:

“47129. Resolution of airport-air carrier and foreign air carrier disputes concerning airport fees”.

SEC. 432. CONTRACT TOWER PROGRAM.

(a) **COST-BENEFIT REQUIREMENT.**—Section 47124(b)(1) is amended—

(1) by inserting “(A)” after “(1)”;

(2) by adding at the end the following:

“(B) If the Secretary determines that a tower already operating under this program has a benefit to cost ratio of less than 1.0, the airport sponsor or State or local government having jurisdiction over the airport shall not be required to pay the portion of the costs that exceeds the benefit for a period of 18 months after such determination is made.

“(C) If the Secretary finds that all or part of an amount made available to carry out the program continued under this paragraph is not required during a fiscal year, the Secretary may use during such fiscal year the amount not so required to carry out the program established under paragraph (3) of this section.”.

(b) **COSTS EXCEEDING BENEFITS.**—Subparagraph (D) of section 47124(b)(3) is amended—

(1) by striking “benefit,” and inserting “benefit, with the maximum allowable local cost share capped at 20 percent.”.

(c) **FUNDING.**—Subparagraph (E) of section 47124(b)(3) is amended—

(1) by striking “and” after “2006,”;

(2) by striking “2007” and inserting “2007, \$9,500,000 for fiscal year 2010, and \$10,000,000 for fiscal year 2011” after “2007,”;

(3) by inserting after “paragraph.” the following: “If the Secretary finds that all or part of an amount made available under this subparagraph is not required during a fiscal year to carry out this paragraph, the Secretary may use during such fiscal year the amount not so required to carry out the program continued under subsection (b)(1) of this section.”.

(d) **FEDERAL SHARE.**—Subparagraph (C) of section 47124(b)(4) is amended by striking “\$1,500,000.” and inserting “\$2,000,000.”.

(e) **SAFETY AUDITS.**—Section 47124 is amended by adding at the end the following:

“(c) **SAFETY AUDITS.**—The Secretary shall establish uniform standards and requirements for safety assessments of air traffic control towers that receive funding under this section in accordance with the Administration’s safety management system.”.

SEC. 433. AIRFARES FOR MEMBERS OF THE ARMED FORCES.

(a) **FINDINGS.**—The Congress finds that—

(1) the Armed Forces is comprised of approximately 1,450,000 members who are stationed on active duty at more than 6,000 military bases in 146 different countries;

(2) the United States is indebted to the members of the Armed Forces, many of whom are in grave danger due to their engagement in, or exposure to, combat;

(3) military service, especially in the current war against terrorism, often requires members of the Armed Forces to be separated from their families on short notice, for long periods of time, and under very stressful conditions;

(4) the unique demands of military service often preclude members of the Armed Forces from purchasing discounted advance airline tickets in order to visit their loved ones at home; and

(5) it is the patriotic duty of the people of the United States to support the members of the Armed Forces who are defending the Nation’s interests around the world at great personal sacrifice.

(b) **SENSE OF CONGRESS.**—It is the sense of Congress that each United States air carrier should—

(1) establish for all members of the Armed Forces on active duty reduced air fares that are comparable to the lowest airfare for ticketed flights; and

(2) offer flexible terms that allow members of the Armed Forces on active duty to purchase, modify, or cancel tickets without time restrictions, fees (including baggage fees), ancillary costs, or penalties.

SEC. 434. AUTHORIZATION OF USE OF CERTAIN LANDS IN THE LAS VEGAS MCCARRAN INTERNATIONAL AIRPORT ENVIRONS OVERLAY DISTRICT FOR TRANSIENT LODGING AND ASSOCIATED FACILITIES.

(a) **IN GENERAL.**—Notwithstanding any other provision of law and except as provided in subsection (b), Clark County, Nevada, is authorized to permit transient lodging, including hotels, and associated facilities, including enclosed auditoriums, concert halls, sports arenas, and places of public assembly, on lands in the Las Vegas McCarran International Airport Environs Overlay District that fall below the forecasted 2017 65 dB day-night annual average noise level (DNL), as identified in the Noise Exposure Map Notice

published by the Federal Aviation Administration in the Federal Register on July 24, 2007 (72 Fed. Reg. 40357), and adopted into the Clark County Development Code in June 2008.

(b) **LIMITATION.**—No structure may be permitted under subsection (a) that would constitute a hazard to air navigation, result in an increase to minimum flight altitudes, or otherwise pose a significant adverse impact on airport or aircraft operations.

TITLE V—SAFETY

SUBTITLE A—AVIATION SAFETY

SEC. 501. RUNWAY SAFETY EQUIPMENT PLAN.

Not later than December 31, 2009, the Administrator of the Federal Aviation Administration shall issue a plan to develop an installation and deployment schedule for systems the Administration is installing to alert controllers and flight crews to potential runway incursions. The plan shall be integrated into the annual Federal Aviation Administration NextGen Implementation Plan.

SEC. 502. JUDICIAL REVIEW OF DENIAL OF AIRMAN CERTIFICATES.

(a) **JUDICIAL REVIEW OF NTSB DECISIONS.**—Section 44703(d) is amended by adding at the end the following:

“(3) **JUDICIAL REVIEW.**—A person substantially affected by an order of the Board under this subsection, or the Administrator when the Administrator decides that an order of the Board will have a significant adverse impact on carrying out this part, may obtain judicial review of the order under section 46110 of this title. The Administrator shall be made a party to the judicial review proceedings. The findings of fact of the Board in any such case are conclusive if supported by substantial evidence.”.

(b) **CONFORMING AMENDMENT.**—Section 1153(c) is amended by striking “section 44709 or” and inserting “section 44703(d), 44709, or”.

SEC. 503. RELEASE OF DATA RELATING TO ABANDONED TYPE CERTIFICATES AND SUPPLEMENTAL TYPE CERTIFICATES.

Section 44704(a) is amended by adding at the end the following:

“(5) **RELEASE OF DATA.**—

“(A) Notwithstanding any other provision of law, the Administrator may designate, without the consent of the owner of record, engineering data in the agency’s possession related to a type certificate or a supplemental type certificate for an aircraft, engine, propeller or appliance as public data, and therefore releasable, upon request, to a person seeking to maintain the airworthiness of such product, if the Administrator determines that—

“(i) the certificate containing the requested data has been inactive for 3 years;

“(ii) the owner of record, or the owner of record’s heir, of the type certificate or supplemental certificate has not been located despite a search of due diligence by the agency; and

“(iii) the designation of such data as public data will enhance aviation safety.

“(B) In this section, the term ‘engineering data’ means type design drawings and specifications for the entire product or change to the product, including the original design data, and any associated supplier data for individual parts or components approved as part of the particular aeronautical product certificate.”.

SEC. 504. DESIGN ORGANIZATION CERTIFICATES.

Section 44704(e) is amended—

(1) by striking “Beginning 7 years after the date of enactment of this subsection,” in paragraph (1) and inserting “Effective January 1, 2013,”;

(2) by striking “testing” in paragraph (2) and inserting “production”; and

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

“(3) **ISSUANCE OF CERTIFICATE BASED ON DESIGN ORGANIZATION CERTIFICATION.**—The Administrator may rely on the Design Organization for certification of compliance under this section.”.

SEC. 505. FAA ACCESS TO CRIMINAL HISTORY RECORDS OR DATABASE SYSTEMS.

(a) **IN GENERAL.**—Chapter 401 is amended by adding at the end thereof the following:

“§40130. **FAA access to criminal history records or databases systems**

“(a) **ACCESS TO RECORDS OR DATABASES SYSTEMS.**—

“(1) Notwithstanding section 534 of title 28 and the implementing regulations for such section (28 C.F.R. part 20), the Administrator of the Federal Aviation Administration is authorized to access a system of documented criminal justice information maintained by the Department of Justice or by a State but may do so only for the purpose of carrying out its civil and administrative responsibilities to protect the safety and security of the National Airspace System or to support the missions of the Department of Justice, the Department of Homeland Security, and other law enforcement agencies. The Administrator shall be subject to the same conditions or procedures established by the Department of Justice or State for access to such an information system by other governmental agencies with access to the system.

“(2) The Administrator may not use the access authorized under paragraph (1) to conduct criminal investigations.

“(b) **DESIGNATED EMPLOYEES.**—The Administrator shall, by order, designate those employees of the Administration who shall carry out the authority described in subsection (a). Such designated employees may—

“(1) have access to and receive criminal history, driver, vehicle, and other law enforcement information contained in the law enforcement databases of the Department of Justice, or of any jurisdiction in a State in the same manner as a police officer employed by a State or local authority of that State who is certified or commissioned under the laws of that State;

“(2) use any radio, data link, or warning system of the Federal Government and of any jurisdiction in a State that provides information about wanted persons, be-on-the-lookout notices, or warrant status or other officer safety information to which a police officer employed by a State or local authority in that State who is certified or commissioned under the laws of that State has access and in the same manner as such police officer; or

“(3) receive Federal, State, or local government communications with a police officer employed by a State or local authority in that State in the same manner as a police officer employed by a State or local authority in that State who is commissioned under the laws of that State.

“(c) **SYSTEM OF DOCUMENTED CRIMINAL JUSTICE INFORMATION DEFINED.**—In this section the term ‘system of documented criminal justice information’ means any law enforcement databases, systems, or communications containing information concerning identification, criminal history, arrests, convictions, arrest warrants, or wanted or missing persons, including the National Crime Information Center and its incorporated criminal history databases and the National Law Enforcement Telecommunications System.”.

(b) **CONFORMING AMENDMENT.**—The table of contents for chapter 401 is amended by inserting after the item relating to section 40129 the following:

“40130. **FAA access to criminal history records or databases systems”.**

SEC. 506. PILOT FATIGUE.

(a) **FLIGHT AND DUTY TIME REGULATIONS.**—

(1) **IN GENERAL.**—In accordance with paragraph (2), the Administrator of the Federal Aviation Administration shall issue regulations, based on the best available scientific information—

(A) to specify limitations on the hours of flight and duty time allowed for pilots to address problems relating to pilot fatigue; and

(B) to require part 121 air carriers to develop and implement fatigue risk management plans.

(2) **DEADLINES.**—The Administrator shall issue—

(A) not later than 180 days after the date of enactment of this Act, a notice of proposed rulemaking under paragraph (1); and

(B) not later than one year after the date of enactment of this Act, a final rule under paragraph (1).

(b) **FATIGUE RISK MANAGEMENT PLAN.**—

(1) **SUBMISSION OF FATIGUE RISK MANAGEMENT PLAN BY PART 121 AIR CARRIERS.**—Not later than 90 days after the date of enactment of this Act, each part 121 air carrier shall submit to the Administrator for review and approval a fatigue risk management plan.

(2) **CONTENTS OF PLAN.**—A fatigue risk management plan submitted by a part 121 air carrier under paragraph (1) shall include the following:

(A) Current flight time and duty period limitations.

(B) A rest scheme that enables the management of fatigue, including annual training to increase awareness of—

(i) fatigue;

(ii) the effects of fatigue on pilots; and

(iii) fatigue countermeasures.

(C) Development and use of a methodology that continually assesses the effectiveness of the program, including the ability of the program—

(i) to improve alertness; and

(ii) to mitigate performance errors.

(3) **PLAN UPDATES.**—A part 121 air carrier shall update its fatigue risk management plan under paragraph (1) every 2 years and submit the update to the Administrator for review and approval.

(4) **APPROVAL.**—

(A) **INITIAL APPROVAL OR MODIFICATION.**—Not later than 9 months after the date of enactment of this Act, the Administrator shall review and approve or require modification to fatigue risk management plans submitted under this subsection to ensure that pilots are not operating aircraft while fatigued.

(B) **UPDATE APPROVAL OR MODIFICATION.**—Not later than 9 months after submission of a plan update under paragraph (3), the Administrator shall review and approve or require modification to such update.

(5) **CIVIL PENALTIES.**—A violation of this subsection by a part 121 air carrier shall be treated as a violation of chapter 447 of title 49, United States Code, for purposes of the application of civil penalties under chapter 463 of that title.

(6) **LIMITATION ON APPLICABILITY.**—The requirements of this subsection shall cease to apply to a part 121 air carrier on and after the effective date of the regulations to be issued under subsection (a).

(c) **EFFECT OF COMMUTING ON FATIGUE.**—

(1) **IN GENERAL.**—Not later than 60 days after the date of enactment of this Act, the Administrator shall enter into appropriate arrangements with the National Academy of Sciences to conduct a study of the effects of commuting on pilot fatigue and report its findings to the Administrator.

(2) **STUDY.**—In conducting the study, the National Academy of Sciences shall consider—

(A) the prevalence of pilot commuting in the commercial air carrier industry, including the number and percentage of pilots who commute;

(B) information relating to commuting by pilots, including distances traveled, time zones crossed, time spent, and methods used;

(C) research on the impact of commuting on pilot fatigue, sleep, and circadian rhythms;

(D) commuting policies of commercial air carriers (including passenger and all-cargo air carriers), including pilot check-in requirements and sick leave and fatigue policies;

(E) post-conference materials from the Federal Aviation Administration's June 2008 symposium entitled "Aviation Fatigue Management Symposium: Partnerships for Solutions";

(F) Federal Aviation Administration and international policies and guidance regarding commuting; and

(G) any other matters as the Administrator considers appropriate.

(3) **PRELIMINARY FINDINGS.**—Not later than 90 days after the date of entering into arrangements under paragraph (1), the National Academy of Sciences shall submit to the Administrator its preliminary findings under the study.

(4) **REPORT.**—Not later than 6 months after the date of entering into arrangements under paragraph (1), the National Academy of Sciences shall submit a report to the Administrator containing its findings under the study and any recommendations for regulatory or administrative actions by the Federal Aviation Administration concerning commuting by pilots.

(5) **RULEMAKING.**—Following receipt of the report of the National Academy of Sciences under paragraph (4), the Administrator shall—

(A) consider the findings and recommendations in the report; and

(B) update, as appropriate based on scientific data, regulations required by subsection (a) on flight and duty time.

SEC. 507. INCREASING SAFETY FOR HELICOPTER AND FIXED WING EMERGENCY MEDICAL SERVICE OPERATORS AND PATIENTS.

(a) **COMPLIANCE REGULATIONS.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), not later than 18 months after the date of enactment of this Act, helicopter and fixed wing aircraft certificate holders providing emergency medical services shall comply with part 135 of title 14, Code of Federal Regulations, if there is a medical crew on board, without regard to whether there are patients on board.

(2) **EXCEPTION.**—If a certificate holder described in paragraph (1) is operating under instrument flight rules or is carrying out training therefor—

(A) the weather minimums and duty and rest time regulations under such part 135 of such title shall apply; and

(B) the weather reporting requirement at the destination shall not apply until such time as the Administrator of the Federal Aviation Administration determines that portable, reliable, and accurate ground-based weather measuring and reporting systems are available.

(b) **IMPLEMENTATION OF FLIGHT RISK EVALUATION PROGRAM.**—

(1) **INITIATION.**—Not later than 60 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall initiate a rulemaking—

(A) to create a standardized checklist of risk evaluation factors based on Notice 8000.301, which was issued by the Administration on August 1, 2005; and

(B) to require helicopter and fixed wing aircraft emergency medical service operators to use the checklist created under subparagraph (A) to determine whether a mission should be accepted.

(2) **COMPLETION.**—The rulemaking initiated under paragraph (1) shall be completed not later than 18 months after it is initiated.

(c) **COMPREHENSIVE CONSISTENT FLIGHT DISPATCH PROCEDURES.**—

(1) **INITIATION.**—Not later than 60 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall initiate a rulemaking—

(A) to require that helicopter and fixed wing emergency medical service operators formalize and implement performance based flight dispatch and flight-following procedures; and

(B) to develop a method to assess and ensure that such operators comply with the requirements described in subparagraph (A).

(2) **COMPLETION.**—The rulemaking initiated under paragraph (1) shall be completed not later than 18 months after it is initiated.

(d) **IMPROVING SITUATIONAL AWARENESS.**—Within 1 year after the date of enactment of this Act, any helicopter or fixed-wing aircraft used for emergency medical service shall have on board a device that performs the function of a terrain awareness and warning system and a means of displaying that information that meets the requirements of the applicable Federal Aviation Administration Technical Standard Order or other guidance prescribed by the Administrator.

(e) **IMPROVING THE DATA AVAILABLE ON AIR MEDICAL OPERATIONS.**—

(1) **IN GENERAL.**—The Administrator of the Federal Aviation Administration shall require each certificate holder for helicopters and fixed-wing aircraft used for emergency medical service operations to report not later than 1 year after the date of enactment of this Act and annually thereafter on—

(A) the number of aircraft and helicopters used to provide air ambulance services, the registration number of each of these aircraft or helicopters, and the base location of each of these aircraft or helicopters;

(B) the number of flights and hours flown by each such aircraft or helicopter used by the certificate holder to provide such services during the reporting period;

(C) the number of flights and the purpose of each flight for each aircraft or helicopter used by the certificate holder to provide such services during the reporting period;

(D) the number of flight requests for a helicopter providing helicopter air ambulance services that were accepted or declined by the certificate holder and the type of each such flight request (such as scene response, inter-facility transport, organ transport, or ferry or repositioning flight);

(E) the number of accidents involving helicopters operated by the certificate holder while providing helicopter air ambulance services and a description of the accidents;

(F) the number of flights and hours flown under instrument flight rules by helicopters operated by the certificate holder while providing helicopter air ambulance services;

(G) the time of day of each flight flown by helicopters operated by the certificate holder while providing helicopter air ambulance services; and

(H) The number of incidents where more helicopters arrive to transport patients than is needed in a flight request or scene response.

(2) **REPORT TO CONGRESS.**—The Administrator of the Federal Aviation Administration shall report to Congress on the information received pursuant to paragraph (1) of this subsection no later than 18 months after the date of enactment of this Act.

(f) **IMPROVING THE DATA AVAILABLE TO NTSB INVESTIGATORS AT CRASH SITES.**—

(1) **STUDY.**—Not later than 120 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall issue a report that indicates the availability, survivability, size, weight, and cost of devices that perform the function of recording voice communications and flight data information on existing and new helicopters and existing and new fixed wing aircraft used for emergency medical service operations.

(2) **RULEMAKING.**—Not later than 1 year after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall issue regulations that require devices that perform the function of recording voice communications and flight data information on board aircraft described in paragraph (1).

SEC. 508. CABIN CREW COMMUNICATION.

(a) **IN GENERAL.**—Section 44728 is amended—

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

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

“(f) **MINIMUM LANGUAGE SKILLS.**—

“(1) **IN GENERAL.**—No certificate holder may use any person to serve, nor may any person serve, as a flight attendant under this part, unless that person has demonstrated to an individual qualified to determine proficiency the ability to read, speak, and write English well enough to—

“(A) read material written in English and comprehend the information;

“(B) speak and understand English sufficiently to provide direction to, and understand and answer questions from, English-speaking individuals;

“(C) write incident reports and statements and log entries and statements; and

“(D) carry out written and oral instructions regarding the proper performance of their duties.

“(2) **FOREIGN FLIGHTS.**—The requirements of paragraph (1) do not apply to service as a flight attendant serving solely between points outside the United States.”

(b) **ADMINISTRATION.**—The Administrator of the Federal Aviation Administration shall work with certificate holders to which section 44728(f) of title 49, United States Code, applies to facilitate compliance with the requirements of section 44728(f)(1) of that title.

SEC. 509. CLARIFICATION OF MEMORANDUM OF UNDERSTANDING WITH OSHA.

(a) **IN GENERAL.**—Within 6 months after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall—

(1) establish milestones, in consultation with the Occupational Safety and Health Administration, through a report to Congress for the completion of work begun under the August 2000 memorandum of understanding between the 2 Administrations and to address issues needing further action in the Administrations' joint report in December 2000; and

(2) initiate development of a policy statement to set forth the circumstances in which Occupational Safety and Health Administration requirements may be applied to crewmembers while working in the aircraft.

(b) **POLICY STATEMENT.**—The policy statement to be developed under subsection (a)(2) shall be completed within 18 months after the date of enactment of this Act and shall satisfy the following principles:

(1) The establishment of a coordinating body similar to the Aviation Safety and Health Joint Team established by the August 2000 memorandum of understanding that includes representatives designated by both Administrations—

(A) to examine the applicability of current and future Occupational Safety and Health Administration regulations;

(B) to recommend policies for facilitating the training of Federal Aviation Administration inspectors; and

(C) to make recommendations that will govern the inspection and enforcement of safety and health standards on board aircraft in operation and all work-related environments.

(2) Any standards adopted by the Federal Aviation Administration shall set forth clearly—

(A) the circumstances under which an employer is required to take action to address occupational safety and health hazards;

(B) the measures required of an employer under the standard; and

(C) the compliance obligations of an employer under the standard.

SEC. 510. ACCELERATION OF DEVELOPMENT AND IMPLEMENTATION OF REQUIRED NAVIGATION PERFORMANCE APPROACH PROCEDURES.

(a) IN GENERAL.—

(1) ANNUAL MINIMUM REQUIRED NAVIGATION PERFORMANCE PROCEDURES.—The Administrator shall set a target of achieving a minimum of 200 Required Navigation Performance procedures each fiscal year through fiscal year 2012, with 25 percent of that target number meeting the low visibility approach criteria consistent with the NextGen Implementation Plan.

(2) USE OF THIRD PARTIES.—The Administrator is authorized to provide third parties the ability to design, flight check, and implement Required Navigation Performance approach procedures.

(b) DOT INSPECTOR GENERAL REVIEW OF OPERATIONAL AND APPROACH PROCEDURES BY A THIRD PARTY.—

(1) REVIEW.—The Inspector General of the Department of Transportation shall conduct a review regarding the effectiveness of the oversight activities conducted by the Administration in connection with any agreement with or delegation of authority to a third party for the development of flight procedures, including public use procedures, for the National Airspace System.

(2) ASSESSMENTS.—The Inspector General shall include, at a minimum, in the review—

(A) an assessment of the extent to which the Administration is relying or intends to rely on a third party for the development of new procedures and a determination of whether the Administration has established sufficient mechanisms and staffing to provide safety oversight functions, which may include quality assurance processes, flight checks, integration of procedures into the National Aviation System, and operational assessments of procedures developed by third parties; and

(B) an assessment regarding whether the Administration has sufficient existing personnel and technical resources or mechanisms to develop such flight procedures in a safe and efficient manner to meet the demands of the National Airspace System without the use of third party resources.

(c) REPORT.—No later than 1 year after the date of enactment of this Act, the Inspector General shall submit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a report on the results of the review conducted under this section.

SEC. 511. IMPROVED SAFETY INFORMATION.

Not later than December 31, 2009, the Administrator of the Federal Aviation Administration shall issue a final rule in docket No. FAA-2008-0188, Re-registration and Renewal of Aircraft Registration. The final rule shall include—

(1) provision for the expiration of a certificate for an aircraft registered as of the date of enactment of this Act, with re-registration requirements for those aircraft that remain eligible for registration;

(2) provision for the periodic expiration of all certificates issued after the effective date of the rule with a registration renewal process; and

(3) other measures to promote the accuracy and efficient operation and value of the Administration's aircraft registry.

SEC. 512. VOLUNTARY DISCLOSURE REPORTING PROCESS IMPROVEMENTS.

(a) IN GENERAL.—Within 180 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall—

(1) take such action as may be necessary to ensure that the Voluntary Disclosure Reporting Process requires inspectors—

(A) to evaluate corrective action proposed by an air carrier with respect to a matter disclosed by that air carrier is sufficiently comprehensive in scope and application and applies to all affected aircraft operated by that air carrier before accepting the proposed voluntary disclosure;

(B) to verify that corrective action so identified by an air carrier is completed within the timeframe proposed; and

(C) to verify by inspection that the carrier's corrective action adequately corrects the problem that was disclosed; and

(2) establish a second level supervisory review of disclosures under the Voluntary Disclosure Reporting Process before any proposed disclosure is accepted and closed that will ensure that a matter disclosed by an air carrier—

(A) has not been previously identified by a Federal Aviation Administration inspector; and

(B) has not been previously disclosed by the carrier in the preceding 5 years.

(b) GAO STUDY.—

(1) IN GENERAL.—The Comptroller General shall conduct a study of the Voluntary Disclosure Reporting Program.

(2) REVIEW.—In conducting the study, the Comptroller General shall examine, at a minimum, whether—

(A) there is evidence that voluntary disclosure is resulting in regulated entities discovering and correcting violations to a greater extent than would otherwise occur if there was no program for immunity from enforcement action;

(B) the voluntary disclosure program makes the Federal Aviation Administration aware of violations that it would not have discovered if there was not a program, and if a violation is disclosed voluntarily, whether the Administration insists on stronger corrective actions than would have occurred if the regulated entity knew of a violation, but the Administration did not;

(C) the information the Administration gets under the program leads to fewer violations by other entities, either because the information leads other entities to look for similar violations or because the information leads Administration investigators to look for similar violations at other entities; and

(D) there is any evidence that voluntary disclosure has improved compliance with regulations, either for the entities making disclosures or for the industry generally.

(3) REPORT.—Not later than one year after the date of enactment of this Act, the Comptroller General shall submit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on the results of the study conducted under this subsection.

SEC. 513. PROCEDURAL IMPROVEMENTS FOR INSPECTIONS.

(a) IN GENERAL.—Section 44711 is amended by adding at the end the following:

“(d) POST-EMPLOYMENT RESTRICTIONS FOR FLIGHT STANDARDS INSPECTORS.—

“(1) PROHIBITION.—A person holding an operating certificate issued under title 14, Code of Federal Regulations, may not knowingly employ, or make a contractual arrangement which permits, an individual to act as an agent or representative of the certificate holder in any matter before the Federal Aviation Administration if the individual, in the preceding 3-year period—

“(A) served as, or was responsible for oversight of, a flight standards inspector of the Administration; and

“(B) had responsibility to inspect, or oversee inspection of, the operations of the certificate holder.

“(2) WRITTEN AND ORAL COMMUNICATIONS.—

For purposes of paragraph (1), an individual shall be considered to be acting as an agent or representative of a certificate holder in a matter before the Federal Aviation Administration if the individual makes any written or oral communication on behalf of the certificate holder to the Administration (or any of its officers or employees) in connection with a particular matter, whether or not involving a specific party and without regard to whether the individual has participated in, or had responsibility for, the particular matter while serving as a flight standards inspector of the Administration.”.

(b) APPLICABILITY.—The amendment made by subsection (a) shall not apply to an individual employed by a certificate holder as of the date of enactment of this Act.

SEC. 514. INDEPENDENT REVIEW OF SAFETY ISSUES.

Within 30 days after the date of enactment of this Act, the Comptroller General shall initiate a review and investigation of air safety issues identified by Federal Aviation Administration employees and reported to the Administrator. The Comptroller General shall report the Government Accountability Office's findings and recommendations to the Administrator, the Senate Committee on Commerce, Science, and Transportation, and the House of Representatives Committee on Transportation and Infrastructure on an annual basis.

SEC. 515. NATIONAL REVIEW TEAM.

(a) IN GENERAL.—Within 180 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall establish a national review team within the Administration to conduct periodic, unannounced, and random reviews of the Administration's oversight of air carriers and report annually its findings and recommendations to the Administrator, the Senate Commerce, Science, and Transportation Committee, and the House of Representatives Committee on Transportation and Infrastructure.

(b) LIMITATION.—The Administrator shall prohibit a member of the National Review Team from participating in any review or audit of an air carrier under subsection (a) if the member has previously had responsibility for inspecting, or overseeing the inspection of, the operations of that air carrier.

(c) INSPECTOR GENERAL REPORTS.—The Inspector General of the Department of Transportation shall provide progress reports to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on the review teams and their effectiveness.

SEC. 516. FAA ACADEMY IMPROVEMENTS.

(a) REVIEW.—Within 1 year after the date of enactment of this Act, the Administrator

of the Federal Aviation Administration shall conduct a comprehensive review and evaluation of its Academy and facility training efforts.

(b) **FACILITY TRAINING PROGRAM.**—The Administrator shall—

(1) clarify responsibility for oversight and direction of the Academy's facility training program at the national level;

(2) communicate information concerning that responsibility to facility managers; and

(3) establish standards to identify the number of developmental controllers that can be accommodated at each facility, based on—

(A) the number of available on-the-job-training instructors;

(B) available classroom space;

(C) the number of available simulators;

(D) training requirements; and

(E) the number of recently placed new personnel already in training.

SEC. 517. REDUCTION OF RUNWAY INCURSIONS AND OPERATIONAL ERRORS.

(a) **PLAN.**—The Administrator of the Federal Aviation Administration shall develop a plan for the reduction of runway incursions by reviewing every commercial service airport (as defined in section 47102 of title 49, United States Code) in the United States and initiating action to improve airport lighting, provide better signage, and improve runway and taxiway markings.

(b) **PROCESS.**—Within 1 year after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall develop a process for tracking and investigating operational errors and runway incursions that includes—

(1) identifying the office responsible for establishing regulations regarding operational errors and runway incursions;

(2) identifying who is responsible for tracking and investigating operational errors and runway incursions and taking remedial actions;

(3) identifying who is responsible for tracking operational errors and runway incursions, including a process for lower level employees to report to higher supervisory levels; and

(4) periodic random audits of the oversight process.

SEC. 518. AVIATION SAFETY WHISTLEBLOWER INVESTIGATION OFFICE.

Section 106 is amended by adding at the end the following:

“(s) **AVIATION SAFETY WHISTLEBLOWER INVESTIGATION OFFICE.**—

“(1) **ESTABLISHMENT.**—There is established in the Administration an Aviation Safety Whistleblower Investigation Office.

“(2) **DIRECTOR.**—

“(A) **APPOINTMENT.**—The head of the Office shall be the Director, who shall be appointed by the Secretary of Transportation.

“(B) **QUALIFICATIONS.**—The Director shall have a demonstrated ability in investigations and knowledge of or experience in aviation.

“(C) **TERM.**—The Director shall be appointed for a term of 5 years.

“(D) **VACANCY.**—Any individual appointed to fill a vacancy in the position of the Director occurring before the expiration of the term for which the individual's predecessor was appointed shall be appointed for the remainder of that term.

“(3) **COMPLAINTS AND INVESTIGATIONS.**—

“(A) **AUTHORITY OF DIRECTOR.**—The Director shall—

“(i) receive complaints and information submitted by employees of persons holding certificates issued under title 14, Code of Federal Regulations, and employees of the Administration concerning the possible existence of an activity relating to a violation of an order, regulation, or standard of the

Administration or any other provision of Federal law relating to aviation safety;

“(ii) assess complaints and information submitted under clause (i) and determine whether a substantial likelihood exists that a violation of an order, regulation, or standard of the Administration or any other provision of Federal law relating to aviation safety may have occurred; and

“(iii) based on findings of the assessment conducted under clause (ii), make recommendations to the Administrator in writing for further investigation or corrective actions.

“(B) **DISCLOSURE OF IDENTITIES.**—The Director shall not disclose the identity of an individual who submits a complaint or information under subparagraph (A)(i) unless—

“(i) the individual consents to the disclosure in writing; or

“(ii) the Director determines, in the course of an investigation, that the disclosure is unavoidable.

“(C) **INDEPENDENCE OF DIRECTOR.**—The Secretary, the Administrator, or any officer or employee of the Administration may not prevent or prohibit the Director from initiating, carrying out, or completing any assessment of a complaint or information submitted subparagraph (A)(i) or from reporting to Congress on any such assessment.

“(D) **ACCESS TO INFORMATION.**—In conducting an assessment of a complaint or information submitted under subparagraph (A)(i), the Director shall have access to all records, reports, audits, reviews, documents, papers, recommendations, and other material necessary to determine whether a substantial likelihood exists that a violation of an order, regulation, or standard of the Administration or any other provision of Federal law relating to aviation safety may have occurred.

“(4) **RESPONSES TO RECOMMENDATIONS.**—The Administrator shall respond to a recommendation made by the Director under subparagraph (A)(iii) in writing and retain records related to any further investigations or corrective actions taken in response to the recommendation.

“(5) **INCIDENT REPORTS.**—If the Director determines there is a substantial likelihood that a violation of an order, regulation, or standard of the Administration or any other provision of Federal law relating to aviation safety may have occurred that requires immediate corrective action, the Director shall report the potential violation expeditiously to the Administrator and the Inspector General of the Department of Transportation.

“(6) **REPORTING OF CRIMINAL VIOLATIONS TO INSPECTOR GENERAL.**—If the Director has reasonable grounds to believe that there has been a violation of Federal criminal law, the Director shall report the violation expeditiously to the Inspector General.

“(7) **ANNUAL REPORTS TO CONGRESS.**—Not later than October 1 of each year, the Director shall submit to Congress a report containing—

“(A) information on the number of submissions of complaints and information received by the Director under paragraph (3)(A)(i) in the preceding 12-month period;

“(B) summaries of those submissions;

“(C) summaries of further investigations and corrective actions recommended in response to the submissions; and

“(D) summaries of the responses of the Administrator to such recommendations.”.

SEC. 519. MODIFICATION OF CUSTOMER SERVICE INITIATIVE.

(a) **MODIFICATION OF INITIATIVE.**—Not later than 90 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall modify the customer service initiative, mission and vi-

sion statements, and other statements of policy of the Administration—

(1) to remove any reference to air carriers or other entities regulated by the Administration as “customers”;

(2) to clarify that in regulating safety the only customers of the Administration are members of the traveling public; and

(3) to clarify that air carriers and other entities regulated by the Administration do not have the right to select the employees of the Administration who will inspect their operations.

(b) **SAFETY PRIORITY.**—In carrying out the Administrator's responsibilities, the Administrator shall ensure that safety is given a higher priority than preventing the dissatisfaction of an air carrier or other entity regulated by the Administration with an employee of the Administration.

SEC. 520. HEADQUARTERS REVIEW OF AIR TRANSPORTATION OVERSIGHT SYSTEM DATABASE.

(a) **REVIEWS.**—The Administrator of the Federal Aviation Administration shall establish a process by which the air transportation oversight system database of the Administration is reviewed by a team of employees of the Agency on a monthly basis to ensure that—

(1) any trends in regulatory compliance are identified; and

(2) appropriate corrective actions are taken in accordance with Agency regulations, advisory directives, policies, and procedures.

(b) **MONTHLY TEAM REPORTS.**—

(1) **IN GENERAL.**—The team of employees conducting a monthly review of the air transportation oversight system database under subsection (a) shall submit to the Administrator, the Associate Administrator for Aviation Safety, and the Director of Flight Standards a report on the results of the review.

(2) **CONTENTS.**—A report submitted under paragraph (1) shall identify—

(A) any trends in regulatory compliance discovered by the team of employees in conducting the monthly review; and

(B) any corrective actions taken or proposed to be taken in response to the trends.

(c) **QUARTERLY REPORTS TO CONGRESS.**—The Administrator, on a quarterly basis, shall submit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on the results of reviews of the air transportation oversight system database conducted under this section, including copies of reports received under subsection (b).

SEC. 521. INSPECTION OF FOREIGN REPAIR STATIONS.

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

“§ 44730. Inspection of foreign repair stations

“(a) **IN GENERAL.**—Within 1 year after the date of enactment of the FAA Air Transportation Modernization and Safety Improvement Act the Administrator of the Federal Aviation Administration shall establish and implement a safety assessment system for all part 145 repair stations based on the type, scope, and complexity of work being performed. The system shall—

“(1) ensure that repair stations outside the United States are subject to appropriate inspections based on identified risk and consistent with existing United States requirements;

“(2) consider inspection results and findings submitted by foreign civil aviation authorities operating under a maintenance safety or maintenance implementation agreement with the United States in meeting the requirements of the safety assessment system; and

“(3) require all maintenance safety or maintenance implementation agreements to provide an opportunity for the Federal Aviation Administration to conduct independent inspections of covered part 145 repair stations when safety concerns warrant such inspections.

“(b) NOTICE TO CONGRESS OF NEGOTIATIONS.—The Administrator shall notify the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure within 30 days after initiating formal negotiations with foreign aviation authorities or other appropriate foreign government agencies on a new maintenance safety or maintenance implementation agreement.

“(c) ANNUAL REPORT.—The Administrator shall publish an annual report on the Federal Aviation Administration’s oversight of part 145 repair stations and implementation of the safety assessment system required by subsection (a). The report shall—

“(1) describe in detail any improvements in the Federal Aviation Administration’s ability to identify and track where part 121 air carrier repair work is performed;

“(2) include a staffing model to determine the best placement of inspectors and the number of inspectors needed;

“(3) describe the training provided to inspectors; and

“(4) include an assessment of the quality of monitoring and surveillance by the Federal Aviation Administration of work provided by its inspectors and the inspectors of foreign authorities operating under a maintenance safety or implementation agreement.

“(d) ALCOHOL AND CONTROLLED SUBSTANCE TESTING PROGRAM REQUIREMENTS.—

“(1) IN GENERAL.—The Secretaries of State and Transportation jointly shall request the governments of foreign countries that are members of the International Civil Aviation Organization to establish international standards for alcohol and controlled substances testing of persons that perform safety sensitive maintenance functions upon commercial air carrier aircraft.

“(2) APPLICATION TO PART 121 AIRCRAFT WORK.—Within 1 year after the date of enactment of the FAA Air Transportation Modernization and Safety Improvement Act the Administrator shall promulgate a proposed rule requiring that all part 145 repair station employees responsible for safety-sensitive functions on part 121 air carrier aircraft are subject to an alcohol and controlled substance testing program determined acceptable by the Administrator and consistent with the applicable laws of the country in which the repair station is located.

“(e) BIENNIAL INSPECTIONS.—The Administrator shall require part 145 repair stations to be inspected twice each year by Federal Aviation Administration safety inspectors, regardless of where the station is located, in a manner consistent with United States obligations under international agreements.

“(f) DEFINITIONS.—In this section:

“(1) PART 121 AIR CARRIER.—The term ‘part 121 air carrier’ means an air carrier that holds a certificate issued under part 121 of title 14, Code of Federal Regulations.

“(2) PART 145 REPAIR STATION.—The term ‘part 145 repair station’ means a repair station that holds a certificate issued under part 145 of title 14, Code of Federal Regulations.”

(b) CONFORMING AMENDMENT.—The table of contents for chapter 447 is amended by adding at the end thereof the following:

“44730. Inspection of foreign repair stations”.

SEC. 522. NON-CERTIFICATED MAINTENANCE PROVIDERS.

(a) REGULATIONS.—Not later than 3 years after the date of enactment of this Act, the

Administrator of the Federal Aviation Administration shall issue regulations requiring that all covered maintenance work on aircraft used to provide air transportation under part 121 of title 14, Code of Federal Regulations, be performed by individuals in accordance with subsection (b).

(b) PERSONS AUTHORIZED TO PERFORM CERTAIN WORK.—No individual may perform covered maintenance work on aircraft used to provide air transportation under part 121 of title 14, Code of Federal Regulations unless that individual is employed by—

(1) a part 121 air carrier;

(2) a part 145 repair station or a person authorized under section 43.17 of title 14, Code of Federal Regulations;

(3) a person that provides contract maintenance workers or services to a part 145 repair station or part 121 air carrier, and the individual—

(A) meets the requirements of the part 121 air carrier or the part 145 repair station;

(B) performs the work under the direct supervision and control of the part 121 air carrier or the part 145 repair station directly in charge of the maintenance services; and

(C) carries out the work in accordance with the part 121 air carrier’s maintenance manual;

(4) by the holder of a type certificate, production certificate, or other production approval issued under part 21 of title 14, Code of Federal Regulations, and the holder of such certificate or approval—

(A) originally produced, and continues to produce, the article upon which the work is to be performed; and

(B) is acting in conjunction with a part 121 air carrier or a part 145 repair station.

(d) DEFINITIONS.—In this section:

(1) COVERED MAINTENANCE WORK.—The term “covered maintenance work” means maintenance work that is essential maintenance, regularly scheduled maintenance, or a required inspection item, as determined by the Administrator.

(2) PART 121 AIR CARRIER.—The term “part 121 air carrier” has the meaning given that term in section 44730(f)(1) of title 49, United States Code.

(3) PART 145 REPAIR STATION.—The term “part 145 repair station” has the meaning given that term in section 44730(f)(2) of title 49, United States Code.

SEC. 523. USE OF EXPLOSIVE PEST CONTROL DEVICES.

Not later than 180 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall submit to Congress a report that—

(1) describes the use throughout the United States of explosive pest control devices in mitigating bird strikes in flight operations;

(2) evaluates the utility, cost-effectiveness, and safety of using explosive pest control devices in wildlife management; and

(3) evaluates the potential impact on flight safety and operations if explosive pest control devices were made unavailable or more costly during subsequent calendar years.

SUBTITLE B—FLIGHT SAFETY

SEC. 551. FAA PILOT RECORDS DATABASE.

(a) RECORDS OF EMPLOYMENT OF PILOT APPLICANTS.—Section 44703(h) is amended by adding at the end the following:

“(16) APPLICABILITY.—This subsection shall cease to be effective on the date specified in regulations issued under subsection (i).”

(b) ESTABLISHMENT OF FAA PILOT RECORDS DATABASE.—Section 44703 is amended—

(1) by redesignating subsections (i) and (j) as subsections (j) and (k), respectively; and

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

“(i) FAA PILOT RECORDS DATABASE.—

“(1) IN GENERAL.—Before allowing an individual to begin service as a pilot, an air car-

rier shall access and evaluate, in accordance with the requirements of this subsection, information pertaining to the individual from the pilot records database established under paragraph (2).

“(2) PILOT RECORDS DATABASE.—The Administrator shall establish an electronic database (in this subsection referred to as the ‘database’) containing the following records:

“(A) FAA RECORDS.—From the Administrator—

“(i) records that are maintained by the Administrator concerning current airman certificates, including airman medical certificates and associated type ratings and information on any limitations to those certificates and ratings;

“(ii) records that are maintained by the Administrator concerning any failed attempt of an individual to pass a practical test required to obtain a certificate or type rating under part 61 of title 14, Code of Federal Regulations; and

“(iii) summaries of legal enforcement actions resulting in a finding by the Administrator of a violation of this title or a regulation prescribed or order issued under this title that was not subsequently overturned.

“(B) AIR CARRIER AND OTHER RECORDS.—From any air carrier or other person (except a branch of the Armed Forces, the National Guard, or a reserve component of the Armed Forces) that has employed an individual as a pilot of a civil or public aircraft, or from the trustee in bankruptcy for such air carrier or person—

“(i) records pertaining to the individual that are maintained by the air carrier (other than records relating to flight time, duty time, or rest time), including records under regulations set forth in—

“(I) section 121.683 of title 14, Code of Federal Regulations;

“(II) paragraph (A) of section VI, appendix I, part 121 of such title;

“(III) paragraph (A) of section IV, appendix J, part 121 of such title;

“(IV) section 125.401 of such title; and

“(V) section 135.63(a)(4) of such title; and

“(ii) other records pertaining to the individual’s performance as a pilot that are maintained by the air carrier or person concerning—

“(I) the training, qualifications, proficiency, or professional competence of the individual, including comments and evaluations made by a check airman designated in accordance with section 121.411, 125.295, or 135.337 of such title;

“(II) any disciplinary action taken with respect to the individual that was not subsequently overturned; and

“(III) any release from employment or resignation, termination, or disqualification with respect to employment.

“(C) NATIONAL DRIVER REGISTER RECORDS.—In accordance with section 30305(b)(8) of this title, from the chief driver licensing official of a State, information concerning the motor vehicle driving record of the individual.

“(3) WRITTEN CONSENT; RELEASE FROM LIABILITY.—An air carrier—

“(A) shall obtain the written consent of an individual before accessing records pertaining to the individual under paragraph (1); and

“(B) may, notwithstanding any other provision of law or agreement to the contrary, require an individual with respect to whom the carrier is accessing records under paragraph (1) to execute a release from liability for any claim arising from accessing the records or the use of such records by the air carrier in accordance with this section (other than a claim arising from furnishing information known to be false and maintained in violation of a criminal statute).

“(4) REPORTING.—

“(A) REPORTING BY ADMINISTRATOR.—The Administrator shall enter data described in paragraph (2)(A) into the database promptly to ensure that an individual's records are current.

“(B) REPORTING BY AIR CARRIERS AND OTHER PERSONS.—

“(i) IN GENERAL.—Air carriers and other persons shall report data described in paragraphs (2)(B) and (2)(C) to the Administrator promptly for entry into the database.

“(ii) DATA TO BE REPORTED.—Air carriers and other persons shall report, at a minimum, under clause (i) the following data described in paragraph (2)(B):

“(I) Records that are generated by the air carrier or other person after the date of enactment of the FAA Air Transportation Modernization and Safety Improvement Act.

“(II) Records that the air carrier or other person is maintaining, on such date of enactment, pursuant to subsection (h)(4).

“(5) REQUIREMENT TO MAINTAIN RECORDS.—The Administrator—

“(A) shall maintain all records entered into the database under paragraph (2) pertaining to an individual until the date of receipt of notification that the individual is deceased; and

“(B) may remove the individual's records from the database after that date.

“(6) RECEIPT OF CONSENT.—The Administrator shall not permit an air carrier to access records pertaining to an individual from the database under paragraph (1) without the air carrier first demonstrating to the satisfaction of the Administrator that the air carrier has obtained the written consent of the individual.

“(7) RIGHT OF PILOT TO REVIEW CERTAIN RECORDS AND CORRECT INACCURACIES.—Notwithstanding any other provision of law or agreement, the Administrator, upon receipt of written request from an individual—

“(A) shall make available, not later than 30 days after the date of the request, to the individual for review all records referred to in paragraph (2) pertaining to the individual; and

“(B) shall provide the individual with a reasonable opportunity to submit written comments to correct any inaccuracies contained in the records.

“(8) REASONABLE CHARGES FOR PROCESSING REQUESTS AND FURNISHING COPIES.—The Administrator may establish a reasonable charge for the cost of processing a request under paragraph (1) or (7) and for the cost of furnishing copies of requested records under paragraph (7).

“(9) PRIVACY PROTECTIONS.—

“(A) USE OF RECORDS.—An air carrier that accesses records pertaining to an individual under paragraph (1) may use the records only to assess the qualifications of the individual in deciding whether or not to hire the individual as a pilot. The air carrier shall take such actions as may be necessary to protect the privacy of the individual and the confidentiality of the records accessed, including ensuring that information contained in the records is not divulged to any individual that is not directly involved in the hiring decision.

“(B) DISCLOSURE OF INFORMATION.—

“(i) IN GENERAL.—Except as provided by clause (ii), information collected by the Administrator under paragraph (2) shall be exempt from the disclosure requirements of section 552 of title 5.

“(ii) EXCEPTIONS.—Clause (i) shall not apply to—

“(I) de-identified, summarized information to explain the need for changes in policies and regulations;

“(II) information to correct a condition that compromises safety;

“(III) information to carry out a criminal investigation or prosecution;

“(IV) information to comply with section 44905, regarding information about threats to civil aviation; and

“(V) such information as the Administrator determines necessary, if withholding the information would not be consistent with the safety responsibilities of the Federal Aviation Administration.

“(10) PERIODIC REVIEW.—Not later than 18 months after the date of enactment of the FAA Air Transportation Modernization and Safety Improvement Act, and at least once every 3 years thereafter, the Administrator shall transmit to Congress a statement that contains, taking into account recent developments in the aviation industry—

“(A) recommendations by the Administrator concerning proposed changes to Federal Aviation Administration records, air carrier records, and other records required to be included in the database under paragraph (2); or

“(B) reasons why the Administrator does not recommend any proposed changes to the records referred to in subparagraph (A).

“(11) REGULATIONS FOR PROTECTION AND SECURITY OF RECORDS.—The Administrator shall prescribe such regulations as may be necessary—

“(A) to protect and secure—

“(i) the personal privacy of any individual whose records are accessed under paragraph (1); and

“(ii) the confidentiality of those records; and

“(B) to preclude the further dissemination of records received under paragraph (1) by the person who accessed the records.

“(12) GOOD FAITH EXCEPTION.—Notwithstanding paragraph (1), an air carrier may allow an individual to begin service as a pilot, without first obtaining information described in paragraph (2)(B) from the database pertaining to the individual, if—

“(A) the air carrier has made a documented good faith attempt to access the information from the database; and

“(B) has received written notice from the Administrator that the information is not contained in the database because the individual was employed by an air carrier or other person that no longer exists or by a foreign government or other entity that has not provided the information to the database.

“(13) LIMITATIONS ON ELECTRONIC ACCESS TO RECORDS.—

“(A) ACCESS BY INDIVIDUALS DESIGNATED BY AIR CARRIERS.—For the purpose of increasing timely and efficient access to records described in paragraph (2), the Administrator may allow, under terms established by the Administrator, an individual designated by an air carrier to have electronic access to the database.

“(B) TERMS.—The terms established by the Administrator under subparagraph (A) for allowing a designated individual to have electronic access to the database shall limit such access to instances in which information in the database is required by the designated individual in making a hiring decision concerning a pilot applicant and shall require that the designated individual provide assurances satisfactory to the Administrator that—

“(i) the designated individual has received the written consent of the pilot applicant to access the information; and

“(ii) information obtained using such access will not be used for any purpose other than making the hiring decision.

“(14) REGULATIONS.—

“(A) IN GENERAL.—The Administrator shall issue regulations to carry out this subsection.

“(B) EFFECTIVE DATE.—The regulations shall specify the date on which the requirements of this subsection take effect and the date on which the requirements of subsection (h) cease to be effective.

“(C) EXCEPTIONS.—Notwithstanding subparagraph (B)—

“(i) the Administrator shall begin to establish the database under paragraph (2) not later than 90 days after the date of enactment of the FAA Air Transportation Modernization and Safety Improvement Act;

“(ii) the Administrator shall maintain records in accordance with paragraph (5) beginning on the date of enactment of that Act; and

“(iii) air carriers and other persons shall maintain records to be reported to the database under paragraph (4)(B) in the period beginning on such date of enactment and ending on the date that is 5 years after the requirements of subsection (h) cease to be effective pursuant to subparagraph (B).

“(15) SPECIAL RULE.—During the one-year period beginning on the date on which the requirements of this section become effective pursuant to paragraph (15)(B), paragraph (7)(A) shall be applied by substituting ‘45 days’ for ‘30 days’.

(c) CONFORMING AMENDMENTS.—

(1) LIMITATION ON LIABILITY; PREEMPTION OF STATE LAW.—Section 44703(j) (as redesignated by subsection (b)(1) of this section) is amended—

(A) in the subsection heading by striking “LIMITATION” and inserting “LIMITATIONS”; and

(B) in paragraph (1)—

(i) in the matter preceding subparagraph (A) by striking “paragraph (2)” and inserting “subsection (h)(2) or (i)(3)”; and

(ii) in subparagraph (A) by inserting “or accessing the records of that individual under subsection (i)(1)” before the semicolon; and

(iii) in the matter following subparagraph (D) by striking “subsection (h)” and inserting “subsection (h) or (i)”; and

(C) in paragraph (2) by striking “subsection (h)” and inserting “subsection (h) or (i)”; and

(D) in paragraph (3), in the matter preceding subparagraph (A), by inserting “or who furnished information to the database established under subsection (i)(2)” after “subsection (h)(1)”; and

(E) by adding at the end the following:

“(4) PROHIBITION ON ACTIONS AND PROCEEDINGS AGAINST AIR CARRIERS.—

“(A) HIRING DECISIONS.—An air carrier may refuse to hire an individual as a pilot if the individual did not provide written consent for the air carrier to receive records under subsection (h)(2)(A) or (i)(3)(A) or did not execute the release from liability requested under subsection (h)(2)(B) or (i)(3)(B).

“(B) ACTIONS AND PROCEEDINGS.—No action or proceeding may be brought against an air carrier by or on behalf of an individual who has applied for or is seeking a position as a pilot with the air carrier if the air carrier refused to hire the individual after the individual did not provide written consent for the air carrier to receive records under subsection (h)(2)(A) or (i)(3)(A) or did not execute a release from liability requested under subsection (h)(2)(B) or (i)(3)(B).”

(2) LIMITATION ON STATUTORY CONSTRUCTION.—Section 44703(k) (as redesignated by subsection (b)(1) of this section) is amended by striking “subsection (h)” and inserting “subsection (h) or (i)”.

SEC. 552. AIR CARRIER SAFETY MANAGEMENT SYSTEMS.

(a) IN GENERAL.—Within 60 days after the date of enactment of this Act, the Administrator shall initiate and complete a rulemaking to require part 121 air carriers—

(1) to implement, as part of their safety management systems—

- (A) an Aviation Safety Action Program;
- (B) a Flight Operations Quality Assurance Program;
- (C) a Line Operational Safety Audit Program; and

(D) a Flight Crew Fatigue Risk Management Program;

(2) to implement appropriate privacy protection safeguards with respect to data included in such programs; and

(3) to provide appropriate collaboration and operational oversight of regional/com-muter air carriers by affiliated major air carriers that include—

(A) periodic safety audits of flight operations;

(B) training, maintenance, and inspection programs; and

(C) provisions for the exchange of safety information.

(b) EFFECT ON ADVANCED QUALIFICATION PROGRAM.—Implementation of the programs under subsection (a)(1) neither limits nor invalidates the Federal Aviation Administration's advanced qualification program.

(c) LIMITATIONS ON DISCIPLINE AND ENFORCEMENT.—The Administrator shall require that each of the programs described in subsection (a)(1)(A) and (B) establish protections for an air carrier or employee submitting data or reports against disciplinary or enforcement actions by any Federal agency or employer. The protections shall not be less than the protections provided under Federal Aviation Administration Advisory Circulars governing those programs, including Advisory Circular AC No. 120-66 and AC No. 120-82.

(d) CVR DATA.—The Administrator, acting in collaboration with aviation industry interested parties, shall consider the merits and feasibility of incorporating cockpit voice recorder data in safety oversight practices.

(e) ENFORCEMENT CONSISTENCY.—Within 9 months after the date of enactment of this Act, the Administrator shall—

(1) develop and implement a plan that will ensure that the FAA's safety enforcement plan is consistently enforced; and

(2) ensure that the FAA's safety oversight program is reviewed periodically and updated as necessary.

SEC. 553. SECRETARY OF TRANSPORTATION RESPONSES TO SAFETY RECOMMENDATIONS.

(a) IN GENERAL.—The first sentence of section 1135(a) is amended by inserting “to the National Transportation Safety Board” after “shall give”.

(b) AIR CARRIER SAFETY RECOMMENDATIONS.—Section 1135 is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

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

“(c) ANNUAL REPORT ON AIR CARRIER SAFETY RECOMMENDATIONS.—

“(1) IN GENERAL.—The Secretary shall submit an annual report to the Congress and the Board on the recommendations made by the Board to the Secretary regarding air carrier operations conducted under part 121 of title 14, Code of Federal Regulations.

“(2) RECOMMENDATIONS TO BE COVERED.—The report shall cover—

“(A) any recommendation for which the Secretary has developed, or intends to develop, procedures to adopt the recommendation or part of the recommendation, but has yet to complete the procedures; and

“(B) any recommendation for which the Secretary, in the preceding year, has issued a response under subsection (a)(2) or (a)(3) refusing to carry out all or part of the procedures to adopt the recommendation.

“(3) CONTENTS.—

“(A) PLANS TO ADOPT RECOMMENDATIONS.—For each recommendation of the Board described in paragraph (2)(A), the report shall contain—

“(i) a description of the recommendation;

“(ii) a description of the procedures planned for adopting the recommendation or part of the recommendation;

“(iii) the proposed date for completing the procedures; and

“(iv) if the Secretary has not met a deadline contained in a proposed timeline developed in connection with the recommendation under subsection (b), an explanation for not meeting the deadline.

“(B) REFUSALS TO ADOPT RECOMMENDATIONS.—For each recommendation of the Board described in paragraph (2)(B), the report shall contain—

“(i) a description of the recommendation; and

“(ii) a description of the reasons for the refusal to carry out all or part of the procedures to adopt the recommendation.”.

(c) IMPLEMENTATION OF NTSB SAFETY RECOMMENDATIONS.—

(1) INSPECTION.—As part of the annual inspection of general aviation aircraft, the Administrator of the Federal Aviation Administration (referred to in this section as the “Administrator”) shall require a detailed inspection of each emergency locator transmitter (referred to in this section as “ELT”) installed in general aviation aircraft operating in the United States to ensure that each ELT is mounted and retained in accordance with the manufacturer's specifications.

(2) MOUNTING AND RETENTION.—

(A) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Administrator shall determine if the ELT mounting requirements and retention tests specified by Technical Standard Orders C91a and C126 are adequate to assess retention capabilities in ELT designs.

(B) REVISION.—Based on the results of the determination conducted under subparagraph (A), the Administrator shall make any necessary revisions to the requirements and tests referred to in subparagraph (A) to ensure that emergency locator transmitters are properly retained in the event of an airplane accident.

(3) REPORT.—Upon the completion of the revisions required under paragraph (2)(B), the Administrator shall submit a report on the implementation of this subsection to—

(A) the Committee on Commerce, Science, and Transportation of the Senate; and

(B) the Committee on Transportation and Infrastructure of the House of Representatives.

SEC. 554. IMPROVED FLIGHT OPERATIONAL QUALITY ASSURANCE, AVIATION SAFETY ACTION, AND LINE OPERATIONAL SAFETY AUDIT PROGRAMS.

(a) LIMITATION ON DISCLOSURE AND USE OF INFORMATION.—

(1) IN GENERAL.—Except as provided by this section, a party in a judicial proceeding may not use discovery to obtain—

(A) an Aviation Safety Action Program report;

(B) Flight Operational Quality Assurance Program data; or

(C) a Line Operations Safety Audit Program report.

(2) FOIA NOT APPLICABLE.—Section 522 of title 5, United States Code, shall not apply to reports or data described in paragraph (1).

(3) EXCEPTIONS.—Nothing in paragraph (1) or (2) prohibits the FAA from disclosing information contained in reports or data described in paragraph (1) if withholding the information would not be consistent with the FAA's safety responsibilities, including—

(A) a summary of information, with identifying information redacted, to explain the need for changes in policies or regulations;

(B) information provided to correct a condition that compromises safety, if that condition continues uncorrected; or

(C) information provided to carry out a criminal investigation or prosecution.

(b) PERMISSIBLE DISCOVERY FOR SUCH REPORTS AND DATA.—Except as provided in subsection (c), a court may allow discovery by a party of an Aviation Safety Action Program report, Flight Operational Quality Assurance Program data, or a Line Operations Safety Audit Program report if, after an in camera review of the information, the court determines that a party to a claim or defense in the proceeding shows a particularized need for the report or data that outweighs the need for confidentiality of the report or data, considering the confidential nature of the report or data, and upon a showing that the report or data is both relevant to the preparation of a claim or defense and not otherwise known or available.

(c) PROTECTIVE ORDER.—When a court allows discovery, in a judicial proceeding, of an Aviation Safety Action Program report, Flight Operational Quality Assurance Program data, or a Line Operations Safety Audit Program report, the court shall issue a protective order—

(1) to limit the use of the information contained in the report or data to the judicial proceeding;

(2) to prohibit dissemination of the report or data to any person that does not need access to the report for the proceeding; and

(3) to limit the use of the report or data in the proceeding to the uses permitted for privileged self-analysis information as defined under the Federal Rules of Evidence.

(d) SEALED INFORMATION.—A court may allow an Aviation Safety Action Program report, Flight Operational Quality Assurance Program data, or a Line Operations Safety Audit Program report to be admitted into evidence in a judicial proceeding only if the court places the report or data under seal to prevent the use of the report or data for purposes other than for the proceeding.

(e) SAFETY RECOMMENDATIONS.—This section does not prevent the National Transportation Safety Board from referring at any time to information contained in an Aviation Safety Action Program report, Flight Operational Quality Assurance Program data, or a Line Operations Safety Audit Program report in making safety recommendations.

(f) WAIVER.—Any waiver of the privilege for self-analysis information by a protected party, unless occasioned by the party's own use of the information in presenting a claim or defense, must be in writing.

SEC. 555. RE-EVALUATION OF FLIGHT CREW TRAINING, TESTING, AND CERTIFICATION REQUIREMENTS.

(a) TRAINING AND TESTING.—The Administrator shall develop and implement a plan for reevaluation of flight crew training regulations in effect on the date of enactment of this Act, including regulations for—

(1) classroom instruction requirements governing curriculum content and hours of instruction;

(2) crew leadership training; and

(3) initial and recurrent testing requirements for pilots, including the rigor and consistency of testing programs such as check rides.

(b) BEST PRACTICES.—The plan shall incorporate best practices in the aviation industry with respect to training protocols, methods, and procedures.

(c) CERTIFICATION.—The Administrator shall initiate a rulemaking to re-evaluate FAA regulations governing the minimum requirements—

- (1) to become a commercial pilot;
- (2) to receive an Air Transport Pilot Certificate to become a captain; and
- (3) to transition to a new type of aircraft.

(d) **REMEDIAL TRAINING PROGRAMS.**—

(1) **IN GENERAL.**—The Administrator shall initiate a rulemaking to require part 121 air carriers to establish remedial training programs for flightcrew members who have demonstrated performance deficiencies or experienced failures in the training environment.

(2) **DEADLINES.**—The Administrator shall—

(A) not later than 180 days after the date of enactment of this Act, issue a notice of proposed rulemaking under paragraph (1); and

(B) not later than 24 months after the date of enactment of this Act, issue a final rule for the rulemaking.

(e) **STICK PUSHER TRAINING AND WEATHER EVENT TRAINING.**—

(1) **MULTIDISCIPLINARY PANEL.**—Not later than 120 days after the date of enactment of this Act, the Administrator shall convene a multidisciplinary panel of specialists in aircraft operations, flightcrew member training, human factors, and aviation safety to study and submit to the Administrator a report on methods to increase the familiarity of flightcrew members with, and improve the response of flightcrew members to, stick pusher systems, icing conditions, and microburst and windshear weather events.

(2) **REPORT TO CONGRESS.**—Not later than one year after the date on which the Administrator convenes the panel, the Administrator shall—

(A) submit a report to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation based on the findings of the panel; and

(B) with respect to stick pusher systems, initiate appropriate actions to implement the recommendations of the panel.

SEC. 556. FLIGHTCREW MEMBER MENTORING, PROFESSIONAL DEVELOPMENT, AND LEADERSHIP.

(a) **AVIATION RULEMAKING COMMITTEE.**—

(1) **IN GENERAL.**—The Administrator of the Federal Aviation Administration shall conduct an aviation rulemaking committee proceeding with stakeholders to develop procedures for each part 121 air carrier to take the following actions:

(A) Establish flightcrew member mentoring programs under which the air carrier will pair highly experienced flightcrew members who will serve as mentor pilots and be paired with newly employed flightcrew members. Mentor pilots should be provided, at a minimum, specific instruction on techniques for instilling and reinforcing the highest standards of technical performance, airmanship, and professionalism in newly employed flightcrew members.

(B) Establish flightcrew member professional development committees made up of air carrier management and labor union or professional association representatives to develop, administer, and oversee formal mentoring programs of the carrier to assist flightcrew members to reach their maximum potential as safe, seasoned, and proficient flightcrew members.

(C) Establish or modify training programs to accommodate substantially different levels and types of flight experience by newly employed flightcrew members.

(D) Establish or modify training programs for second-in-command flightcrew members attempting to qualify as pilot-in-command flightcrew members for the first time in a specific aircraft type and ensure that such programs include leadership and command training.

(E) Ensure that recurrent training for pilots in command includes leadership and command training.

(F) Such other actions as the aviation rulemaking committee determines appropriate to enhance flightcrew member professional development.

(2) **COMPLIANCE WITH STERILE COCKPIT RULE.**—Leadership and command training described in paragraphs (1)(D) and (1)(E) shall include instruction on compliance with flightcrew member duties under part 121.542 of title 14, Code of Federal Regulations.

(3) **STREAMLINED PROGRAM REVIEW.**—

(A) **IN GENERAL.**—As part of the rulemaking required by subsection (a), the Administrator shall establish a streamlined process for part 121 air carriers that have in effect, as of the date of enactment of this Act, the programs required by paragraph (1).

(B) **EXPEDITED APPROVALS.**—Under the streamlined process, the Administrator shall—

(i) review the programs of such part 121 air carriers to determine whether the programs meet the requirements set forth in the final rule referred to in subsection (b)(2); and

(ii) expedite the approval of the programs that the Administrator determines meet such requirements.

(b) **DEADLINES.**—The Administrator shall issue—

(1) not later than 180 days after the date of enactment of this Act, a notice of proposed rulemaking under subsection (a); and

(2) not later than 24 months after such date of enactment, a final rule under subsection (a).

SEC. 557. FLIGHTCREW MEMBER SCREENING AND QUALIFICATIONS.

(a) **REQUIREMENTS.**—The Administrator of the Federal Aviation Administration shall conduct a rulemaking proceeding to require part 121 air carriers to develop and implement means and methods for ensuring that flightcrew members have proper qualifications and experience.

(b) **MINIMUM EXPERIENCE REQUIREMENT.**—

(1) **IN GENERAL.**—The final rule prescribed under subsection (a) shall, among any other requirements established by the rule, require that a pilot—

(A) have not less than 800 hours of flight time before serving as a flightcrew member for a part 121 air carrier; and

(B) demonstrate the ability to—

(i) function effectively in a multi-pilot environment;

(ii) function effectively in an air carrier operational environment;

(iii) function effectively in adverse weather conditions, including icing conditions if the pilot is expected to be operating aircraft in icing conditions;

(iv) function effectively during high altitude operations; and

(v) adhere to the highest professional standards.

(2) **HOURS OF FLIGHT EXPERIENCE IN DIFFICULT OPERATIONAL CONDITIONS.**—The total number of hours of flight experience required by the Administrator under paragraph (1) for pilots shall include a number of hours of flight experience in difficult operational conditions that may be encountered by an air carrier that the Administrator determines to be sufficient to enable a pilot to operate an aircraft safely in such conditions.

(c) **DEADLINES.**—The Administrator shall issue—

(1) not later than 180 days after the date of enactment of this Act, a notice of proposed rulemaking under subsection (a); and

(2) not later than December 31, 2011, a final rule under subsection (a).

(d) **DEFAULT REQUIREMENTS.**—If the Administrator fails to meet the deadline established by subsection (c)(2), then all

flightcrew members for part 121 air carriers shall meet the requirements established by subpart G of part 61 of the Federal Aviation Administration's regulations (14 C.F.R. 61.151 et seq.).

(e) **DEFINITIONS.**—In this section:

(1) **FLIGHTCREW MEMBER.**—The term “flightcrew member” has the meaning given that term in section 1.1 of the Federal Aviation Administration's regulations (14 C.F.R. 1.1).

(2) **PART 121 AIR CARRIER.**—The term “part 121 air carrier” has the meaning given that term by section 41720(d)(1) of title 49, United States Code.

SEC. 558. PROHIBITION ON PERSONAL USE OF CERTAIN DEVICES ON FLIGHT DECK.

(a) **IN GENERAL.**—Chapter 447, as amended by section 521 of this Act, is further amended by adding at the end thereof the following:

“§ 44731. Use of certain devices on flight deck”

“(a) **IN GENERAL.**—It is unlawful for any member of the flight crew of an aircraft used to provide air transportation under part 121 of title 14, Code of Federal Regulations, to use a personal wireless communications device or laptop computer while at the crew member's duty station on the flight deck of such an aircraft while the aircraft is being operated.

“(b) **EXCEPTIONS.**—Subsection (a) shall not apply to the use of a personal wireless communications device or laptop computer for a purpose directly related to operation of the aircraft, or for emergency, safety-related, or employment-related communications, in accordance with procedures established by the air carrier or the Federal Aviation Administration.

“(c) **ENFORCEMENT.**—In addition to the penalties provided under section 46301 of this title applicable to any violation of this section, the Administrator of the Federal Aviation Administration may enforce compliance with this section under section 44709.

“(d) **PERSONAL WIRELESS COMMUNICATIONS DEVICE DEFINED.**—The term ‘personal wireless communications device’ means a device through which personal wireless services (as defined in section 332(c)(7)(C)(i) of the Communications Act of 1934 (47 U.S.C. 332(c)(7)(C)(i))) are transmitted.”.

(b) **PENALTY.**—Section 44711(a) is amended—

(1) by striking “or” after the semicolon in paragraph (8);

(2) by striking “title.” in paragraph (9) and inserting “title; or”; and

(3) by adding at the end the following:

“(10) violate section 44730 of this title or any regulation issued thereunder.”.

(c) **CONFORMING AMENDMENT.**—The table of contents for chapter 447 is amended by adding at the end thereof the following:

“44731. Use of certain devices on flight deck”.

(d) **REGULATIONS.**—Within 30 days after the date of enactment of this Act, the Secretary of Transportation shall initiate a rulemaking procedure for regulations under section 44730 of title 49, United States Code, and shall issue a final rule thereunder within 1 year after the date of enactment of this Act.

(e) **STUDY.**—

(1) **IN GENERAL.**—The Administrator of the Federal Aviation Administration shall review relevant air carrier data and carry out a study—

(A) to identify common sources of distraction for the cockpit flight crew on commercial aircraft; and

(B) to determine the safety impacts of such distractions.

(2) **REPORT.**—Not later than 6 months after the date of the enactment of this Act, the Administrator shall submit a report to the Committee on Commerce, Science, and

Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that contains—

(A) the findings of the study conducted under paragraph (1); and

(B) recommendations about ways to reduce distractions for cockpit flight crews.

SEC. 559. SAFETY INSPECTIONS OF REGIONAL AIR CARRIERS.

The Administrator shall, not less frequently than once each year, perform random, unannounced, on-site inspections of air carriers that provide air transportation pursuant to a contract with a part 121 air carrier to ensure that such air carriers are complying with all applicable safety standards of the Administration.

SEC. 560. ESTABLISHMENT OF SAFETY STANDARDS WITH RESPECT TO THE TRAINING, HIRING, AND OPERATION OF AIRCRAFT BY PILOTS.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Administrator shall issue a final rule with respect to the Notice of Proposed Rulemaking published in the Federal Register on January 12, 2009 (74 Fed. Reg. 1280), relating to training programs for flight crew members and aircraft dispatchers.

(b) EXPERT PANEL TO REVIEW PART 121 AND PART 135 TRAINING HOURS.—

(1) ESTABLISHMENT.—Not later than 60 days after the date of enactment of this Act, the Administrator shall convene a multidisciplinary expert panel comprised of, at a minimum, air carrier representatives, training facility representatives, instructional design experts, aircraft manufacturers, safety organization representatives, and labor union representatives.

(2) ASSESSMENT AND RECOMMENDATIONS.—The panel shall assess and make recommendations concerning—

(A) the best methods and optimal time needed for flightcrew members of part 121 air carriers and flightcrew members of part 135 air carriers to master aircraft systems, maneuvers, procedures, take offs and landings, and crew coordination;

(B) the optimal length of time between training events for such crewmembers, including recurrent training events;

(C) the best methods to reliably evaluate mastery by such crewmembers of aircraft systems, maneuvers, procedures, take offs and landings, and crew coordination; and

(D) the best methods to allow specific academic training courses to be credited pursuant to section 11(d) toward the total flight hours required to receive an airline transport pilot certificate.

(3) REPORT.—Not later than one year after the date of enactment of this Act, the Administrator shall submit a report to the House of Representatives Committee on Transportation and Infrastructure and the Senate Committee on Commerce, Science, and Transportation based on the findings of the panel.

SEC. 561. OVERSIGHT OF PILOT TRAINING SCHOOLS.

(a) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Administrator shall submit to Congress a plan for overseeing pilot schools certified under part 141 of title 14, Code of Federal Regulations, that includes—

(1) ensuring that the curriculum and course outline requirements for such schools under subpart C of such part are being met; and

(2) conducting on-site inspections of each such school not less frequently than once every 2 years.

(b) GAO STUDY.—The Comptroller General shall conduct a comprehensive study of flight schools, flight education, and aca-

demic training requirements for certification of an individual as a pilot.

(c) REPORT.—Not later than 180 days after the date of enactment of this Act, the Comptroller General shall submit a report to the House of Representatives Committee on Transportation and Infrastructure and the Senate Committee on Commerce, Science, and Transportation on the results of the study.

SEC. 562. ENHANCED TRAINING FOR FLIGHT ATTENDANTS AND GATE AGENTS.

(a) IN GENERAL.—Chapter 447, as amended by section 558 of this Act, is further amended by adding at the end the following:

“§ 44732. Training of flight attendants and gate agents

“(a) TRAINING REQUIRED.—In addition to other training required under this chapter, each air carrier shall provide initial and annual recurring training for flight attendants and gate agents employed or contracted by such air carrier regarding—

“(1) serving alcohol to passengers;

“(2) recognizing intoxicated passengers; and

“(3) dealing with disruptive passengers.

“(b) SITUATIONAL TRAINING.—In carrying out the training required under subsection (a), each air carrier shall provide situational training to flight attendants and gate agents on the proper method for dealing with intoxicated passengers who act in a belligerent manner.

“(c) DEFINITIONS.—In this section:

“(1) AIR CARRIER.—The term ‘air carrier’ means a person or commercial enterprise that has been issued an air carrier operating certificate under section 44705.

“(2) FLIGHT ATTENDANT.—The term ‘flight attendant’ has the meaning given the term in section 44728(f).

“(3) GATE AGENT.—The term ‘gate agent’ means an individual working at an airport whose responsibilities include facilitating passenger access to commercial aircraft.

“(4) PASSENGER.—The term ‘passenger’ means an individual traveling on a commercial aircraft, from the time at which the individual arrives at the airport from which such aircraft departs until the time the individual leaves the airport to which such aircraft arrives.”.

(b) CLERICAL AMENDMENT.—The table of contents for chapter 447 is amended by adding at the end the following:

“44732. Training of flight attendants and gate agents”.

(c) RULEMAKING.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Transportation shall issue regulations to carry out section 44730 of title 49, United States Code, as added by subsection (a).

SEC. 563. DEFINITIONS.

In this subtitle:

(1) AVIATION SAFETY ACTION PROGRAM.—The term “Aviation Safety Action Program” means the program described under Federal Aviation Administration Advisory Circular No. 120-66B that permits employees of participating air carriers and repair station certificate holders to identify and report safety issues to management and to the Administration for resolution.

(2) ADMINISTRATOR.—The term “Administrator” means the Administrator.

(3) AIR CARRIER.—The term “air carrier” has the meaning given that term by section 40102(2) of title 49, United States Code.

(4) FAA.—The term “FAA” means the Federal Aviation Administration.

(5) FLIGHT OPERATIONAL QUALITY ASSURANCE PROGRAM.—The term “Flight Operational Quality Assurance Program” means the voluntary safety program authorized

under section 13.401 of title 14, Code of Federal Regulations, that permits commercial air carriers and pilots to share confidential aggregate information with the Administration to permit the Administration to target resources to address operational risk issues.

(6) LINE OPERATIONS SAFETY AUDIT PROGRAM.—The term “Line Operations Safety Audit Program” has the meaning given that term by Federal Aviation Administration Advisory Circular Number 120-90.

(7) PART 121 AIR CARRIER.—The term “part 121 air carrier” has the meaning given that term by section 41719(d)(1) of title 49, United States Code.

SEC. 564. STUDY OF AIR QUALITY IN AIRCRAFT CABINS.

(a) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Administrator of the Federal Aviation Administration shall initiate a study of air quality in aircraft cabins to—

(1) assess bleed air quality on the full range of commercial aircraft operating in the United States;

(2) identify oil-based contaminants, hydraulic fluid toxins, and other air toxins that appear in cabin air and measure the quantity and prevalence, or absence of those toxins through a comprehensive sampling program;

(3) determine the specific amount and duration of toxic fumes present in aircraft cabins that constitutes a health risk to passengers;

(4) develop a systematic reporting standard for smoke and fume events in aircraft cabins;

(5) identify the potential health risks to individuals exposed to toxic fumes during flight; and

(6) determine the extent to which the installation of sensors and air filters on commercial aircraft would provide a public health benefit.

(b) AUTHORITY TO MONITOR AIR IN AIRCRAFT CABINS.—For purposes of conducting the study required by subsection (a), the Administrator of the Federal Aviation Administration shall require domestic air carriers to allow air quality monitoring on their aircraft in a manner that imposes no significant costs on the air carrier and does not interfere with the normal operation of the aircraft.

TITLE VI—AVIATION RESEARCH

SEC. 601. AIRPORT COOPERATIVE RESEARCH PROGRAM.

(a) IN GENERAL.—Section 44511(f) is amended—

(1) by striking “establish a 4-year pilot” in paragraph (1) and inserting “maintain an”; and

(2) by inserting “pilot” in paragraph (4) before “program” the first time it appears; and

(3) by striking “program, including recommendations as to the need for establishing a permanent airport cooperative research program.” in paragraph (4) and inserting “program.”.

(b) AIRPORT COOPERATIVE RESEARCH PROGRAM.—Not more than \$15,000,000 per year for fiscal years 2010 and 2011 may be appropriated to the Secretary of Transportation from the amounts made available each year under subsection (a) for the Airport Cooperative Research Program under section 44511 of this title, of which not less than \$5,000,000 per year shall be for research activities related to the airport environment, including reduction of community exposure to civil aircraft noise, reduction of civil aviation emissions, or addressing water quality issues.

SEC. 602. REDUCTION OF NOISE, EMISSIONS, AND ENERGY CONSUMPTION FROM CIVILIAN AIRCRAFT.

(a) ESTABLISHMENT OF RESEARCH PROGRAM.—From amounts made available under

section 48102(a) of title 49, United States Code, the Administrator of the Federal Aviation Administration shall establish a research program related to reducing civilian aircraft energy use, emissions, and source noise with equivalent safety through grants or other measures, which may include cost-sharing, authorized under section 106(1)(6) of such title, including reimbursable agreements with other Federal agencies.

(b) **ESTABLISHMENT OF CONSORTIUM.**—

(1) **DESIGNATION AS CONSORTIUM.**—Not later than 180 days after the date of the enactment of this Act, the Administrator shall designate, using a competitive process, one or more institutions or entities described in paragraph (2) as a Consortium for Continuous Low Energy, Emissions, and Noise (CLEEN) to perform research in accordance with this section.

(2) **PARTICIPATION.**—The Administrator shall include educational and research institutions or private sector entities that have existing facilities and experience for developing and testing noise, emissions and energy reduction engine and aircraft technology, and developing alternative fuels in the research program required by subsection (a).

(3) **COORDINATION MECHANISMS.**—In conducting the research program, the Consortium designated under paragraph (1) shall—

(A) coordinate its activities with the Department of Agriculture, the Department of Energy, the National Aeronautics and Space Administration, and other relevant Federal agencies; and

(B) consult on a regular basis with the Commercial Aviation Alternative Fuels Initiative.

(c) **PERFORMANCE OBJECTIVES.**—Not later than January 1, 2016, the research program shall accomplish the following objectives:

(1) Certifiable aircraft technology that reduces fuel burn 33 percent compared to current technology, reducing energy consumption and carbon dioxide emissions.

(2) Certifiable engine technology that reduces landing and takeoff cycle nitrogen oxide emissions by 60 percent, at a pressure ratio of 30 over the International Civil Aviation Organization standard adopted at the 6th Meeting of the Committee on Aviation Environmental Protection, with commensurate reductions over the full pressure ratio range, while limiting or reducing other gaseous or particle emissions.

(3) Certifiable aircraft technology that reduces noise levels by 32 Effective Perceived Noise in decibels (EPNdB) cumulative, relative to Stage 4 standards.

(4) Advance qualification and environmental assurance of alternative aviation fuels to support a goal of having 20 percent of the jet fuel available for purchase by United States commercial airlines and cargo carriers be alternative fuels.

(5) Determination of the extent to which new engine and aircraft technologies may be used to retrofit or re-engine aircraft so as to increase the level of penetration into the commercial fleet.

SEC. 603. PRODUCTION OF ALTERNATIVE FUEL TECHNOLOGY FOR CIVILIAN AIRCRAFT.

(a) **IN GENERAL.**—From amounts made available under section 48102(a) of title 49, United States Code, the Secretary of Transportation shall establish a research program related to developing jet fuel from natural gas, biomass and other renewable sources through grants or other measures authorized under section 106(1)(6) of such title, including reimbursable agreements with other Federal agencies.

(b) **PARTICIPATION IN PROGRAM.**—The Secretary shall—

(1) include educational and research institutions that have existing facilities and ex-

perience in the research, small-scale development, testing, or evaluation of technologies related to the creation, processing, and production of a variety of feedstocks into aviation fuel under the program required by subsection (a); and

(2) consider utilizing the existing capacity in Aeronautics research at Langley Research Center of the National Aeronautics and Space Administration to carry out the program required by subsection (a).

(c) **DESIGNATION OF INSTITUTION AS A CENTER OF EXCELLENCE.**—Not later than 180 days after the date of the enactment of this Act, the Administrator of the Federal Aviation Administration shall designate an institution described in subsection (b) as a Center of Excellence for Alternative Jet-Fuel Research in Civil Aircraft. The Center of Excellence shall be a member of the CLEEN Consortium established under section 602(b), and shall be part of a Joint Center of Excellence with the Partnership for Air Transportation Noise and Emission Reduction FAA Center of Excellence.

SEC. 604. PRODUCTION OF CLEAN COAL FUEL TECHNOLOGY FOR CIVILIAN AIRCRAFT.

(a) **ESTABLISHMENT OF RESEARCH PROGRAM.**—From amounts made available under section 48102(a) of title 49, United States Code, the Secretary of Transportation shall establish a research program related to developing jet fuel from clean coal through grants or other measures authorized under section 106(1)(6) of such title, including reimbursable agreements with other Federal agencies. The program shall include participation by educational and research institutions that have existing facilities and experience in the development and deployment of technology that processes coal to aviation fuel.

(b) **DESIGNATION OF INSTITUTION AS A CENTER OF EXCELLENCE.**—Within 6 months after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall designate an institution described in subsection (a) as a Center of Excellence for Coal-to-Jet-Fuel Research.

SEC. 605. RESEARCH PROGRAM TO IMPROVE AIRFIELD PAVEMENTS.

(a) **CONTINUATION OF PROGRAM.**—The Administrator of the Federal Aviation Administration shall continue the program to consider awards to nonprofit concrete and asphalt pavement research foundations to improve the design, construction, rehabilitation, and repair of airfield pavements to aid in the development of safer, more cost effective, and more durable airfield pavements.

(b) **USE OF GRANTS OR COOPERATIVE AGREEMENTS.**—The Administrator may use grants or cooperative agreements in carrying out this section.

SEC. 606. WAKE TURBULENCE, VOLCANIC ASH, AND WEATHER RESEARCH.

Within 60 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall—

(1) initiate evaluation of proposals that would increase capacity throughout the air transportation system by reducing existing spacing requirements between aircraft of all sizes, including research on the nature of wake vortices;

(2) begin implementation of a system to improve volcanic ash avoidance options for aircraft, including the development of a volcanic ash warning and notification system for aviation; and

(3) establish research projects on—

(A) ground de-icing/anti-icing, ice pellets, and freezing drizzle;

(B) oceanic weather, including convective weather;

(C) en route turbulence prediction and detection; and

(D) all hazards during oceanic operations, where commercial traffic is high and only rudimentary satellite sensing is available, to reduce the hazards presented to commercial aviation.

SEC. 607. INCORPORATION OF UNMANNED AIRCRAFT SYSTEMS INTO FAA PLANS AND POLICIES.

(a) **RESEARCH.**—

(1) **EQUIPMENT.**—Section 44504, as amended by section 216 of this Act, is further amended—

(A) by inserting “unmanned and manned” in subsection (a) after “improve”;

(B) by striking “and” after the semicolon in subsection (b)(7);

(C) by striking “emitted.” in subsection (b)(8) and inserting “emitted; and”;

(D) by adding at the end of subsection (b) the following:

“(9) in conjunction with other Federal agencies as appropriate, to develop technologies and methods to assess the risk of and prevent defects, failures, and malfunctions of products, parts, and processes, for use in all classes of unmanned aircraft systems that could result in a catastrophic failure.”.

(2) **HUMAN FACTORS; SIMULATIONS.**—Section 44505(b) is amended—

(A) by striking “and” after the semicolon in paragraph (4);

(B) by striking “programs.” in paragraph (5)(C) and inserting “programs; and”;

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

“(6) to develop a better understanding of the relationship between human factors and unmanned aircraft systems air safety; and

“(7) to develop dynamic simulation models of integrating all classes of unmanned aircraft systems into the National Airspace System.”.

(b) **NATIONAL ACADEMY OF SCIENCES ASSESSMENT.**—

(1) **IN GENERAL.**—Within 3 months after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall enter into an arrangement with the National Academy of Sciences for an assessment of unmanned aircraft systems that may include consideration of—

(A) human factors regarding unmanned aircraft systems operation;

(B) “detect, sense and avoid technologies” with respect to both cooperative and non-cooperative aircraft;

(C) spectrum issues and bandwidth requirements;

(D) operation in suboptimal winds and adverse weather conditions;

(E) mechanisms such as the use of transponders for letting other entities know where the unmanned aircraft system is flying;

(F) airworthiness and system redundancy;

(G) flight termination systems for safety and security;

(H) privacy issues;

(I) technologies for unmanned aircraft systems flight control;

(J) technologies for unmanned aircraft systems propulsion;

(K) unmanned aircraft systems operator qualifications, medical standards, and training requirements;

(L) unmanned aircraft systems maintenance requirements and training requirements; and

(M) any other unmanned aircraft systems-related issue the Administrator believes should be addressed.

(2) **REPORT.**—Within 12 months after initiating the study, the National Academy shall submit its report to the Administrator, the Senate Committee on Commerce, Science, and Transportation, and the House of Representatives Committee on Transportation

and Infrastructure containing its findings and recommendations.

(c) PILOT PROJECTS.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall establish 3 2-year cost-shared pilot projects in sparsely populated, low-density Class G air traffic airspace new test sites to conduct experiments and collect data in order to accelerate the safe integration of unmanned aircraft systems into the National Airspace System as follows:

(A) 1 project shall address operational issues required for integration of Category 1 unmanned aircraft systems defined as analogous to RC models covered in the FAA Advisory Circular AC 91-57.

(B) 1 project shall address operational issues required for integration of Category 2 unmanned aircraft systems defined as non-standard aircraft that perform special purpose operations. Operators must provide evidence of airworthiness and operator qualifications.

(C) 1 project shall address operational issues required for integration of Category 3 unmanned aircraft systems defined as capable of flying throughout all categories of airspace and conforming to part 91 of title 14, Code of Federal Regulations.

(D) All 3 pilot projects shall be operational no later than 6 months after being established.

(2) USE OF CONSORTIA.—In conducting the pilot projects, the Administrator shall encourage the formation of participating consortia from the public and private sectors, educational institutions, and non-profit organization.

(3) REPORT.—Within 90 days after completing the pilot projects, the Administrator shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure setting forth the Administrator's findings and conclusions concerning the projects.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Administrator for fiscal years 2010 and 2011 such sums as may be necessary to conduct the pilot projects.

(d) UNMANNED AIRCRAFT SYSTEMS ROADMAP.—Within 30 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall approve and make available in print and on the Administration's website a 5-year "roadmap" for the introduction of unmanned aircraft systems into the National Airspace System being coordinated by its Unmanned Aircraft Program Office. The Administrator shall update the "roadmap" annually.

(e) UPDATED POLICY STATEMENT.—Not later than 90 days after the date of enactment of this Act, the Administrator shall issue a notice of proposed rulemaking to update the Administration's most recent policy statement on unmanned aircraft systems, Docket No. FAA-2006-25714.

(f) EXPANDING THE USE OF UAS IN THE ARCTIC.—Within 6 months after the date of enactment of this Act, the Administrator, in consultation with the National Oceanic and Atmospheric Administration, the Coast Guard, and other Federal agencies as appropriate, shall identify permanent areas in the Arctic where small unmanned aircraft may operate 24 hours per day from 2000 feet to the surface and beyond line-of-sight for research and commercial purposes. Within 12 months after the date of enactment of this Act, the Administrator shall have established and implemented a single process for approving unmanned aircraft use in the designated arctic regions regardless of whether the unmanned

aircraft is used as a public aircraft, a civil aircraft, or as a model aircraft.

(g) SPECIAL RULE FOR MODEL AIRCRAFT.—

(1) IN GENERAL.—Notwithstanding any other provision of law relating to the incorporation of unmanned aircraft systems into FAA plans and policies, including this section, the Administrator shall not promulgate any rules or regulations regarding model aircraft or aircraft being developed as model aircraft if such aircraft is—

(A) flown strictly for recreational, sport, competition, or academic purposes;

(B) operated in accordance with a community-based set of safety guidelines and within the programming of a nationwide community-based organization; and

(C) limited to not more than 55 pounds unless otherwise certified through a design, construction, inspection, flight test, and operational safety program currently administered by a community-based organization.

(2) MODEL AIRCRAFT DEFINED.—For purposes of this subsection, the term "model aircraft" means a nonhuman-carrying (unmanned) radio-controlled aircraft capable of sustained flight in the atmosphere, navigating the airspace and flown within visual line-of-sight of the operator for the exclusive and intended use for sport, recreation, competition, or academic purposes.

(h) DEFINITIONS.—In this section:

(1) ARCTIC.—The term "Arctic" means the United States zone of the Chukchi, Beaufort, and Bering Sea north of the Aleutian chain.

(2) PERMANENT AREAS.—The term "permanent areas" means areas on land or water that provide for terrestrial launch and recovery of small unmanned aircraft.

SEC. 608. REAUTHORIZATION OF CENTER OF EXCELLENCE IN APPLIED RESEARCH AND TRAINING IN THE USE OF ADVANCED MATERIALS IN TRANSPORT AIRCRAFT.

Section 708(b) of the Vision 100—Century of Aviation Reauthorization Act (49 U.S.C. 44504 note) is amended by striking "\$500,000 for fiscal year 2004" and inserting "\$1,000,000 for each of fiscal years 2008 through 2012".

SEC. 609. PILOT PROGRAM FOR ZERO EMISSION AIRPORT VEHICLES.

(a) IN GENERAL.—Subchapter I of chapter 471 is amended by inserting after section 47136 the following:

"§ 47136A. Zero emission airport vehicles and infrastructure

"(a) IN GENERAL.—The Secretary of Transportation shall establish a pilot program under which the sponsor of a public-use airport may use funds made available under section 47117 or section 48103 for use at such airports or passenger facility revenue (as defined in section 40117(a)(6)) to carry out activities associated with the acquisition and operation of zero emission vehicles (as defined in section 88.120-94 of title 40, Code of Federal Regulations), including the construction or modification of infrastructure to facilitate the delivery of fuel and services necessary for the use of such vehicles. Any use of funds authorized by the preceding sentence shall be considered to be an authorized use of funds under section 47117 or section 48103, or an authorized use of passenger facility revenue (as defined in section 40117(a)(6)), as the case may be.

"(b) LOCATION IN AIR QUALITY NONATTAINMENT AREAS.—

"(1) IN GENERAL.—A public-use airport shall be eligible for participation in the pilot program only if the airport is located in an air quality nonattainment area (as defined in section 171(2) of the Clean Air Act (42 U.S.C. 7501(2))).

"(2) SHORTAGE OF CANDIDATES.—If the Secretary receives an insufficient number of applications from public-use airports located in

such areas, then the Secretary may consider applications from public-use airports that are not located in such areas.

"(c) SELECTION CRITERIA.—In selecting from among applicants for participation in the program, the Secretary shall give priority consideration to applicants that will achieve the greatest air quality benefits measured by the amount of emissions reduced per dollar of funds expended under the program.

"(d) FEDERAL SHARE.—Notwithstanding any other provision of this subchapter, the Federal share of the costs of a project carried out under the program shall be 50 percent.

"(e) TECHNICAL ASSISTANCE.—

"(1) IN GENERAL.—The sponsor of a public-use airport carrying out activities funded under the program may not use more than 10 percent of the amounts made available under the program in any fiscal year for technical assistance in carrying out such activities.

"(2) ELIGIBLE CONSORTIUM.—To the maximum extent practicable, participants in the program shall use an eligible consortium (as defined in section 5506 of this title) in the region of the airport to receive technical assistance described in paragraph (1).

"(f) MATERIALS IDENTIFYING BEST PRACTICES.—The Secretary may develop and make available materials identifying best practices for carrying out activities funded under the program based on projects carried out under section 47136 and other sources."

(b) REPORT ON EFFECTIVENESS OF PROGRAM.—Not later than 18 months after the date of enactment of the FAA Air Transportation Modernization and Safety Improvement Act, the Secretary of Transportation shall transmit a report to the Senate Committee on Commerce, Science, and Transportation the House of Representatives Committee on Transportation and Infrastructure containing—

(1) an evaluation of the effectiveness of the pilot program;

(2) an identification of all public-use airports that expressed an interest in participating in the program; and

(3) a description of the mechanisms used by the Secretary to ensure that the information and know-how gained by participants in the program is transferred among the participants and to other interested parties, including other public-use airports.

(c) CONFORMING AMENDMENT.—The table of contents for chapter 471 is amended by inserting after the item relating to section 47136 the following:

"47136A. Zero emission airport vehicles and infrastructure".

SEC. 610. REDUCTION OF EMISSIONS FROM AIRPORT POWER SOURCES.

(a) IN GENERAL.—Subchapter I of chapter 471 is amended by inserting after section 47140 the following:

"§ 47140A. Reduction of emissions from airport power sources

"(a) IN GENERAL.—The Secretary of Transportation shall establish a program under which the sponsor of each airport eligible to receive grants under section 48103 is encouraged to assess the airport's energy requirements, including heating and cooling, base load, back-up power, and power for on-road airport vehicles and ground support equipment, in order to identify opportunities to reduce harmful emissions and increase energy efficiency at the airport.

"(b) GRANTS.—The Secretary may make grants under section 48103 to assist airport sponsors that have completed the assessment described in subsection (a) to acquire or construct equipment, including hydrogen equipment and related infrastructure, that will reduce harmful emissions and increase energy

efficiency at the airport. To be eligible for such a grant, the sponsor of such an airport shall submit an application to the Secretary, at such time, in such manner, and containing such information as the Secretary may require.”.

(b) CONFORMING AMENDMENT.—The table of contents for chapter 471 is amended by inserting after the item relating to section 47140 the following:

“47140A. Reduction of emissions from airport power sources”.

SEC. 611. SITING OF WIND FARMS NEAR FAA NAVIGATIONAL AIDES AND OTHER ASSETS.

(a) SURVEY AND ASSESSMENT.—

(1) IN GENERAL.—In order to address safety and operational concerns associated with the construction, alteration, establishment, or expansion of wind farms in proximity to critical FAA facilities, the Administrator shall, within 60 days after the date of enactment of this Act, complete a survey and assessment of leases for critical FAA facility sites, including—

(A) an inventory of the leases that describes, for each such lease—

(i) the periodic cost, location, site, terms, number of years remaining, and lessor;

(ii) other Administration facilities that share the leasehold, including surveillance and communications equipment; and

(iii) the type of transmission services supported, including the terms of service, cost, and support contract obligations for the services; and

(B) a list of those leases for facilities located in or near areas suitable for the construction and operation of wind farms, as determined by the Administrator in consultation with the Secretary of Energy.

(2) REPORT.—Upon completion of the survey and assessment, the Administrator shall submit a report to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Transportation and Infrastructure, and the Comptroller General containing the Administrator's findings, conclusions, and recommendations.

(b) GAO ASSESSMENT.—

(1) IN GENERAL.—Within 180 days after receiving the Administrator's report under subsection (a)(2), the Comptroller General, in consultation with the Administrator, shall report on—

(A) the current and potential impact of wind farms on the national airspace system;

(B) the extent to which the Department of Defense and the Federal Aviation Administration have guidance, processes, and procedures in place to evaluate the impact of wind farms on the implementation of the Next Generation air traffic control system; and

(C) potential mitigation strategies, if necessary, to ensure that wind farms do not have an adverse impact on the implementation of the Next Generation air traffic control system, including the installation of navigational aides associated with that system.

(c) ISSUANCE OF GUIDELINES; PUBLIC INFORMATION.—

(1) GUIDANCE.—Within 60 days after the Administrator receives the Comptroller's recommendations, the Administrator shall publish guidelines for the construction and operation of wind farms to be located in proximity to critical Federal Aviation Administration facilities. The guidelines may include—

(A) the establishment of a zone system for wind farms based on proximity to critical FAA assets;

(B) the establishment of turbine height and density limitations on such wind farms;

(C) requirements for notice to the Administration under section 44718(a) of title 49,

United States Code, before the construction, alteration, establishment, or expansion of a such a wind farm; and

(D) any other requirements or recommendations designed to address Administration safety or operational concerns related to the construction, alteration, establishment, or expansion of such wind farms.

(2) PUBLIC ACCESS TO INFORMATION.—To the extent feasible, taking into consideration security, operational, and public safety concerns (as determined by the Administrator), the Administrator shall provide public access to information regarding the planning, construction, and operation of wind farms in proximity to critical FAA facilities on, or by linkage from, the homepage of the Federal Aviation Administration's public website.

(d) CONSULTATION WITH OTHER FEDERAL AGENCIES.—In carrying out this section, the Administrator and the Comptroller General shall consult, as appropriate, with the Secretaries of the Army, the Navy, the Air Force, Homeland Security, and Energy—

(1) to coordinate the requirements of each department for future air space needs;

(2) to determine what the acceptable risks are to the existing infrastructure of each department; and

(3) to define the different levels of risk for such infrastructure.

(e) REPORTS.—The Administrator and the Comptroller General shall provide a copy of reports under subsections (a) and (b), respectively, to the Senate Committee on Homeland Security and Governmental Affairs, the Senate Committee on Armed Services, the House of Representatives Committee on Homeland Security, the House of Representatives Committee on Armed Services, and the House of Representatives Committee on Science and Technology, as appropriate.

(f) DEFINITIONS.—In this section:

(1) ADMINISTRATION.—The term “Administration” means the Federal Aviation Administration.

(2) ADMINISTRATOR.—The term “Administrator” means the Administrator of the Federal Aviation Administration.

(3) CRITICAL FAA FACILITIES.—The term “critical FAA facilities” means facilities on which are located navigational aides, surveillance systems, or communications systems used by the Administration in administration of the national airspace system.

(4) WIND FARM.—The term “wind farm” means an installation of 1 or more wind turbines used for the generation of electricity.

SEC. 612. RESEARCH AND DEVELOPMENT FOR EQUIPMENT TO CLEAN AND MONITOR THE ENGINE AND APU BLEED AIR SUPPLIED ON PRESSURIZED AIRCRAFT.

(a) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall, to the degree practicable, implement a research program for the identification or development of appropriate and effective air cleaning technology and sensor technology for the engine and auxiliary power unit (APU) bleed air supplied to the passenger cabin and flight deck of all pressurized aircraft.

(b) TECHNOLOGY REQUIREMENTS.—The technology referred to in subsection (a) should, at a minimum, have the capacity—

(1) to remove oil-based contaminants from the bleed air supplied to the passenger cabin and flight deck; and

(2) to detect and record oil-based contaminants in the portion of the total air supplied to the passenger cabin and flight deck from bleed air.

(c) REPORT.—Not later than 1 year after the date of enactment of this Act, the Administrator shall submit to the Committee on Commerce, Science, and Transportation

of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the results of the research and development work carried out under this section.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

TITLE VII—MISCELLANEOUS

SEC. 701. GENERAL AUTHORITY.

(a) THIRD PARTY LIABILITY.—Section 44303(b) is amended by striking “December 31, 2009,” and inserting “December 31, 2012.”.

(b) EXTENSION OF PROGRAM AUTHORITY.—Section 44310 is amended by striking “December 31, 2013.” and inserting “October 1, 2017.”.

(c) WAR RISK.—Section 44302(f)(1) is amended—

(1) by striking “September 30, 2009,” and inserting “September 30, 2011.”; and

(2) by striking “December 31, 2009,” and inserting “December 31, 2011.”.

SEC. 702. HUMAN INTERVENTION MANAGEMENT STUDY.

Within 6 months after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall develop a Human Intervention Management Study program for cabin crews employed by commercial air carriers in the United States.

SEC. 703. AIRPORT PROGRAM MODIFICATIONS.

The Administrator of the Federal Aviation Administration—

(1) shall establish a formal, structured certification training program for the airport concessions disadvantaged business enterprise program; and

(2) may appoint 3 additional staff to implement the programs of the airport concessions disadvantaged business enterprise initiative.

SEC. 704. MISCELLANEOUS PROGRAM EXTENSIONS.

(a) MARSHALL ISLANDS, FEDERATED STATES OF MICRONESIA, AND PALAU.—Section 47115(j) is amended by striking “2009,” and inserting “2011.”.

(b) MIDWAY ISLAND AIRPORT.—Section 186(d) of the Vision 100—Century of Aviation Reauthorization Act (117 Stat. 2518) is amended by striking “2009,” and inserting “2011.”.

SEC. 705. EXTENSION OF COMPETITIVE ACCESS REPORTS.

Section 47107(s) is amended by striking paragraph (3).

SEC. 706. UPDATE ON OVERFLIGHTS.

(a) IN GENERAL.—Section 45301(b) is amended to read as follows:

“(b) LIMITATIONS.—

“(1) IN GENERAL.—In establishing fees under subsection (a), the Administrator shall ensure that the fees required by subsection (a) are reasonably related to the Administration's costs, as determined by the Administrator, of providing the services rendered. Services for which costs may be recovered include the costs of air traffic control, navigation, weather services, training, and emergency services which are available to facilitate safe transportation over the United States, and other services provided by the Administrator or by programs financed by the Administrator to flights that neither take off nor land in the United States. The determination of such costs by the Administrator is not subject to judicial review.

“(2) ADJUSTMENT OF FEES.—The Administrator shall adjust the overflight fees established by subsection (a)(1) by expedited rulemaking and begin collections under the adjusted fees by October 1, 2010. In developing the adjusted overflight fees, the Administrator shall seek and consider the recommendations, if any, offered by the Aviation Rulemaking Committee for Overflight

Fees that are intended to ensure that overflight fees are reasonably related to the Administrator's costs of providing air traffic control and related services to overflights. In addition, the Administrator may periodically modify the fees established under this section either on the Administrator's own initiative or on a recommendation from the Air Traffic Control Modernization Board.

“(3) **COST DATA.**—The adjustment of overflight fees under paragraph (2) shall be based on the costs to the Administration of providing the air traffic control and related activities, services, facilities, and equipment using the available data derived from the Administration's cost accounting system and cost allocation system to users, as well as budget and operational data.

“(4) **AIRCRAFT ALTITUDE.**—Nothing in this section shall require the Administrator to take into account aircraft altitude in establishing any fee for aircraft operations in en route or oceanic airspace.

“(5) **COSTS DEFINED.**—In this subsection, the term ‘costs’ means those costs associated with the operation, maintenance, debt service, and overhead expenses of the services provided and the facilities and equipment used in such services, including the projected costs for the period during which the services will be provided.

“(6) **PUBLICATION; COMMENT.**—The Administrator shall publish in the Federal Register any fee schedule under this section, including any adjusted overflight fee schedule, and the associated collection process as a proposed rule, pursuant to which public comment will be sought and a final rule issued.”.

(b) **ADMINISTRATIVE PROVISION.**—Section 45303(c)(2) is amended to read as follows:

“(2) shall be available to the Administrator for expenditure for purposes authorized by Congress for the Federal Aviation Administration, however, fees established by section 45301(a)(1) of this title shall be available only to pay the cost of activities and services for which the fee is imposed, including the costs to determine, assess, review, and collect the fee; and”.

SEC. 707. TECHNICAL CORRECTIONS.

Section 40122(g), as amended by section 307 of this Act, is further amended—

(1) by striking “section 2302(b), relating to whistleblower protection,” in paragraph (2)(A) and inserting “sections 2301 and 2302.”;

(2) by striking “and” after the semicolon in paragraph (2)(H);

(3) by striking “Plan.” in paragraph (2)(I)(iii) and inserting “Plan.”;

(4) by adding at the end of paragraph (2) the following:

“(J) section 5596, relating to back pay; and
“(K) sections 6381 through 6387, relating to Family and Medical Leave.”; and

(5) by adding at the end of paragraph (3) “Notwithstanding any other provision of law, retroactive to April 1, 1996, the Board shall have the same remedial authority over such employee appeals that it had as of March 31, 1996.”.

SEC. 708. FAA TECHNICAL TRAINING AND STAFFING.

(a) **STUDY.**—

(1) **IN GENERAL.**—The Comptroller General shall conduct a study of the training of airway transportation systems specialists of the Federal Aviation Administration that includes—

(A) an analysis of the type of training provided to such specialists;

(B) an analysis of the type of training that such specialists need to be proficient in the maintenance of the latest technologies;

(C) actions that the Administration has undertaken to ensure that such specialists receive up-to-date training on such technologies;

(D) the amount and cost of training provided by vendors for such specialists;

(E) the amount and cost of training provided by the Administration after developing in-house training courses for such specialists;

(F) the amount and cost of travel required of such specialists in receiving training; and
(G) a recommendation regarding the most cost-effective approach to providing such training.

(2) **REPORT.**—Within 1 year after the date of enactment of this Act, the Comptroller General shall transmit a report on the study containing the Comptroller General's findings and recommendations to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.

(b) **STUDY BY NATIONAL ACADEMY OF SCIENCES.**—

(1) **IN GENERAL.**—Not later than 90 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall contract with the National Academy of Sciences to conduct a study of the assumptions and methods used by the Federal Aviation Administration to estimate staffing needs for Federal Aviation Administration air traffic controllers, system specialists, and engineers to ensure proper maintenance, certification, and operation of the National Airspace System. The National Academy of Sciences shall consult with the Exclusive Bargaining Representative certified under section 7111 of title 5, United States Code, and the Administration (including the Civil Aeronautical Medical Institute) and examine data entailing human factors, traffic activity, and the technology at each facility.

(2) **CONTENTS.**—The study shall include—
(A) recommendations for objective staffing standards that maintain the safety of the National Airspace System; and

(B) the approximate length of time for developing such standards.

(3) **REPORT.**—Not later than 24 months after executing a contract under subsection (a), the National Academy of Sciences shall transmit a report containing its findings and recommendations to the Congress.

(c) **AVIATION SAFETY INSPECTORS.**—

(1) **SAFETY STAFFING MODEL.**—Within 12 months after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall develop a staffing model for aviation safety inspectors. In developing the model, the Administrator shall consult with representatives of the aviation safety inspectors and other interested parties.

(2) **SAFETY INSPECTOR STAFFING.**—The Federal Aviation Administration aviation safety inspector staffing requirement shall be no less than the staffing levels indicated as necessary in the staffing model described under subsection (a).

(d) **ALASKA FLIGHT SERVICE STATIONS.**—Not later than 180 days after the date of the enactment of this Act, the Administrator, in conjunction with flight service station personnel, shall submit a report to Congress on the future of flight service stations in Alaska, which includes—

(1) an analysis of the number of flight service specialists needed, the training needed by such personnel, and the need for a formal training and hiring program for such personnel;

(2) a schedule for necessary inspection, upgrades, and modernization of stations and equipment; and

(3) a description of the interaction between flight service stations operated by the Administration and flight service stations operated by contractors.

SEC. 709. COMMERCIAL AIR TOUR OPERATORS IN NATIONAL PARKS.

(a) **SECRETARY OF THE INTERIOR AND OVERFLIGHTS OF NATIONAL PARKS.**—

(1) Section 40128 is amended—

(A) by striking paragraph (8) of subsection (f);

(B) by striking “Director” each place it appears and inserting “Secretary of the Interior”;

(C) by striking “National Park Service” in subsection (a)(2)(B)(vi) and inserting “Department of the Interior”;

(D) in subsection (b)—

(i) in paragraph (1)—

(I) in subparagraph (A)—

(aa) by striking “, in cooperation with” and inserting “and”; and

(bb) by striking “The air tour” and all that follows; and

(II) by redesignating subparagraph (B) as subparagraph (C);

(III) by inserting after subparagraph (A) the following:

“(B) **PROCESS AND APPROVAL.**—The Federal Aviation Administration has sole authority to control airspace over the United States. The National Park Service has the sole responsibility for conserving the scenery and natural resources in National Parks and providing for the enjoyment of the National Parks unimpaired for future generations. Each air tour management plan shall be—

“(i) developed through a public process that complies with paragraph (4); and

“(ii) approved by the Administrator and the Director.”; and

(IV) by adding at the end the following:

“(D) **EXCEPTION.**—An application to begin commercial air tour operations at Crater Lake National Park may be denied without the establishment of an air tour management plan by the Director of the National Park Service if the Director determines that such operations would unacceptably impact park resources or visitor experiences.”; and

(i) in paragraph (4)(C), by striking “National Park Service” and inserting “Department of the Interior”.

(2) The National Parks Air Tour Management Act of 2000 (49 U.S.C. 40128 note) is amended—

(A) by striking “Director” in section 804(b) and inserting “Secretary of the Interior”;

(B) in section 805—

(i) by striking “Director of the National Park Service” in subsection (a) and inserting “Secretary of the Interior”;

(ii) by striking “Director” each place it appears and inserting “Secretary of the Interior”;

(iii) by striking “National Park Service” each place it appears in subsection (b) and inserting “Department of the Interior”;

(iv) by striking “National Park Service” in subsection (d)(2) and inserting “Department of the Interior”;

(C) in section 807—

(i) by striking “National Park Service” in subsection (a)(1) and inserting “Department of the Interior”;

(ii) by striking “Director of the National Park Service” in subsection (b) and inserting “Secretary of the Interior”.

(b) **ALLOWING OVERFLIGHTS IN CASE OF AGREEMENT.**—Paragraph (1) of subsection (a) of section 40128 is amended—

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

(2) by striking “lands.” in subparagraph (C) and inserting “lands; and”; and

(3) by adding at the end the following:

“(D) in accordance with a voluntary agreement between the commercial air tour operator and appropriate representatives of the national park or tribal lands, as the case may be.”.

(c) MODIFICATION OF INTERIM OPERATING AUTHORITY.—Section 40128(c)(2)(I) is amended to read as follows:

“(I) may allow for modifications of the interim operating authority without further environmental process, if—

“(i) adequate information on the existing and proposed operations of the commercial air tour operator is provided to the Administrator and the Secretary by the operator seeking operating authority;

“(ii) the Administrator determines that the modifications would not adversely affect aviation safety or the management of the national airspace system; and

“(iii) the Secretary agrees that the modifications would not adversely affect park resources and visitor experiences.”

(d) REPORTING REQUIREMENTS FOR COMMERCIAL AIR TOUR OPERATORS.—

(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, and annually thereafter, each commercial air tour conducting commercial air tour operations over a national park shall report to the Administrator of the Federal Aviation Administration and the Secretary of the Interior on—

(A) the number of commercial air tour operations conducted by such operator over the national park each day;

(B) any relevant characteristics of commercial air tour operations, including the routes, altitudes, duration, and time of day of flights; and

(C) such other information as the Administrator and the Secretary may determine necessary to administer the provisions of the National Parks Air Tour Management Act of 2000 (49 U.S.C. 40128 note).

(2) FORMAT.—The report required by paragraph (1) shall be submitted in such form as the Administrator and the Secretary determine to be appropriate.

(3) EFFECT OF FAILURE TO REPORT.—The Administrator shall rescind the operating authority of a commercial air tour operator that fails to file a report not later than 180 days after the date for the submittal of the report described in paragraph (1).

(4) AUDIT OF REPORTS.—Not later than 2 years after the date of the enactment of this Act, and at such times thereafter as the Inspector General of the Department of Transportation determines necessary, the Inspector General shall audit the reports required by paragraph (1).

(e) COLLECTION OF FEES FROM AIR TOUR OPERATIONS.—

(1) IN GENERAL.—The Secretary of the Interior shall assess a fee in an amount determined by the Secretary under paragraph (2) on a commercial air tour operator conducting commercial air tour operations over a national park.

(2) AMOUNT OF FEE.—In determining the amount of the fee assessed under paragraph (1), the Secretary shall collect sufficient revenue, in the aggregate, to pay for the expenses incurred by the Federal Government to develop air tour management plans for national parks.

(3) EFFECT OF FAILURE TO PAY FEE.—The Administrator of the Federal Aviation Administration shall revoke the operating authority of a commercial air tour operator conducting commercial air tour operations over any national park, including the Grand Canyon National Park, that has not paid the fee assessed by the Secretary under paragraph (1) by the date that is 180 days after the date on which the Secretary determines the fee shall be paid.

(f) FUNDING FOR AIR TOUR MANAGEMENT PLANS.—The Secretary of the Interior shall use the amounts collected under subsection (e) to develop air tour management plans under section 40128(b) of title 49, United

States Code, for the national parks the Secretary determines would most benefit from such a plan.

(g) GUIDANCE TO DISTRICT OFFICES ON COMMERCIAL AIR TOUR OPERATORS.—The Administrator of the Federal Aviation Administration shall provide to the Administration's district offices clear guidance on the ability of commercial air tour operators to obtain—

(1) increased safety certifications;

(2) exemptions from regulations requiring safety certifications; and

(3) other information regarding compliance with the requirements of this Act and other Federal and State laws and regulations.

(h) OPERATING AUTHORITY OF COMMERCIAL AIR TOUR OPERATORS.—

(1) TRANSFER OF OPERATING AUTHORITY.—

(A) IN GENERAL.—Subject to subparagraph (B), a commercial air tour operator that obtains operating authority from the Administrator under section 40128 of title 49, United States Code, to conduct commercial air tour operations may transfer such authority to another commercial air tour operator at any time.

(B) NOTICE.—Not later than 30 days before the date on which a commercial air tour operator transfers operating authority under subparagraph (A), the operator shall notify the Administrator and the Secretary of the intent of the operator to transfer such authority.

(C) REGULATIONS.—Not later than 180 days after the date of the enactment of this Act, the Administrator shall prescribe regulations to allow transfers of operating authority described in subparagraph (A).

(2) TIME FOR DETERMINATION REGARDING OPERATING AUTHORITY.—Notwithstanding any other provision of law, the Administrator shall determine whether to grant a commercial air tour operator operating authority under section 40128 of title 49, United States Code, not later than 180 days after the earlier of the date on which—

(A) the operator submits an application; or

(B) an air tour management plan is completed for the national park over which the operator seeks to conduct commercial air tour operations.

(3) INCREASE IN INTERIM OPERATING AUTHORITY.—The Administrator and the Secretary may increase the interim operating authority while an air tour management plan is being developed for a park if—

(A) the Secretary determines that such an increase does not adversely impact park resources or visitor experiences; and

(B) the Administrator determines that granting interim operating authority does not adversely affect aviation safety or the management of the national airspace system.

(4) ENFORCEMENT OF OPERATING AUTHORITY.—The Administrator is authorized and directed to enforce the requirements of this Act and any agency rules or regulations related to operating authority.

SEC. 710. PHASEOUT OF STAGE 1 AND 2 AIRCRAFT.

(a) IN GENERAL.—Subchapter II of chapter 475 is amended by adding at the end the following:

“§ 47534. Prohibition on operating certain aircraft weighing 75,000 pounds or less not complying with Stage 3 noise levels

“(a) PROHIBITION.—Except as provided in subsection (b), (c), or (d), a person may not operate a civil subsonic turbojet with a maximum weight of 75,000 pounds or less to or from an airport in the United States unless the Secretary of Transportation finds that the aircraft complies with stage 3 noise levels.

“(b) EXCEPTION.—Subsection (a) shall not apply to aircraft operated only outside the 48 contiguous States.

“(c) OPT-OUT.—Subsection (a) shall not apply at an airport where the airport operator has notified the Secretary that it wants to continue to permit the operation of civil subsonic turbojets with a maximum weight of 75,000 pounds or less that do not comply with stage 3 noise levels. The Secretary shall post the notices received under this subsection on its website or in another place easily accessible to the public.

“(d) LIMITATION.—The Secretary shall permit a person to operate Stage 1 and Stage 2 aircraft with a maximum weight of 75,000 pounds or less to or from an airport in the contiguous 48 States in order—

“(1) to sell, lease, or use the aircraft outside the 48 contiguous States;

“(2) to scrap the aircraft;

“(3) to obtain modifications to the aircraft to meet stage 3 noise levels;

“(4) to perform scheduled heavy maintenance or significant modifications on the aircraft at a maintenance facility located in the contiguous 48 States;

“(5) to deliver the aircraft to an operator leasing the aircraft from the owner or return the aircraft to the lessor;

“(6) to prepare or park or store the aircraft in anticipation of any of the activities described in paragraphs (1) through (5); or

“(7) to divert the aircraft to an alternative airport in the 48 contiguous States on account of weather, mechanical, fuel air traffic control or other safety reasons while conducting a flight in order to perform any of the activities described in paragraphs (1) through (6).

“(e) STATUTORY CONSTRUCTION.—Nothing in the section may be construed as interfering with, nullifying, or otherwise affecting determinations made by the Federal Aviation Administration, or to be made by the Administration, with respect to applications under part 161 of title 14, Code of Federal Regulations, that were pending on the date of enactment of the Aircraft Noise Reduction Act of 2006.”

(b) CONFORMING AMENDMENTS.—

(1) Section 47531 is amended by striking “47529, or 47530” and inserting “47529, 47530, or 47534”.

(2) Section 47532 is amended by striking “47528–47531” and inserting “47528 through 47531 or 47534”.

(3) The table of contents for chapter 475 is amended by inserting after the item relating to section 47533 the following:

“47534. Prohibition on operating certain aircraft weighing 75,000 pounds or less not complying with Stage 3 noise levels”.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on December 31, 2014.

SEC. 711. WEIGHT RESTRICTIONS AT TETERBORO AIRPORT.

On and after the date of the enactment of this Act, the Administrator of the Federal Aviation Administration is prohibited from taking actions designed to challenge or influence weight restrictions or prior permission rules at Teterboro Airport in Teterboro, New Jersey, except in an emergency.

SEC. 712. PILOT PROGRAM FOR REDEVELOPMENT OF AIRPORT PROPERTIES.

(a) IN GENERAL.—Within 1 year after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall establish a pilot program at up to 4 public-use airports for local airport operators that have submitted a noise compatibility program approved by the Federal Aviation Administration under section 47504 of title 49, United States Code, under which such airport operators may use funds made available under section 47117(e) of that title, or passenger facility revenue collected under

section 40117 of that title, in partnership with affected neighboring local jurisdictions, to support joint planning, engineering design, and environmental permitting for the assembly and redevelopment of property purchased with noise mitigation funds or passenger facility charge funds, to encourage airport-compatible land uses and generate economic benefits to the local airport authority and adjacent community.

(b) **NOISE COMPATIBILITY MEASURES.**—Section 47504(a)(2) is amended—

(1) by striking “and” after the semicolon in subparagraph (D);

(2) by striking “operations.” in subparagraph (E) and inserting “operations; and”; and

(3) by adding at the end the following:

“(F) joint comprehensive land use planning including master plans, traffic studies, environmental evaluation and economic and feasibility studies, with neighboring local jurisdictions undertaking community redevelopment in the area where the land or other property interest acquired by the airport operator pursuant to this subsection is located, to encourage and enhance redevelopment opportunities that reflect zoning and uses that will prevent the introduction of additional incompatible uses and enhance redevelopment potential.”.

(c) **GRANT REQUIREMENTS.**—The Administrator may not make a grant under subsection (a) unless the grant is made—

(1) to enable the airport operator and local jurisdictions undertaking the community redevelopment effort to expedite redevelopment efforts;

(2) subject to a requirement that the local jurisdiction governing the property interests in question has adopted zoning regulations that permit airport compatible redevelopment; and

(3) subject to a requirement that, in determining the part of the proceeds from disposing of the land that is subject to repayment or reinvestment under section 47107(c)(2)(A) of title 49, United States Code, the total amount of the grant issued under this section shall be added to the amount of any grants issued for acquisition of land.

(d) **DEMONSTRATION GRANTS.**—

(1) **IN GENERAL.**—The Administrator shall provide grants for up to 4 pilot property redevelopment projects distributed geographically and targeted to airports that demonstrate—

(A) a readiness to implement cooperative land use management and redevelopment plans with the adjacent community; and

(B) the probability of clear economic benefit to the local community and financial return to the airport through the implementation of the redevelopment plan.

(2) **FEDERAL SHARE.**—

(A) Notwithstanding any other provision of law, the Federal share of the allowable costs of a project carried out under the pilot program shall be 80 percent.

(B) In determining the allowable costs, the Administrator shall deduct from the total costs of the activities described in subsection (a) that portion of the costs which is equal to that portion of the total property to be redeveloped under this section that is not owned or to be acquired by the airport operator pursuant to the noise compatibility program or that is not owned by the affected neighboring local jurisdictions or other public entities.

(3) **MAXIMUM AMOUNT.**—Not more than \$5,000,000 in funds made available under section 47117(e) of title 49, United States Code, may be expended under the pilot program at any single public-use airport.

(4) **EXCEPTION.**—Amounts paid to the Administrator under subsection (c)(3)—

(A) shall be in addition to amounts authorized under section 48203 of title 49, United States Code;

(B) shall not be subject to any limitation on grant obligations for any fiscal year; and

(C) shall remain available until expended.

(e) **USE OF PASSENGER REVENUE.**—An airport sponsor that owns or operates an airport participating in the pilot program may use passenger facility revenue collected under section 40117 of title 49, United States Code, to pay any project cost described in subsection (a) that is not financed by a grant under the program.

(f) **SUNSET.**—This section, other than the amendments made by subsections (b), shall not be in effect after September 30, 2011.

(g) **REPORT TO CONGRESS.**—The Administrator shall report to Congress within 18 months after making the first grant under this section on the effectiveness of this program on returning part 150 lands to productive use.

SEC. 713. TRANSPORTING MUSICAL INSTRUMENTS.

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

“§ 41724. Musical instruments

“(a) **IN GENERAL.**—

“(1) **SMALL INSTRUMENTS AS CARRY-ON BAGGAGE.**—An air carrier providing air transportation shall permit a passenger to carry a violin, guitar, or other musical instrument in the aircraft cabin without charge if—

“(A) the instrument can be stowed safely in a suitable baggage compartment in the aircraft cabin or under a passenger seat; and

“(B) there is space for such stowage at the time the passenger boards the aircraft.

“(2) **LARGER INSTRUMENTS AS CARRY-ON BAGGAGE.**—An air carrier providing air transportation shall permit a passenger to carry a musical instrument that is too large to meet the requirements of paragraph (1) in the aircraft cabin without charge if—

“(A) the instrument is contained in a case or covered so as to avoid injury to other passengers;

“(B) the weight of the instrument, including the case or covering, does not exceed 165 pounds;

“(C) the instrument can be secured by a seat belt to avoid shifting during flight;

“(D) the instrument does not restrict access to, or use of, any required emergency exit, regular exit, or aisle;

“(E) the instrument does not obscure any passenger's view of any illuminated exit, warning, or other informational sign;

“(F) neither the instrument nor the case contains any object not otherwise permitted to be carried in an aircraft cabin because of a law or regulation of the United States; and

“(G) the passenger wishing to carry the instrument in the aircraft cabin has purchased an additional seat to accommodate the instrument.

“(3) **LARGE INSTRUMENTS AS CHECKED BAGGAGE.**—An air carrier shall transport as baggage, without charge, a musical instrument that is the property of a passenger traveling in air transportation that may not be carried in the aircraft cabin if—

“(A) the sum of the length, width, and height measured in inches of the outside linear dimensions of the instrument (including the case) does not exceed 150 inches; and

“(B) the weight of the instrument does not exceed 165 pounds.

“(b) **REGULATIONS.**—The Secretary may prescribe such regulations as may be necessary or appropriate to implement subsection (a).”.

(b) **CONFORMING AMENDMENT.**—The table of contents for chapter 417 is amended by in-

serting after the item relating to section 41723 the following:

“41724. Musical instruments”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall take effect 30 days after the date of enactment of this Act.

SEC. 714. RECYCLING PLANS FOR AIRPORTS.

(a) **AIRPORT PLANNING.**—Section 47102(5) is amended by striking “planning.” and inserting “planning and a plan for recycling and minimizing the generation of airport solid waste, consistent with applicable State and local recycling laws, including the cost of a waste audit.”.

(b) **MASTER PLAN.**—Section 47106(a) is amended—

(1) by striking “and” in paragraph (4);

(2) by striking “proposed.” in paragraph (5) and inserting “proposed; and”; and

(3) by adding at the end the following:

“(6) if the project is for an airport that has an airport master plan, the master plan addresses—

“(A) the feasibility of solid waste recycling at the airport;

“(B) minimizing the generation of solid waste at the airport;

“(C) operation and maintenance requirements;

“(D) the review of waste management contracts;

“(E) the potential for cost savings or the generation of revenue; and

“(F) training and education requirements.”.

SEC. 715. DISADVANTAGED BUSINESS ENTERPRISE PROGRAM ADJUSTMENTS.

(a) **PURPOSE.**—It is the purpose of the airport disadvantaged business enterprise program (49 U.S.C. 47107(e) and 47113) to ensure that minority- and women-owned businesses do not face barriers because of their race or gender and so that they have a fair opportunity to compete in Federally assisted airport contracts and concessions.

(b) **FINDINGS.**—The Congress finds the following:

(1) While significant progress has occurred due to the enactment of the airport disadvantaged business enterprise program (49 U.S.C. 47107(e) and 47113), discrimination continues to be a barrier for minority- and women-owned businesses seeking to do business in airport-related markets. This continuing barrier merits the continuation of the airport disadvantaged business enterprise program.

(2) The Congress has received recent evidence of discrimination from numerous sources, including congressional hearings and roundtables, scientific reports, reports issued by public and private agencies, news stories, reports of discrimination by organizations and individuals, and discrimination lawsuits. This evidence also shows that race- and gender-neutral efforts alone are insufficient to address the problem.

(3) This evidence demonstrates that discrimination across the nation poses a barrier to full and fair participation in airport related businesses of women business owners and minority business owners in the racial groups detailed in parts 23 and 26 of title 49, Code of Federal Regulations, and has impacted firm development and many aspects of airport related business in the public and private markets.

(4) This evidence provides a strong basis for the continuation of the airport disadvantaged business enterprise program and the airport concessions disadvantaged business enterprise program.

(c) **IN GENERAL.**—Section 47107(e) is amended—

(1) by redesignating paragraph (8) as paragraph (9); and

(2) by inserting after paragraph (7) the following:

“(8) MANDATORY TRAINING PROGRAM FOR AIRPORT CONCESSIONS.—

“(A) IN GENERAL.—Not later than one year after the date of enactment of the FAA Air Transportation Modernization and Safety Improvement Act, the Secretary shall establish a mandatory training program for persons described in subparagraph (C) on the certification of whether a small business concern in airport concessions qualifies as a small business concern owned and controlled by a socially and economically disadvantaged individual for purposes of paragraph (1).

“(B) IMPLEMENTATION.—The training program may be implemented by one or more private entities approved by the Secretary.

“(C) PARTICIPANTS.—A person referred to in paragraph (1) is an official or agent of an airport owner or operator who is required to provide a written assurance under paragraph (1) that the airport owner or operator will meet the percentage goal of paragraph (1) or who is responsible for determining whether or not a small business concern in airport concessions qualifies as a small business concern owned and controlled by a socially and economically disadvantaged individual for purposes of paragraph (1).

“(D) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out this paragraph.”.

(d) REPORT.—Not later than 24 months after the date of enactment of this Act, the Secretary shall submit a report to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Transportation and Infrastructure, and other appropriate committees of Congress on the results of the training program conducted under section 47107(e)(8) of title 49, United States Code, as added by subsection (a).

(e) DISADVANTAGED BUSINESS ENTERPRISE PERSONAL NET WORTH CAP; BONDING REQUIREMENTS.—Section 47113 is amended by adding at the end the following:

“(e) PERSONAL NET WORTH CAP.—Not later than 180 days after the date of enactment of the FAA Air Transportation Modernization and Safety Improvement Act, the Secretary shall issue final regulations to adjust the personal net worth cap used in determining whether an individual is economically disadvantaged for purposes of qualifying under the definition contained in subsection (a)(2) and under section 47107(e). The regulations shall correct for the impact of inflation since the Small Business Administration established the personal net worth cap at \$750,000 in 1989.

“(f) EXCLUSION OF RETIREMENT BENEFITS.—

“(1) IN GENERAL.—In calculating a business owner's personal net worth, any funds held in a qualified retirement account owned by the business owner shall be excluded, subject to regulations to be issued by the Secretary.

“(2) REGULATIONS.—Not later than one year after the date of enactment of the FAA Air Transportation Modernization and Safety Improvement Act, the Secretary shall issue final regulations to implement paragraph (1), including consideration of appropriate safeguards, such as a limit on the amount of such accounts, to prevent circumvention of personal net worth requirements.

“(g) PROHIBITION ON EXCESSIVE OR DISCRIMINATORY BONDING REQUIREMENTS.—

“(1) IN GENERAL.—The Secretary shall establish a program to eliminate barriers to small business participation in airport-related contracts and concessions by prohibiting excessive, unreasonable, or discriminatory bonding requirements for any project funded under this chapter or using passenger facility revenues under section 40117.

“(2) REGULATIONS.—Not later than one year after the date of enactment of the FAA Air Transportation Modernization and Safety Improvement Act, the Secretary shall issue a final rule to establish the program under paragraph (1).”.

SEC. 716. FRONT LINE MANAGER STAFFING.

(a) STUDY.—Not later than 45 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall initiate a study on front line manager staffing requirements in air traffic control facilities.

(b) CONSIDERATIONS.—In conducting the study, the Administrator may take into consideration—

(1) the number of supervisory positions of operation requiring watch coverage in each air traffic control facility;

(2) coverage requirements in relation to traffic demand;

(3) facility type;

(4) complexity of traffic and managerial responsibilities;

(5) proficiency and training requirements; and

(6) such other factors as the Administrator considers appropriate.

(c) DETERMINATIONS.—The Administrator shall transmit any determinations made as a result of the study to the Chief Operating Officer for the air traffic control system.

(d) REPORT.—Not later than 180 days after the date of enactment of this Act, the Administrator shall submit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a report on the results of the study and a description of any determinations submitted to the Chief Operating Officer under subsection (c).

SEC. 717. STUDY OF HELICOPTER AND FIXED WING AIR AMBULANCE SERVICES.

(a) IN GENERAL.—The Comptroller General shall conduct a study of the helicopter and fixed-wing air ambulance industry. The study shall include information, analysis, and recommendations pertinent to ensuring a safe air ambulance industry.

(b) REQUIRED INFORMATION.—In conducting the study, the Comptroller General shall obtain detailed information on the following aspects of the air ambulance industry:

(1) A review of the industry, for part 135 certificate holders and indirect carriers providing helicopter and fixed-wing air ambulance services, including—

(A) a listing of the number, size, and location of helicopter and fixed-wing aircraft and their flight bases;

(B) affiliations of certificate holders and indirect carriers with hospitals, governments, and other entities;

(C) coordination of air ambulance services, with each other, State and local emergency medical services systems, referring entities, and receiving hospitals;

(D) nature of services contracts, sources of payment, financial relationships between certificate holders and indirect carriers providing air ambulance services and referring entities, and costs of operations; and

(E) a survey of business models for air ambulance operations, including expenses, structure, and sources of income.

(2) Air ambulance request and dispatch practices, including the various types of protocols, models, training, certifications, and air medical communications centers relating to part 135 certificate holders and indirect carriers providing helicopter and fixed-wing air ambulance services, including—

(A) the practices that emergency and medical officials use to request an air ambulance;

(B) information on whether economic or other nonmedical factors lead to air ambu-

lance transport when it is not medically needed, appropriate, or safe; and

(C) the cause, occurrence, and extent of delays in air ambulance transport.

(3) Economic and medical issues relating to the air ambulance industry, including—

(A) licensing;

(B) certificates of need;

(C) public convenience and necessity requirements;

(D) assignment of geographic coverage areas;

(E) accreditation requirements;

(F) compliance with dispatch procedures; and

(G) requirements for medical equipment and personnel onboard the aircraft.

(4) Such other matters as the Comptroller General considers relevant to the purpose of the study.

(c) ANALYSIS AND RECOMMENDATIONS.—Based on information obtained under subsection (b) and other information the Comptroller General considers appropriate, the report shall also include an analysis and specific recommendations, as appropriate, related to—

(1) the relationship between State regulation and Federal preemption of rates, routes, and services of air ambulances;

(2) the extent to which Federal law may impact existing State regulation of air ambulances and the potential effect of greater State regulation—

(A) in the air ambulance industry, on the economic viability of air ambulance services, the availability and coordination of service, and costs of operations both in rural and highly populated areas;

(B) on the quality of patient care and outcomes; and

(C) on competition and safety; and

(3) whether systemic or other problems exist on a statewide, regional, or national basis with the current system governing air ambulances.

(d) REPORT.—Not later than June 1, 2010, the Comptroller General shall submit a report to the Secretary of Transportation, the Senate Committee on Commerce, Science, and Transportation, and the House of Representatives Committee on Transportation and Infrastructure containing the Government Accountability Office's findings and recommendations regarding the study under this section.

(e) ADOPTION OF RECOMMENDED POLICY CHANGES.—Not later than 60 days after the date of receipt of the report under subsection (d), the Secretary shall issue a report to the Senate Committee on Commerce, Science, and Transportation, and the House of Representatives Committee on Transportation and Infrastructure that—

(1) specifies which, if any, policy changes recommended by the Comptroller General and any other policy changes with respect to air ambulances the Secretary will adopt and implement; and

(2) includes recommendations for legislative change, if appropriate.

(f) PART 135 CERTIFICATE HOLDER DEFINED.—In this section, the term “part 135 certificate holder” means a person holding a certificate issued under part 135 of title 14, Code of Federal Regulations.

SEC. 718. REPEAL OF CERTAIN LIMITATIONS ON METROPOLITAN WASHINGTON AIRPORTS AUTHORITY.

(a) IN GENERAL.—Section 49108 is repealed.

(b) CONFORMING REPEAL.—The table of sections for chapter 491 is amended by striking the item relating to section 49108.

SEC. 719. STUDY OF AERONAUTICAL MOBILE TELEMETRY.

Not later than 180 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration, in consultation with other Federal agencies, shall

submit a report to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Science and Technology, and the House of Representatives Committee on Energy and Commerce that identifies—

(1) the current and anticipated need over the next decade by civil aviation, including equipment manufacturers, for aeronautical mobile telemetry services; and

(2) the potential impact to the aerospace industry of the introduction of a new radio service operating in the same spectrum allocated to the aeronautical mobile telemetry service.

SEC. 720. FLIGHTCREW MEMBER PAIRING AND CREW RESOURCE MANAGEMENT TECHNIQUES.

(a) **STUDY.**—The Administrator of the Federal Aviation Administration shall conduct a study on aviation industry best practices with regard to flightcrew member pairing, crew resource management techniques, and pilot commuting.

(b) **REPORT.**—Not later than one year after the date of enactment of this Act, the Administrator shall submit a report to the House of Representatives Committee on Transportation and Infrastructure and the Senate Committee on Commerce, Science, and Transportation on the results of the study.

SEC. 721. CONSOLIDATION OR ELIMINATION OF OBSOLETE, REDUNDANT, OR OTHERWISE UNNECESSARY REPORTS; USE OF ELECTRONIC MEDIA FORMAT.

(a) **CONSOLIDATION OR ELIMINATION OF REPORTS.**—No later than 2 years after the date of enactment of this Act, and every 2 years thereafter, the Administrator of the Federal Aviation Administration shall submit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure containing—

(1) a list of obsolete, redundant, or otherwise unnecessary reports the Administration is required by law to submit to the Congress or publish that the Administrator recommends eliminating or consolidating with other reports; and

(2) an estimate of the cost savings that would result from the elimination or consolidation of those reports.

(b) **USE OF ELECTRONIC MEDIA FOR REPORTS.**—

(1) **IN GENERAL.**—Notwithstanding any other provision of law, the Federal Aviation Administration—

(A) may not publish any report required or authorized by law in printed format; and

(B) shall publish any such report by posting it on the Administration's website in an easily accessible and downloadable electronic format.

(2) **EXCEPTION.**—Paragraph (1) does not apply to any report with respect to which the Administrator determines that—

(A) its publication in printed format is essential to the mission of the Federal Aviation Administration; or

(B) its publication in accordance with the requirements of paragraph (1) would disclose matter—

(i) described in section 552(b) of title 5, United States Code; or

(ii) the disclosure of which would have an adverse impact on aviation safety or security, as determined by the Administrator.

SEC. 722. LINE CHECK EVALUATIONS.

Section 44729(h) is amended—

(1) by striking paragraph (2); and

(2) by redesignating paragraph (3) as paragraph (2).

SEC. 723. REPORT ON NEWARK LIBERTY AIRPORT AIR TRAFFIC CONTROL TOWER.

Not later than 90 days after the date of the enactment of this Act, the Administrator of

the Federal Aviation Administration 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 the Federal Aviation Administration's plan to staff the Newark Liberty Airport air traffic control tower at negotiated staffing levels within 1 year after such date of enactment.

SEC. 724. PRIORITY REVIEW OF CONSTRUCTION PROJECTS IN COLD WEATHER STATES.

The Administrator of the Federal Aviation Administration shall, to the maximum extent practicable, schedule the Administrator's review of construction projects so that projects to be carried out in States in which the weather during a typical calendar year prevents major construction projects from being carried out before May 1 are reviewed as early as possible.

SEC. 725. AIR-RAIL CODESHARE STUDY.

(a) **CODESHARE STUDY.**—Not later than 180 days after the date of the enactment of this Act, the GAO shall conduct a study of—

(1) the current airline and intercity passenger rail codeshare arrangements;

(2) the feasibility and costs to taxpayers and passengers of increasing intermodal connectivity of airline and intercity passenger rail facilities and systems to improve passenger travel.

(b) **CONSIDERATIONS.**—The study shall consider—

(1) the potential benefits to passengers and costs to taxpayers from the implementation of more integrated scheduling between airlines and Amtrak or other intercity passenger rail carriers achieved through codesharing arrangements;

(2) airport operations that can improve connectivity to intercity passenger rail facilities and stations.

(c) **REPORT.**—Not later than 1 year after commencing the study required by subsection (a), the Comptroller shall submit the report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives. The report shall include any conclusions of the Comptroller resulting from the study.

SEC. 726. ON-GOING MONITORING OF AND REPORT ON THE NEW YORK/NEW JERSEY/PHILADELPHIA METROPOLITAN AREA AIRSPACE REDESIGN.

Not later than 270 days after the date of the enactment of this Act and every 180 days thereafter until the completion of the New York/New Jersey/Philadelphia Metropolitan Area Airspace Redesign, the Administrator of the Federal Aviation Administration shall, in conjunction with the Port Authority of New York and New Jersey and the Philadelphia International Airport—

(1) monitor the air noise impacts of the New York/New Jersey/Philadelphia Metropolitan Area Airspace Redesign; and

(2) submit to Congress a report on the findings of the Administrator with respect to the monitoring described in paragraph (1).

SEC. 727. STUDY ON AVIATION FUEL PRICES.

(a) **IN GENERAL.**—Not later than 180 days after the date of the enactment of this Act, the Comptroller General of the United States shall conduct a study and report to Congress on the impact of increases in aviation fuel prices on the Airport and Airway Trust Fund and the aviation industry in general. The study shall include the impact of increases in aviation fuel prices on—

(1) general aviation;

(2) commercial passenger aviation;

(3) piston aircraft purchase and use;

(4) the aviation services industry, including repair and maintenance services;

(5) aviation manufacturing;

(6) aviation exports; and

(7) the use of small airport installations.

(b) **ASSUMPTIONS ABOUT AVIATION FUEL PRICES.**—In conducting the study required by subsection (a), the Comptroller General shall use the average aviation fuel price for fiscal year 2010 as a baseline and measure the impact of increases in aviation fuel prices that range from 5 percent to 200 percent over the 2010 baseline.

SEC. 728. LAND CONVEYANCE FOR SOUTHERN NEVADA SUPPLEMENTAL AIRPORT.

(a) **DEFINITIONS.**—In this section:

(1) **COUNTY.**—The term “County” means Clark County, Nevada.

(2) **PUBLIC LAND.**—The term “public land” means the land located at—

(A) sec. 23 and sec. 26, T. 26 S., R. 59 E., Mount Diablo Meridian;

(B) the NE $\frac{1}{4}$ and the N $\frac{1}{2}$ of the SE $\frac{1}{4}$ of sec. 6, T. 25 S., R. 59 E., Mount Diablo Meridian, together with the SE $\frac{1}{4}$ of sec. 31, T. 24 S., R. 59 E., Mount Diablo Meridian; and

(C) sec. 8, T. 26 S., R. 60 E., Mount Diablo Meridian.

(3) **SECRETARY.**—The term “Secretary” means the Secretary of the Interior.

(b) **LAND CONVEYANCE.**—

(1) **IN GENERAL.**—As soon as practicable after the date described in paragraph (2), subject to valid existing rights, and notwithstanding the land use planning requirements of sections 202 and 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712, 1713), the Secretary shall convey to the County, without consideration, all right, title, and interest of the United States in and to the public land.

(2) **DATE ON WHICH CONVEYANCE MAY BE MADE.**—The Secretary shall not make the conveyance described in paragraph (1) until the later of the date on which the Administrator of the Federal Aviation Administration has—

(A) approved an airport layout plan for an airport to be located in the Ivanpah Valley; and

(B) with respect to the construction and operation of an airport on the site conveyed to the County pursuant to section 2(a) of the Ivanpah Valley Airport Public Lands Transfer Act (Public Law 106-362; 114 Stat. 1404), issued a record of decision after the preparation of an environmental impact statement or similar analysis required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(3) **WITHDRAWAL.**—Subject to valid existing rights, the public land to be conveyed under paragraph (1) is withdrawn from—

(A) location, entry, and patent under the mining laws; and

(B) operation of the mineral leasing and geothermal leasing laws.

(4) **USE.**—The public land conveyed under paragraph (1) shall be used for the development of flood mitigation infrastructure for the Southern Nevada Supplemental Airport.

SEC. 729. CLARIFICATION OF REQUIREMENTS FOR VOLUNTEER PILOTS OPERATING CHARITABLE MEDICAL FLIGHTS.

In administering part 61.113(c) of title 14, Code of Federal Regulations, the Administrator of the Federal Aviation Administration shall allow an aircraft owner or aircraft operator who has volunteered to provide transportation for an individual or individuals for medical purposes to accept reimbursement to cover all or part of the fuel costs associated with the operation from a volunteer pilot organization.

SEC. 730. CYLINDERS OF COMPRESSED OXYGEN, NITROUS OXIDE, OR OTHER OXIDIZING GASES.

(a) **IN GENERAL.**—The transportation within Alaska of cylinders of compressed oxygen,

nitrous oxide, or other oxidizing gases aboard aircraft shall be exempt from compliance with the requirements, under sections 173.302(f)(3) and (f)(4) and 173.304(f)(3) and (f)(4) of the Pipeline and Hazardous Material Safety Administration's regulations (49 C.F.R. 173.302(f)(3) and (f)(4) and 173.304(f)(3) and (f)(4)), that oxidizing gases transported aboard aircraft be enclosed in outer packaging capable of passing the flame penetration and resistance test and the thermal resistance test, without regard to the end use of the cylinders, if—

(1) there is no other practical means of transportation for transporting the cylinders to their destination and transportation by ground or vessel is unavailable; and

(2) the transportation meets the requirements of subsection (b).

(b) **EXEMPTION REQUIREMENTS.**—Subsection (a) shall not apply to the transportation of cylinders of compressed oxygen, nitrous oxide, or other oxidizing gases aboard aircraft unless the following requirements are met:

(1) **PACKAGING.**—

(A) **SMALLER CYLINDERS.**—Each cylinder with a capacity of not more than 116 cubic feet shall be—

(i) fully covered with a fire or flame resistant blanket that is secured in place; and

(ii) placed in a rigid outer packaging or an ATA 300 Category 1 shipping container.

(B) **LARGER CYLINDERS.**—Each cylinder with a capacity of more than 116 cubic feet but not more than 281 cubic feet shall be—

(i) secured within a frame;

(ii) fully covered with a fire or flame resistant blanket that is secured in place; and

(iii) fitted with a securely attached metal cap of sufficient strength to protect the valve from damage during transportation.

(2) **OPERATIONAL CONTROLS.**—

(A) **STORAGE; ACCESS TO FIRE EXTINGUISHERS.**—Unless the cylinders are stored in a Class C cargo compartment or its equivalent on the aircraft, crew members shall have access to the cylinders and at least 2 fire extinguishers shall be readily available for use by the crew members.

(B) **SHIPMENT WITH OTHER HAZARDOUS MATERIALS.**—The cylinders may not be transported in the same aircraft with other hazardous materials other than Division 2.2 materials with no subsidiary risk, Class 9 materials, and ORM-D materials.

(3) **AIRCRAFT REQUIREMENTS.**—

(A) **AIRCRAFT TYPE.**—The transportation shall be provided only aboard a passenger-carrying aircraft or a cargo aircraft.

(B) **PASSENGER-CARRYING AIRCRAFT.**—

(i) **SMALLER CYLINDERS ONLY.**—A cylinder with a capacity of more than 116 cubic feet may not be transported aboard a passenger-carrying aircraft.

(ii) **MAXIMUM NUMBER.**—Unless transported in a Class C cargo compartment or its equivalent, no more than 6 cylinders in each cargo compartment may be transported aboard a passenger-carrying aircraft.

(C) **CARGO AIRCRAFT.**—A cylinder may not be transported aboard a cargo aircraft unless it is transported in a Class B cargo compartment or a Class C cargo compartment or its equivalent.

(c) **DEFINITIONS.**—Terms used in this section shall have the meaning given those terms in parts 106, 107, and 171 through 180 of the Pipeline and Hazardous Material Safety Administration's regulations (49 C.F.R. parts 106, 107, and 171–180).

SEC. 731. TECHNICAL CORRECTION.

Section 159(b)(2)(C) of title I of division A of the Consolidated Appropriations Act, 2010, is amended by striking clauses (i) and (ii) and inserting the following:

“(i) requiring inspections of any container containing a firearm or ammunition; and

“(ii) the temporary suspension of firearm carriage service if credible intelligence information indicates a threat related to the national rail system or specific routes or trains.”.

SEC. 732. PLAN FOR FLYING SCIENTIFIC INSTRUMENTS ON COMMERCIAL FLIGHTS.

(a) **PLAN DEVELOPMENT.**—Not later than 270 days after the date of the enactment of this Act, the Secretary of Transportation and the Secretary of Commerce, in consultation with interested representatives of the aviation industry and other relevant agencies, shall develop a plan and process to allow Federal agencies to fly scientific instruments on commercial flights with airlines who volunteer, for the purpose of taking measurements to improve weather forecasting.

SEC. 733. PROHIBITION AGAINST AIMING A LASER POINTER AT AN AIRCRAFT.

(a) **OFFENSE.**—Chapter 2 of title 18, United States Code, is amended by adding at the end the following:

“§ 39A. Aiming a laser pointer at an aircraft

“(a) Whoever knowingly aims the beam of a laser pointer at an aircraft in the special aircraft jurisdiction of the United States, or at the flight path of such an aircraft, shall be fined under this title or imprisoned not more than 5 years, or both.

“(b) As used in this section, the term ‘laser pointer’ means any device designed or used to amplify electromagnetic radiation by stimulated emission that emits a beam designed to be used by the operator as a pointer or highlighter to indicate, mark, or identify a specific position, place, item, or object.

“(c) This section does not prohibit aiming a beam of a laser pointer at an aircraft, or the flight path of such an aircraft, by—

“(1) an authorized individual in the conduct of research and development or flight test operations conducted by an aircraft manufacturer, the Federal Aviation Administration, or any other person authorized by the Federal Aviation Administration to conduct such research and development or flight test operations;

“(2) members or elements of the Department of Defense or Department of Homeland Security acting in an official capacity for the purpose of research, development, operations, testing or training; or

“(3) by an individual using a laser emergency signaling device to send an emergency distress signal.

“(d) The Attorney General, in consultation with the Secretary of Transportation, may provide by regulation, after public notice and comment, such additional exceptions to this section, as may be necessary and appropriate. The Attorney General shall provide written notification of any proposed regulations under this section to the Committees on the Judiciary of the Senate and the House of Representatives, the Committee on Commerce, Science and Transportation of the Senate, and the Committee on Transportation and Infrastructure of the House of Representatives, not less than 90 days before such regulations become final.”.

(b) **CLERICAL AMENDMENT.**—The table of sections at the beginning of chapter 2 of title 18, United States Code, is amended by inserting after the item relating to section 39 the following new item:

“39A. Aiming a laser pointer at an aircraft.”.

SEC. 734. CRIMINAL PENALTY FOR UNAUTHORIZED RECORDING OR DISTRIBUTION OF SECURITY SCREENING IMAGES.

(a) **IN GENERAL.**—Part I of title 18, United States Code, is amended by adding at the end the following:

“CHAPTER 124—UNAUTHORIZED RECORDING AND DISTRIBUTION OF SECURITY SCREENING IMAGES

“Sec.

“2731. Criminal penalty for unauthorized recording and distribution of security screening images.

“SEC. 2731. CRIMINAL PENALTY FOR UNAUTHORIZED RECORDING AND DISTRIBUTION OF SECURITY SCREENING IMAGES.

“(a) **IN GENERAL.**—Except as specifically provided in subsection (b), it shall be unlawful for an individual—

“(1) to photograph or otherwise record an image produced using advanced imaging technology during the screening of an individual at an airport, or upon entry into any building owned or operated by the Federal Government, without express authorization pursuant to a Federal law or regulation; or

“(2) to knowingly distribute any such image to any individual who is not authorized pursuant to a Federal law or regulation to receive the image.

“(b) **EXCEPTION.**—The prohibition under subsection (a) shall not apply to an individual who, while engaged in or on account of the performance of official duties, distributes, photographs, or otherwise records an image described in subsection (a) during the course of authorized intelligence activities, a Federal, State, or local criminal investigation or prosecution, or other lawful activities by Federal, State, or local authorities, including training for intelligence or law enforcement purposes.

“(c) **PENALTY.**—An individual who violates the prohibition in subsection (a) shall be fined under this title, imprisoned for not more than 1 year, or both.

“(d) **ADVANCED IMAGING TECHNOLOGY DEFINED.**—In this section, the term ‘advanced imaging technology’—

“(1) means a device that creates a visual image of an individual showing the surface of the skin beneath clothing and revealing other objects on the body that are covered by clothing;

“(2) may include devices using backscatter x-rays or millimeter waves and devices referred to as ‘whole-body imaging technology’ or ‘body scanning’; and

“(3) does not include a device equipped with software that produces a generic representation of the human form instead of a visual image of an individual.”.

(b) **TECHNICAL AND CONFORMING AMENDMENT.**—The table of chapters for part I of title 18, United States Code, is amended by inserting after the item relating to chapter 123 the following:

“124. Unauthorized recording and distribution of security screening images 2731”.

SEC. 735. APPROVAL OF APPLICATIONS FOR THE SECURITY SCREENING OPT-OUT PROGRAM.

Section 44920(b) of title 49, United States Code, is amended to read as follows:

“(b) **APPROVAL OF APPLICATIONS.**—

“(1) **IN GENERAL.**—Not later than 30 days after receiving an application submitted under subsection (a), the Under Secretary may approve the application.

“(2) **RECONSIDERATION OF REJECTED APPLICATIONS.**—Not later than 30 days after the date of the enactment of the FAA Air Transportation Modernization and Safety Improvement Act, the Under Secretary shall reconsider and approve any application to have the screening of passengers and property at an airport carried out by the screening personnel of a qualified private screening company that was submitted under subsection (a) and was pending on any day between January 1, 2011, and February 3, 2011, if Under Secretary determines that the application demonstrates that having the screening of passengers and property carried out by such screening personnel will provide security that is equal to or greater than the level

that would be provided by Federal Government personnel.

“(3) REPORT.—If the Under Secretary denies an application submitted under subsection (a), the Under Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that describes the reason for the denial of the application.”.

SEC. 736. CONVEYANCE OF LAND TO CITY OF MESQUITE, NEVADA.

(a) DEFINITIONS.—

(1) CITY.—The term “city” means the city of Mesquite, Nevada.

(2) MAP.—The term “map” means the map entitled “Mesquite Airport Conveyance” and dated February 6, 2011.

(3) SECRETARY.—The term “Secretary” means the Secretary of the Interior, acting through the Bureau of Land Management.

(b) CONVEYANCE OF LAND TO CITY.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, subject to valid existing rights, and notwithstanding the land use planning requirements of sections 202 and 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712, 1713), the Secretary shall convey to the city, without consideration, all right, title, and interest of the United States in and to the land described in paragraph (2).

(2) DESCRIPTION OF LAND.—The land referred to in paragraph (1) consists of land managed by the Bureau of Land Management described on the map as “Remnant Parcel”.

(3) MAP AND LEGAL DESCRIPTION.—

(A) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall finalize the legal description of the parcel to be conveyed under this section.

(B) MINOR ERRORS.—The Secretary may correct any minor error in—

- (i) the map; or
- (ii) the legal description.

(C) AVAILABILITY.—The map and legal description shall be on file and available for public inspection in the appropriate offices of the Bureau of Land Management.

(4) COSTS.—The Secretary shall require the city to pay all costs necessary for the preparation and completion of any patents for, and transfers of title to, the land described in paragraph (2).

(5) WITHDRAWAL.—Subject to valid existing rights, until the date of the conveyance under paragraph (1), the parcel of public land described in paragraph (2) is withdrawn from—

(A) location, entry, and patent under the public land mining laws; and

(B) operation of the mineral leasing, geothermal leasing, and mineral materials laws.

(6) REVERSION.—If the land conveyed under paragraph (1) ceases to be used by the city for the purposes described in section 3(f) of Public Law 99-548 (100 Stat. 3061), the land shall, at the discretion of the Secretary, revert to the United States.

SEC. 737. RONALD REAGAN WASHINGTON NATIONAL AIRPORT SLOTS.

(a) INCREASE IN NUMBER OF SLOT EXEMPTIONS.—Section 41718 is amended by adding at the end thereof the following:

“(g) ADDITIONAL SLOTS.—

“(1) INITIAL INCREASE IN EXEMPTIONS.—Within 95 days after the date of enactment of the FAA Air Transportation Modernization and Safety Improvement Act, the Secretary shall grant, by order, 24 slot 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 routes between Ronald Reagan Washington National Airport and airports

located beyond the perimeter described in section 49109 or, as provided in paragraph (2)(C), airports located within that perimeter, 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—

“(A) provide air transportation with domestic network benefits in areas beyond the perimeter described in section 49109;

“(B) increase competition in multiple markets;

“(C) not reduce travel options for communities served by small hub airports and medium hub airports within the perimeter described in section 49109;

“(D) not result in meaningfully increased travel delays;

“(E) enhance options for nonstop travel to and from the beyond-perimeter airports that will be served as a result of those exemptions;

“(F) have a positive impact on the overall level of competition in the markets that will be served as a result of those exemptions; and

“(G) produce public benefits, including the likelihood that the service to airports located beyond the perimeter described in section 49109 will result in lower fares, higher capacity, and a variety of service options.

“(2) NEW ENTRANTS AND LIMITED INCUMBENTS.—Of the exemptions made available under paragraph (1), the Secretary shall make 10 available to limited incumbent air carriers or new entrant air carriers and 14 available to other incumbent air carriers.

“(3) IMPROVED NETWORK SLOTS.—If an incumbent air carrier (other than a limited incumbent air carrier) that uses a slot for service between Ronald Reagan Washington National Airport and a large hub airport located within the perimeter described in section 49109 is granted an additional exemption under this subsection, it shall, upon receiving the additional exemption, discontinue the use of that slot for such within-perimeter service and operate, in place of such service, service between Ronald Reagan Washington National Airport and an airport located beyond the perimeter described in section 49109. The Secretary may not grant more than 2 slot exemptions under paragraph (1) to an air carrier with respect to the same airport, except in the case of an airport serving a metropolitan area with a population of more than 1 million persons.

“(4) CONDITIONS.—Beyond-perimeter flight operations carried out by an air carrier using an exemption granted under this subsection shall be subject to the following conditions:

“(A) An air carrier may not operate a multi-aisle or widebody aircraft in conducting such operations.

“(B) An air carrier granted an exemption under this subsection is prohibited from selling, trading, leasing, or otherwise transferring the rights to its beyond-perimeter exemptions, except through an air carrier merger or acquisition.

“(5) OPERATIONS DEADLINE.—An air carrier granted a slot exemption under this subsection shall commence operations using that slot within 60 days after the date on which the exemption was granted.

“(6) IMPACT STUDY.—Within 17 months after granting the additional exemptions authorized by paragraph (1) the Secretary shall complete a study of the direct effects of the additional exemptions, including the extent to which the additional exemptions have—

“(A) caused congestion problems at the airport;

“(B) had a negative effect on the financial condition of the Metropolitan Washington Airports Authority;

“(C) affected the environment in the area surrounding the airport; and

“(D) resulted in meaningful loss of service to small and medium markets within the perimeter described in section 49109.

“(7) ADDITIONAL EXEMPTIONS.—

“(A) DETERMINATION.—The Secretary shall determine, on the basis of the study required by paragraph (6), whether—

“(i) the additional exemptions authorized by paragraph (1) have had a substantial negative effect on Ronald Reagan Washington National Airport, Washington Dulles International Airport, or Baltimore/Washington Thurgood Marshall International Airport; and

“(ii) the granting of additional exemptions under this paragraph may, or may not, reasonably be expected to have a substantial negative effect on any of those airports.

“(B) AUTHORITY TO GRANT ADDITIONAL EXEMPTIONS.—Beginning 6 months after the date on which the impact study is concluded, the Secretary may grant up to 8 slot exemptions to incumbent air carriers, in addition to those granted under paragraph (1) of this subsection, if the Secretary determines that—

“(i) the additional exemptions authorized by paragraph (1) have not had a substantial negative effect on any of those airports; and

“(ii) the granting of additional exemptions under this subparagraph may not reasonably be expected to have a negative effect on any of those airports.

“(C) IMPROVED NETWORK SLOTS.—If an incumbent air carrier (other than a limited incumbent air carrier) that uses a slot for service between Ronald Reagan Washington National Airport and a large hub airport located within the perimeter described in section 49109 is granted an additional exemption under subparagraph (B), it shall, upon receiving the additional exemption, discontinue the use of that slot for such within-perimeter service and operate, in place of such service, service between Ronald Reagan Washington National Airport and an airport located beyond the perimeter described in section 49109.

“(D) CONDITIONS.—Beyond-perimeter flight operations carried out by an air carrier using an exemption granted under subparagraph (B) shall be subject to the following conditions:

“(i) An air carrier may not operate a multi-aisle or widebody aircraft in conducting such operations.

“(ii) An air carrier granted an exemption under this subsection is prohibited from selling, trading, leasing, or otherwise transferring the rights to its beyond-perimeter exemptions, except through an air carrier merger or acquisition.

“(E) ADDITIONAL EXEMPTIONS NOT PERMITTED.—The Secretary may not grant exemptions in addition to those authorized by paragraph (1) if the Secretary determines that—

“(i) the additional exemptions authorized by paragraph (1) have had a substantial negative effect on any of those airports; or

“(ii) the granting of additional exemptions under subparagraph (B) of this paragraph may reasonably be expected to have a substantial negative effect on 1 or more of those airports.

“(h) SCHEDULING PRIORITY.—In administering this section, the Secretary—

“(1) shall afford a scheduling priority to operations conducted by new entrant air carriers and limited incumbent air carriers over operations conducted by other air carriers granted additional slot exemptions under subsection (g) for service to airports located beyond the perimeter described in section 49109; and

“(2) shall afford a scheduling priority to slots currently held by limited incumbent

air carriers for service to airports located beyond the perimeter described in section 49109, to the extent necessary to protect viability of such service.”.

(b) HOURLY LIMITATION.—Section 41718(c)(2) is amended—

(1) by striking “3 operations” and inserting “4 operations”; and

(2) by striking “subsections (a) and (b)” and inserting “under this section”.

(c) LIMITED INCUMBENT DEFINITION.—Section 41714(h)(5) is amended—

(1) by inserting “not” after “shall” in subparagraph (B);

(2) by striking “and” after the semicolon in subparagraph (B);

(3) by striking “Administration.” in subparagraph (C) and inserting “Administration; and”; and

(4) by adding at the end the following:

“(D) for purposes of section 41718, an air carrier that holds only slot exemptions”.

(d) REVENUES AND FEES AT THE METROPOLITAN WASHINGTON AIRPORTS.—Section 49104(a) is amended by striking paragraph (9) and inserting the following:

“(9) Notwithstanding any other provision of law, revenues derived at either of the Metropolitan Washington Airports, regardless of source, may be used for operating and capital expenses (including debt service, depreciation and amortization) at the other airport.”.

SEC. 738. ORPHAN EARMARKS ACT.

(a) SHORT TITLE.—This section may be cited as the “Orphan Earmarks Act”.

(b) UNUSED EARMARKS.—

(1) DEFINITION.—In this subsection, the term “earmark” means the following:

(A) A congressionally directed spending item, as defined in Rule XLIV of the Standing Rules of the Senate.

(B) A congressional earmark, as defined for purposes of Rule XXI of the Rules of the House of Representatives.

(2) RESCISSION.—Any earmark of funds provided for any Federal agency with more than 90 percent of the appropriated amount remaining available for obligation at the end of the 9th fiscal year following the fiscal year in which the earmark was made available is rescinded effective at the end of that 9th fiscal year, except that the agency head may delay any such rescission if the agency head determines that an additional obligation of the earmark is likely to occur during the following 12-month period.

(3) IDENTIFICATION AND REPORT.—

(A) AGENCY IDENTIFICATION.—Each Federal agency shall identify and report every project that is an earmark with an unobligated balance at the end of each fiscal year to the Director of OMB.

(B) ANNUAL REPORT.—The Director of OMB shall submit to Congress and publically post on the website of OMB an annual report that includes—

(i) a listing and accounting for earmarks with unobligated balances summarized by agency including the amount of the original earmark, amount of the unobligated balance, and the year when the funding expires, if applicable;

(ii) the number of rescissions resulting from this section and the annual savings resulting from this section for the previous fiscal year; and

(iii) a listing and accounting for earmarks provided for Federal agencies scheduled to be rescinded at the end of the current fiscal year.

SEC. 739. PRIVACY PROTECTIONS FOR AIRCRAFT PASSENGER SCREENING WITH ADVANCED IMAGING TECHNOLOGY.

(a) IN GENERAL.—Section 44901 is amended by adding at the end the following:

“(1) LIMITATIONS ON USE OF ADVANCED IMAGING TECHNOLOGY FOR SCREENING PASSENGERS.—

“(1) IN GENERAL.—The Assistant Secretary of Homeland Security (Transportation Security Administration) shall ensure that advanced imaging technology is used for the screening of passengers under this section only in accordance with this subsection.

“(2) IMPLEMENTATION OF AUTOMATED TARGET RECOGNITION SOFTWARE.—Beginning January 1, 2012, all advanced imaging technology used as a primary screening method for passengers shall be equipped with automatic target recognition software.

“(3) DEFINITIONS.—In this subsection:

“(A) ADVANCED IMAGING TECHNOLOGY.—The term ‘advanced imaging technology’—

“(i) means a device that creates a visual image of an individual showing the surface of the skin beneath clothing and revealing other objects on the body that are covered by the clothing; and

“(ii) includes devices using backscatter x-rays or millimeter waves and devices referred to as ‘whole-body imaging technology’ or ‘body scanning’.

“(B) AUTOMATIC TARGET RECOGNITION SOFTWARE.—The term ‘automatic target recognition software’ means software installed on an advanced imaging technology machine that produces a generic image of the individual being screened that is the same as the images produced for all other screened individuals.

“(C) PRIMARY SCREENING.—The term ‘primary screening’ means the initial examination of any passenger at an airport checkpoint, including using available screening technologies to detect weapons, explosives, narcotics, or other indications of unlawful action, in order to determine whether to clear the passenger to board an aircraft or to further examine the passenger.”.

(b) REPORT.—

(1) IN GENERAL.—Not later than March 1, 2012, the Assistant Secretary of Homeland Security (Transportation Security Administration) shall submit to the appropriate congressional committees a report on the implementation of section 44901(1) of title 49, United States Code, as added by subsection (a).

(2) ELEMENTS.—The report required by paragraph (1) shall include the following:

(A) A description of all matters the Assistant Secretary considers relevant to the implementation of such section.

(B) The status of the compliance of the Transportation Security Administration with the provisions of such section.

(C) If the Administration is not in full compliance with such provisions—

(i) the reasons for such non-compliance; and

(ii) a timeline depicting when the Assistant Secretary expects the Administration to achieve full compliance.

(3) SECURITY CLASSIFICATION.—The report required by paragraph (1) shall be submitted, to the greatest extent practicable, in an unclassified format, with a classified annex, if necessary.

(4) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this subsection, the term “appropriate congressional committees” means—

(A) the Committee on Commerce, Science, and Transportation and Committee on Homeland Security and Governmental Affairs of the Senate; and

(B) the Committee on Homeland Security of the House of Representatives.

SEC. 740. CONTROLLING HELICOPTER NOISE POLLUTION IN RESIDENTIAL AREAS.

Section 44715 is amended by adding at the end the following:

“(g) CONTROLLING HELICOPTER NOISE POLLUTION IN RESIDENTIAL AREAS.—

“(1) IN GENERAL.—Notwithstanding section 47502, not later than the date that is 1 year

and 90 days after the date of the enactment of the FAA Air Transportation Modernization and Safety Improvement Act, the Administrator of the Federal Aviation Administration shall prescribe—

“(A) standards to measure helicopter noise; and

“(B) regulations to control helicopter noise pollution in residential areas.

“(2) RULEMAKING WITH RESPECT TO REDUCING HELICOPTER NOISE POLLUTION IN NASSAU AND SUFFOLK COUNTIES IN NEW YORK STATE.—

“(A) IN GENERAL.—Not later than 1 year after the date of the enactment of the FAA Air Transportation Modernization and Safety Improvement Act, and before finalizing the regulations required by paragraph (1), the Administrator shall prescribe regulations with respect to helicopters operating in the counties of Nassau and Suffolk in the State of New York that include—

“(i) requirements with respect to the flight paths and altitudes of helicopters flying over those counties to reduce helicopter noise pollution; and

“(ii) penalties for failing to comply with the requirements described in clause (i).

“(B) APPLICABILITY OF CERTAIN RULEMAKING PROCEDURES.—The requirements of Executive Order 12866 (58 Fed. Reg. 51735; relating to regulatory planning and review) (or any successor thereto) shall not apply to regulations prescribed under subparagraph (A).

“(3) EXCEPTIONS FOR EMERGENCY, LAW ENFORCEMENT, AND MILITARY HELICOPTERS.—In prescribing standards and regulations under paragraphs (1) and (2), the Administrator may provide for exceptions to any requirements with respect to reducing helicopter noise pollution in residential areas for helicopter activity related to emergency, law enforcement, or military activities.”.

TITLE VIII—AIRPORT AND AIRWAY TRUST FUND PROVISIONS AND RELATED TAXES

SEC. 800. AMENDMENT OF 1986 CODE.

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 a section or other provision of the Internal Revenue Code of 1986.

SEC. 801. EXTENSION OF TAXES FUNDING AIRPORT AND AIRWAY TRUST FUND.

(a) FUEL TAXES.—Subparagraph (B) of section 4081(d)(2) is amended by striking “March 31, 2011” and inserting “September 30, 2013”.

(b) TICKET TAXES.—

(1) PERSONS.—Clause (ii) of section 4261(j)(1)(A) is amended by striking “March 31, 2011” and inserting “September 30, 2013”.

(2) PROPERTY.—Clause (ii) of section 4271(d)(1)(A) is amended by striking “March 31, 2011” and inserting “September 30, 2013”.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on April 1, 2011.

SEC. 802. EXTENSION OF AIRPORT AND AIRWAY TRUST FUND EXPENDITURE AUTHORITY.

(a) IN GENERAL.—Paragraph (1) of section 9502(d) is amended—

(1) by striking “April 1, 2011” in the matter preceding subparagraph (A) and inserting “October 1, 2013”, and

(2) by striking the semicolon at the end of subparagraph (A) and inserting “or the FAA Air Transportation Modernization and Safety Improvement Act”.

(b) CONFORMING AMENDMENT.—Paragraph (2) of section 9502(e) is amended by striking “April 1, 2011” and inserting “October 1, 2013”.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on April 1, 2011.

SEC. 803. MODIFICATION OF EXCISE TAX ON KEROSENE USED IN AVIATION.

(a) **RATE OF TAX ON AVIATION-GRADE KEROSENE.**—

(1) **IN GENERAL.**—Subparagraph (A) of section 4081(a)(2) is amended by striking “and” at the end of clause (ii), by striking the period at the end of clause (iii) and inserting “, and”, and by adding at the end the following new clause:

“(iv) in the case of aviation-grade kerosene, 35.9 cents per gallon.”.

(2) **FUEL REMOVED DIRECTLY INTO FUEL TANK OF AIRPLANE USED IN NONCOMMERCIAL AVIATION.**—Subparagraph (C) of section 4081(a)(2) is amended to read as follows:

“(C) **TAXES IMPOSED ON FUEL USED IN COMMERCIAL AVIATION.**—In the case of aviation-grade kerosene which is removed from any refinery or terminal directly into the fuel tank of an aircraft for use in commercial aviation by a person registered for such use under section 4101, the rate of tax under subparagraph (A)(iv) shall be 4.3 cents per gallon.”.

(3) **EXEMPTION FOR AVIATION-GRADE KEROSENE REMOVED INTO AN AIRCRAFT.**—Subsection (e) of section 4082 is amended—

(A) by striking “kerosene” and inserting “aviation-grade kerosene”;

(B) by striking “section 4081(a)(2)(A)(iii)” and inserting “section 4081(a)(2)(A)(iv)”, and

(C) by striking “KEROSENE” in the heading and inserting “AVIATION-GRADE KEROSENE”.

(4) **CONFORMING AMENDMENTS.**—

(A) Clause (iii) of section 4081(a)(2)(A) is amended by inserting “other than aviation-grade kerosene” after “kerosene”.

(B) The following provisions are each amended by striking “kerosene” and inserting “aviation-grade kerosene”:

(i) Section 4081(a)(3)(A)(ii).

(ii) Section 4081(a)(3)(A)(iv).

(iii) Section 4081(a)(3)(D).

(C) Subparagraph (D) of section 4081(a)(3) is amended—

(i) by striking “paragraph (2)(C)(i)” in clause (i) and inserting “paragraph (2)(C)”, and

(ii) by striking “paragraph (2)(C)(ii)” in clause (ii) and inserting “paragraph (2)(A)(iv)”.

(D) Paragraph (4) of section 4081(a) is amended—

(i) by striking “KEROSENE” in the heading and inserting “AVIATION-GRADE KEROSENE”, and

(ii) by striking “paragraph (2)(C)(i)” and inserting “paragraph (2)(C)”.

(E) Paragraph (2) of section 4081(d) is amended by striking “(a)(2)(C)(ii)” and inserting “(a)(2)(A)(iv)”.

(b) **RETAIL TAX ON AVIATION FUEL.**—

(1) **EXEMPTION FOR PREVIOUSLY TAXED FUEL.**—Paragraph (2) of section 4041(c) is amended by inserting “at the rate specified in subsection (a)(2)(A)(iv) thereof” after “section 4081”.

(2) **RATE OF TAX.**—Paragraph (3) of section 4041(c) is amended to read as follows:

“(3) **RATE OF TAX.**—The rate of tax imposed by this subsection shall be the rate of tax in effect under section 4081(a)(2)(A)(iv) (4.3 cents per gallon with respect to any sale or use for commercial aviation).”.

(c) **REFUNDS RELATING TO AVIATION-GRADE KEROSENE.**—

(1) **AVIATION-GRADE KEROSENE USED IN COMMERCIAL AVIATION.**—Clause (ii) of section 6427(l)(4)(A) is amended by striking “specified in section 4041(c) or 4081(a)(2)(A)(iii), as the case may be,” and inserting “so imposed”.

(2) **KEROSENE USED IN AVIATION.**—Paragraph (4) of section 6427(l) is amended by striking subparagraphs (B) and (C) and inserting the following new subparagraph:

“(B) **PAYMENTS TO ULTIMATE, REGISTERED VENDOR.**—With respect to any kerosene used in aviation (other than kerosene to which paragraph (6) applies), if the ultimate purchaser of such kerosene waives (at such time and in such form and manner as the Secretary shall prescribe) the right to payment under paragraph (1) and assigns such right to the ultimate vendor, then the Secretary shall pay (without interest) the amount which would be paid under paragraph (1) to such ultimate vendor, but only if such ultimate vendor—

“(i) is registered under section 4101, and

“(ii) meets the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1).”.

(3) **AVIATION-GRADE KEROSENE NOT USED IN AVIATION.**—Subsection (l) of section 6427 is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

“(5) **REFUNDS FOR AVIATION-GRADE KEROSENE NOT USED IN AVIATION.**—If tax has been imposed under section 4081 at the rate specified in section 4081(a)(2)(A)(iv) and the fuel is used other than in an aircraft, the Secretary shall pay (without interest) to the ultimate purchaser of such fuel an amount equal to the amount of tax imposed on such fuel reduced by the amount of tax that would be imposed under section 4041 if no tax under section 4081 had been imposed.”.

(4) **CONFORMING AMENDMENTS.**—

(A) Subparagraph (B) of section 4082(d)(2) is amended by striking “6427(l)(5)(B)” and inserting “6427(l)(6)(B)”.

(B) Paragraph (4) of section 6427(i) is amended—

(i) by striking “(4)(C) or (5)” and inserting “(4)(B) or (6)”, and

(ii) by striking “, (1)(4)(C)(ii), and (1)(5)” and inserting “and (1)(6)”.

(C) Subsection (l) of section 6427 is amended by striking “DIESEL FUEL AND KEROSENE” in the heading and inserting “DIESEL FUEL, KEROSENE, AND AVIATION FUEL”.

(D) Paragraph (1) of section 6427(l) is amended by striking “paragraph (4)(C)(i)” and inserting “paragraph (4)(B)”.

(E) Paragraph (4) of section 6427(l) is amended—

(i) by striking “KEROSENE USED IN AVIATION” in the heading and inserting “AVIATION-GRADE KEROSENE USED IN COMMERCIAL AVIATION”, and

(ii) in subparagraph (A)—

(I) by striking “kerosene” and inserting “aviation-grade kerosene”,

(II) by striking “KEROSENE USED IN COMMERCIAL AVIATION” in the heading and inserting “IN GENERAL”.

(d) **TRANSFERS TO THE AIRPORT AND AIRWAY TRUST FUND.**—

(1) **IN GENERAL.**—Subparagraph (C) of section 9502(b)(1) is amended to read as follows:

“(C) section 4081 with respect to aviation gasoline and aviation-grade kerosene, and”.

(2) **TRANSFERS ON ACCOUNT OF CERTAIN REFUNDS.**—

(A) **IN GENERAL.**—Subsection (d) of section 9502 is amended—

(i) by striking “(other than subsection (1)(4) thereof)” in paragraph (2), and

(ii) by striking “(other than payments made by reason of paragraph (4) of section 6427(l))” in paragraph (3).

(B) **CONFORMING AMENDMENTS.**—

(i) Paragraph (4) of section 9503(b) is amended by striking “or” at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting a comma, and by inserting after subparagraph (D) the following new subparagraphs:

“(E) section 4081 to the extent attributable to the rate specified in clause (ii) or (iv) of section 4081(a)(2)(A), or

“(F) section 4041(c).”.

(ii) Subsection (c) of section 9503 is amended by striking paragraph (5).

(iii) Subsection (a) of section 9502 is amended—

(I) by striking “appropriated, credited, or paid into” and inserting “appropriated or credited to”, and

(II) by striking “, section 9503(c)(5),”.

(e) **EFFECTIVE DATE.**—The amendments made by this section shall apply to fuels removed, entered, or sold after March 31, 2011.

(f) **FLOOR STOCKS TAX.**—

(1) **IMPOSITION OF TAX.**—In the case of aviation-grade kerosene fuel which is held on April 1, 2011, by any person, there is hereby imposed a floor stocks tax on aviation-grade kerosene equal to—

(A) the tax which would have been imposed before such date on such kerosene had the amendments made by this section been in effect at all times before such date, reduced by

(B) the tax imposed before such date on such kerosene under section 4081 of the Internal Revenue Code of 1986, as in effect on such date.

(2) **LIABILITY FOR TAX AND METHOD OF PAYMENT.**—

(A) **LIABILITY FOR TAX.**—A person holding aviation-grade kerosene on April 1, 2011, shall be liable for such tax.

(B) **TIME AND METHOD OF PAYMENT.**—The tax imposed by paragraph (1) shall be paid at such time and in such manner as the Secretary of the Treasury shall prescribe.

(3) **TRANSFER OF FLOOR STOCK TAX REVENUES TO TRUST FUNDS.**—For purposes of determining the amount transferred to the Airport and Airway Trust Fund, the tax imposed by this subsection shall be treated as imposed by section 4081(a)(2)(A)(iv) of the Internal Revenue Code of 1986.

(4) **DEFINITIONS.**—For purposes of this subsection—

(A) **AVIATION-GRADE KEROSENE.**—The term “aviation-grade kerosene” means aviation-grade kerosene as such term is used within the meaning of section 4081 of the Internal Revenue Code of 1986.

(B) **HELD BY A PERSON.**—Aviation-grade kerosene shall be considered as held by a person if title thereto has passed to such person (whether or not delivery to the person has been made).

(C) **SECRETARY.**—The term “Secretary” means the Secretary of the Treasury or the Secretary’s delegate.

(5) **EXCEPTION FOR EXEMPT USES.**—The tax imposed by paragraph (1) shall not apply to any aviation-grade kerosene held by any person exclusively for any use to the extent a credit or refund of the tax is allowable under the Internal Revenue Code of 1986 for such use.

(6) **EXCEPTION FOR CERTAIN AMOUNTS OF AVIATION-GRADE KEROSENE.**—

(A) **IN GENERAL.**—No tax shall be imposed by paragraph (1) on any aviation-grade kerosene held on April 1, 2011, by any person if the aggregate amount of such aviation-grade kerosene held by such person on such date does not exceed 2,000 gallons. The preceding sentence shall apply only if such person submits to the Secretary (at the time and in the manner required by the Secretary) such information as the Secretary shall require for purposes of this subparagraph.

(B) **EXEMPT AVIATION-GRADE KEROSENE.**—For purposes of subparagraph (A), there shall not be taken into account any aviation-grade kerosene held by any person which is exempt from the tax imposed by paragraph (1) by reason of paragraph (5).

(C) **CONTROLLED GROUPS.**—For purposes of this subsection—

(i) **CORPORATIONS.**—

(I) **IN GENERAL.**—All persons treated as a controlled group shall be treated as 1 person.

(II) CONTROLLED GROUP.—The term “controlled group” has the meaning given to such term by subsection (a) of section 1563 of the Internal Revenue Code of 1986; except that for such purposes the phrase “more than 50 percent” shall be substituted for the phrase “at least 80 percent” each place it appears in such subsection.

(ii) NONINCORPORATED PERSONS UNDER COMMON CONTROL.—Under regulations prescribed by the Secretary, principles similar to the principles of subparagraph (A) shall apply to a group of persons under common control if 1 or more of such persons is not a corporation.

(7) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4081 of the Internal Revenue Code of 1986 on the aviation-grade kerosene involved shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply with respect to the floor stock taxes imposed by paragraph (1) to the same extent as if such taxes were imposed by such section.

SEC. 804. AIR TRAFFIC CONTROL SYSTEM MODERNIZATION ACCOUNT.

(a) IN GENERAL.—Section 9502 is amended by adding at the end the following new subsection:

“(f) ESTABLISHMENT OF AIR TRAFFIC CONTROL SYSTEM MODERNIZATION ACCOUNT.—

“(1) CREATION OF ACCOUNT.—There is established in the Airport and Airway Trust Fund a separate account to be known as the ‘Air Traffic Control System Modernization Account’ consisting of such amounts as may be transferred or credited to the Air Traffic Control System Modernization Account as provided in this subsection or section 9602(b).

“(2) TRANSFERS TO AIR TRAFFIC CONTROL SYSTEM MODERNIZATION ACCOUNT.—On October 1, 2011, and annually thereafter the Secretary shall transfer \$400,000,000 to the Air Traffic Control System Modernization Account from amounts appropriated to the Airport and Airway Trust Fund under subsection (b) which are attributable to taxes on aviation-grade kerosene.

“(3) EXPENDITURES FROM ACCOUNT.—Amounts in the Air Traffic Control System Modernization Account shall be available subject to appropriation for expenditures relating to the modernization of the air traffic control system (including facility and equipment account expenditures).”

(b) CONFORMING AMENDMENT.—Paragraph (1) of section 9502(d) is amended by striking “Amounts” and inserting “Except as provided in subsection (f), amounts”.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 805. TREATMENT OF FRACTIONAL AIRCRAFT OWNERSHIP PROGRAMS.

(a) FUEL SURTAX.—

(1) IN GENERAL.—Subchapter B of chapter 31 is amended by adding at the end the following new section:

“SEC. 4043. SURTAX ON FUEL USED IN AIRCRAFT PART OF A FRACTIONAL OWNERSHIP PROGRAM.

“(a) IN GENERAL.—There is hereby imposed a tax on any liquid used during any calendar quarter by any person as a fuel in an aircraft which is—

“(1) registered in the United States, and

“(2) part of a fractional ownership aircraft program.

“(b) AMOUNT OF TAX.—The rate of tax imposed by subsection (a) is 14.1 cents per gallon.

“(c) FRACTIONAL OWNERSHIP AIRCRAFT PROGRAM.—For purposes of this section—

“(1) IN GENERAL.—The term ‘fractional ownership aircraft program’ means a program under which—

“(A) a single fractional ownership program manager provides fractional ownership program management services on behalf of the fractional owners,

“(B) 2 or more airworthy aircraft are part of the program,

“(C) there are 1 or more fractional owners per program aircraft, with at least 1 program aircraft having more than 1 owner,

“(D) each fractional owner possesses at least a minimum fractional ownership interest in 1 or more program aircraft,

“(E) there exists a dry-lease aircraft exchange arrangement among all of the fractional owners, and

“(F) there are multi-year program agreements covering the fractional ownership, fractional ownership program management services, and dry-lease aircraft exchange aspects of the program.

“(2) MINIMUM FRACTIONAL OWNERSHIP INTEREST.—

“(A) IN GENERAL.—The term ‘minimum fractional ownership interest’ means, with respect to each type of aircraft—

“(i) a fractional ownership interest equal to or greater than $\frac{1}{16}$ of at least 1 subsonic, fixed wing or powered lift program aircraft, or

“(ii) a fractional ownership interest equal to or greater than $\frac{1}{32}$ of at least 1 rotorcraft program aircraft.

“(B) FRACTIONAL OWNERSHIP INTEREST.—The term ‘fractional ownership interest’ means—

“(i) the ownership of an interest in a program aircraft,

“(ii) the holding of a multi-year leasehold interest in a program aircraft, or

“(iii) the holding of a multi-year leasehold interest which is convertible into an ownership interest in a program aircraft.

“(3) DRY-LEASE AIRCRAFT EXCHANGE.—The term ‘dry-lease aircraft exchange’ means an agreement, documented by the written program agreements, under which the program aircraft are available, on an as needed basis without crew, to each fractional owner.

“(d) TERMINATION.—This section shall not apply to liquids used as a fuel in an aircraft after September 30, 2013.”

(2) CONFORMING AMENDMENT.—Subsection (e) of section 4082 is amended by inserting “(other than an aircraft described in section 4043(a))” after “an aircraft”.

(3) TRANSFER OF REVENUES TO AIRPORT AND AIRWAY TRUST FUND.—Subsection (1) of section 9502(b) is amended by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively, and by inserting after subparagraph (A) the following new subparagraph:

“(B) section 4043 (relating to surtax on fuel used in aircraft part of a fractional ownership program).”

(4) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 31 is amended by adding at the end the following new item:

“Sec. 4043. Surtax on fuel used in aircraft part of a fractional ownership program.”

(b) FRACTIONAL OWNERSHIP PROGRAMS TREATED AS NON-COMMERCIAL AVIATION.—Subsection (b) of section 4083 is amended by adding at the end the following new sentence: “For uses of aircraft before October 1, 2013, such term shall not include the use of any aircraft which is part of a fractional ownership aircraft program (as defined by section 4043(c)).”

(c) EXEMPTION FROM TAX ON TRANSPORTATION OF PERSONS.—Section 4261, as amended by this Act, is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

“(j) EXEMPTION FOR AIRCRAFT IN FRACTIONAL OWNERSHIP AIRCRAFT PROGRAMS.—No tax shall be imposed by this section or section 4271 on any air transportation provided before October 1, 2013, by an aircraft which is part of a fractional ownership aircraft program (as defined by section 4043(c)).”

(d) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendments made by subsection (a) shall apply to fuel used after March 31, 2011.

(2) SUBSECTION (b).—The amendment made by subsection (b) shall apply to uses of aircraft after March 31, 2011.

(3) SUBSECTION (c).—The amendments made by subsection (c) shall apply to taxable transportation provided after March 31, 2011.

SEC. 806. TERMINATION OF EXEMPTION FOR SMALL JET AIRCRAFT ON NON-ESTABLISHED LINES.

(a) IN GENERAL.—The first sentence of section 4281 is amended by inserting “or when such aircraft is a turbine engine powered aircraft” after “an established line”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable transportation provided after March 31, 2011.

SEC. 807. TRANSPARENCY IN PASSENGER TAX DISCLOSURES.

(a) IN GENERAL.—Section 7275 (relating to penalty for offenses relating to certain airline tickets and advertising) is amended—

(1) by redesignating subsection (c) as subsection (d),

(2) by striking “subsection (a) or (b)” in subsection (d), as so redesignated, and inserting “subsection (a), (b), or (c)”, and

(3) by inserting after subsection (b) the following new subsection:

“(c) NON-TAX CHARGES.—

“(1) IN GENERAL.—In the case of transportation by air for which disclosure on the ticket or advertising for such transportation of the amounts paid for passenger taxes is required by subsection (a)(2) or (b)(1)(B), if such amounts are separately disclosed, it shall be unlawful for the disclosure of such amounts to include any amounts not attributable to such taxes.

“(2) INCLUSION IN TRANSPORTATION COST.—Nothing in this subsection shall prohibit the inclusion of amounts not attributable to the taxes imposed by subsection (a), (b), or (c) of section 4261 in the disclosure of the amount paid for transportation as required by subsection (a)(1) or (b)(1)(A), or in a separate disclosure of amounts not attributable to such taxes.”

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable transportation provided after March 31, 2011.

SEC. 808. TAX-EXEMPT BOND FINANCING FOR FIXED-WING EMERGENCY MEDICAL AIRCRAFT.

(a) IN GENERAL.—Subsection (e) of section 147 is amended by adding at the end the following new sentence: “The preceding sentence shall not apply to any fixed-wing aircraft equipped for, and exclusively dedicated to providing, acute care emergency medical services (within the meaning of 4261(g)(2)).”

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to obligations issued after the date of the enactment of this Act.

SEC. 809. PROTECTION OF AIRPORT AND AIRWAY TRUST FUND SOLVENCY.

(a) IN GENERAL.—Paragraph (1) of section 9502(d) is amended by adding at the end the following new sentence: “Unless otherwise provided by this section, for purposes of this paragraph for fiscal year 2012 or 2013, the amount available for making expenditures for such fiscal year shall not exceed 90 percent of the receipts of the Airport and Airway Trust Fund plus interest credited to such Trust Fund for such fiscal year as estimated by the Secretary of the Treasury.”

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to fiscal years beginning after September 30, 2011.

SEC. 810. ROLLOVER OF AMOUNTS RECEIVED IN AIRLINE CARRIER BANKRUPTCY.

(a) **GENERAL RULES.**—

(1) **ROLLOVER OF AIRLINE PAYMENT AMOUNT.**—If a qualified airline employee receives any airline payment amount and transfers any portion of such amount to a traditional IRA within 180 days of receipt of such amount (or, if later, within 180 days of the date of the enactment of this Act), then such amount (to the extent so transferred) shall be treated as a rollover contribution described in section 402(c) of the Internal Revenue Code of 1986. A qualified airline employee making such a transfer may exclude from gross income the amount transferred, in the taxable year in which the airline payment amount was paid to the qualified airline employee by the commercial passenger airline carrier.

(2) **TRANSFER OF AMOUNTS ATTRIBUTABLE TO AIRLINE PAYMENT AMOUNT FOLLOWING ROLLOVER TO ROTH IRA.**—A qualified airline employee who has contributed an airline payment amount to a Roth IRA that is treated as a qualified rollover contribution pursuant to section 125 of the Worker, Retiree, and Employer Recovery Act of 2008, may transfer to a traditional IRA, in a trustee-to-trustee transfer, all or any part of the contribution (together with any net income allocable to such contribution), and the transfer to the traditional IRA will be deemed to have been made at the time of the rollover to the Roth IRA, if such transfer is made within 180 days of the date of the enactment of this Act. A qualified airline employee making such a transfer may exclude from gross income the airline payment amount previously rolled over to the Roth IRA, to the extent an amount attributable to the previous rollover was transferred to a traditional IRA, in the taxable year in which the airline payment amount was paid to the qualified airline employee by the commercial passenger airline carrier. No amount so transferred to a traditional IRA may be treated as a qualified rollover contribution with respect to a Roth IRA within the 5-taxable year period beginning with the taxable year in which such transfer was made.

(3) **EXTENSION OF TIME TO FILE CLAIM FOR REFUND.**—A qualified airline employee who excludes an amount from gross income in a prior taxable year under paragraph (1) or (2) may reflect such exclusion in a claim for refund filed within the period of limitation under section 6511(a) (or, if later, April 15, 2012).

(b) **TREATMENT OF AIRLINE PAYMENT AMOUNTS AND TRANSFERS FOR EMPLOYMENT TAXES.**—For purposes of chapter 21 of the Internal Revenue Code of 1986 and section 209 of the Social Security Act, an airline payment amount shall not fail to be treated as a payment of wages by the commercial passenger airline carrier to the qualified airline employee in the taxable year of payment because such amount is excluded from the qualified airline employee's gross income under subsection (a).

(c) **DEFINITIONS AND SPECIAL RULES.**—For purposes of this section—

(1) **AIRLINE PAYMENT AMOUNT.**—

(A) **IN GENERAL.**—The term “airline payment amount” means any payment of any money or other property which is payable by a commercial passenger airline carrier to a qualified airline employee—

(i) under the approval of an order of a Federal bankruptcy court in a case filed after September 11, 2001, and before January 1, 2007, and

(ii) in respect of the qualified airline employee's interest in a bankruptcy claim

against the carrier, any note of the carrier (or amount paid in lieu of a note being issued), or any other fixed obligation of the carrier to pay a lump sum amount.

The amount of such payment shall be determined without regard to any requirement to deduct and withhold tax from such payment under sections 3102(a) and 3402(a).

(B) **EXCEPTION.**—An airline payment amount shall not include any amount payable on the basis of the carrier's future earnings or profits.

(2) **QUALIFIED AIRLINE EMPLOYEE.**—The term “qualified airline employee” means an employee or former employee of a commercial passenger airline carrier who was a participant in a defined benefit plan maintained by the carrier which—

(A) is a plan described in section 401(a) of the Internal Revenue Code of 1986 which includes a trust exempt from tax under section 501(a) of such Code, and

(B) was terminated or became subject to the restrictions contained in paragraphs (2) and (3) of section 402(b) of the Pension Protection Act of 2006.

(3) **TRADITIONAL IRA.**—The term “traditional IRA” means an individual retirement plan (as defined in section 7701(a)(37) of the Internal Revenue Code of 1986) which is not a Roth IRA.

(4) **ROTH IRA.**—The term “Roth IRA” has the meaning given such term by section 408A(b) of such Code.

(d) **SURVIVING SPOUSE.**—If a qualified airline employee died after receiving an airline payment amount, or if an airline payment amount was paid to the surviving spouse of a qualified airline employee in respect of the qualified airline employee, the surviving spouse of the qualified airline employee may take all actions permitted under section 125 of the Worker, Retiree and Employer Recovery Act of 2008, or under this section, to the same extent that the qualified airline employee could have done had the qualified airline employee survived.

(e) **EFFECTIVE DATE.**—This section shall apply to transfers made after the date of the enactment of this Act with respect to airline payment amounts paid before, on, or after such date.

SEC. 811. APPLICATION OF LEVY TO PAYMENTS TO FEDERAL VENDORS RELATING TO PROPERTY.

(a) **IN GENERAL.**—Section 6331(h)(3) of the Internal Revenue Code of 1986 is amended by striking “goods or services” and inserting “property, goods, or services”.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to levies issued after the date of the enactment of this Act.

SEC. 812. MODIFICATION OF CONTROL DEFINITION FOR PURPOSES OF SECTION 249.

(a) **IN GENERAL.**—Section 249(a) of the Internal Revenue Code of 1986 is amended by striking “, or a corporation in control of, or controlled by,” and inserting “, or a corporation in the same parent-subsidiary controlled group (within the meaning of section 1563(a)(1) as”.

(b) **CONFORMING AMENDMENT.**—Section 249(b) of the Internal Revenue Code of 1986 is amended—

(1) by striking “subsection (a)—” and all that follows through “The adjusted issue price” and inserting “subsection (a), the adjusted issue price”, and

(2) by striking paragraph (2).

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to repurchases after the date of the enactment of this Act.

TITLE IX—BUDGETARY EFFECTS

SEC. 901. BUDGETARY EFFECTS.

The budgetary effects of this Act, for the purpose of complying with the Statutory

Pay-As-You-Go-Act of 2010, shall be determined by reference to the latest statement titled “Budgetary Effects of PAYGO Legislation” for this Act, submitted for printing in the Congressional Record by the Chairman of the Senate Budget Committee, provided that such statement has been submitted prior to the vote on passage.

TITLE X—RESCISSION OF UNUSED TRANSPORTATION EARMARKS AND GENERAL REPORTING REQUIREMENT

SEC. 1001. DEFINITION.

In this title, the term “earmark” means the following:

(1) A congressionally directed spending item, as defined in Rule XLIV of the Standing Rules of the Senate.

(2) A congressional earmark, as defined for purposes of Rule XXI of the Rules of the House of Representatives.

SEC. 1002. RESCISSION.

Any earmark of funds provided for the Department of Transportation with more than 90 percent of the appropriated amount remaining available for obligation at the end of the 9th fiscal year following the fiscal year in which the earmark was made available is rescinded effective at the end of that 9th fiscal year, except that the Secretary of Transportation may delay any such rescission if the Secretary determines that an additional obligation of the earmark is likely to occur during the following 12-month period.

SEC. 1003. AGENCY WIDE IDENTIFICATION AND REPORTS.

(a) **AGENCY IDENTIFICATION.**—Each Federal agency shall identify and report every project that is an earmark with an unobligated balance at the end of each fiscal year to the Director of OMB.

(b) **ANNUAL REPORT.**—The Director of OMB shall submit to Congress and publically post on the website of OMB an annual report that includes—

(1) a listing and accounting for earmarks with unobligated balances summarized by agency including the amount of the original earmark, amount of the unobligated balance, and the year when the funding expires, if applicable;

(2) the number of rescissions resulting from this title and the annual savings resulting from this title for the previous fiscal year; and

(3) a listing and accounting for earmarks provided for the Department of Transportation scheduled to be rescinded at the end of the current fiscal year.

TITLE XI—REPEAL OF EXPANSION OF INFORMATION REPORTING REQUIREMENTS

SEC. 1101. REPEAL OF EXPANSION OF INFORMATION REPORTING REQUIREMENTS.

(a) **IN GENERAL.**—Section 9006 of the Patient Protection and Affordable Care Act, and the amendments made thereby, are hereby repealed; and the Internal Revenue Code of 1986 shall be applied as if such section, and amendments, had never been enacted.

(b) **RESCISSION OF UNSPENT FEDERAL FUNDS TO OFFSET LOSS IN REVENUES.**—

(1) **IN GENERAL.**—Notwithstanding any other provision of law, of all available unobligated funds, \$44,000,000,000 in appropriated discretionary funds are hereby rescinded.

(2) **IMPLEMENTATION.**—The Director of the Office of Management and Budget shall determine and identify from which appropriation accounts the rescission under paragraph (1) shall apply and the amount of such rescission that shall apply to each such account. Not later than 60 days after the date of the enactment of this Act, the Director of the Office of Management and Budget shall submit a report to the Secretary of the Treasury and Congress of the accounts and

amounts determined and identified for re-scission under the preceding sentence.

(3) **EXCEPTION.**—This subsection shall not apply to the unobligated funds of the Department of Defense, the Department of Veterans Affairs, or the Social Security Administration.

TITLE XII—EMERGENCY MEDICAL SERVICE PROVIDERS PROTECTION AND LIABILITY PROTECTION FOR CERTAIN VOLUNTEER PILOTS

SUBTITLE A—EMERGENCY MEDICAL SERVICE PROVIDERS PROTECTION

SEC. 1201. DALE LONG EMERGENCY MEDICAL SERVICE PROVIDERS PROTECTION ACT.

(a) **SHORT TITLE.**—This subtitle may be cited as the “Dale Long Emergency Medical Service Providers Protection Act”.

(b) **ELIGIBILITY.**—Section 1204 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796b) is amended—

(1) in paragraph (7), by striking “public employee member of a rescue squad or ambulance crew;” and inserting “employee or volunteer member of a rescue squad or ambulance crew (including a ground or air ambulance service) that—

“(A) is a public agency; or

“(B) is (or is a part of) a nonprofit entity serving the public that—

“(i) is officially authorized or licensed to engage in rescue activity or to provide emergency medical services; and

“(ii) is officially designated as a pre-hospital emergency medical response agency;”;

and

(2) in paragraph (9)—

(A) in subparagraph (A), by striking “as a chaplain” and all that follows through the semicolon; and inserting “or as a chaplain;”;

(B) in subparagraph (B)(ii), by striking “or” after the semicolon;

(C) in subparagraph (C)(ii), by striking the period and inserting “; or”; and

(D) by adding at the end the following:

“(D) a member of a rescue squad or ambulance crew who, as authorized or licensed by law and by the applicable agency or entity (and as designated by such agency or entity), is engaging in rescue activity or in the provision of emergency medical services.”.

(c) **OFFSET.**—Of the unobligated balances available under the Department of Justice Assets Forfeiture Fund, \$13,000,000 are permanently cancelled.

(d) **EFFECTIVE DATE.**—The amendments made by subsection (b) shall apply only to injuries sustained on or after June 1, 2009.

SUBTITLE B—LIABILITY PROTECTION

SEC. 1211. SHORT TITLE.

This subtitle may be cited as the “Volunteer Pilot Protection Act of 2011”.

SEC. 1212. FINDINGS AND PURPOSE.

(a) **FINDINGS.**—Congress finds the following:

(1) Many volunteer pilots fly for public benefit and provide valuable services to communities and individuals.

(2) In calendar year 2006, volunteer pilots provided long-distance, no-cost transportation for more than 58,000 people during times of special need.

(b) **PURPOSE.**—The purpose of this title is to promote the activities of volunteer pilots that fly for public benefit and to sustain the availability of the services that such volunteers provide, including the following:

(1) Transportation at no cost to financially needy medical patients for medical treatment, evaluation, and diagnosis.

(2) Flights for humanitarian and charitable purposes.

(3) Other flights of compassion.

SEC. 1213. LIABILITY PROTECTION FOR VOLUNTEER PILOTS THAT FLY FOR PUBLIC BENEFIT.

Section 4 of the Volunteer Protection Act of 1997 (42 U.S.C. 14503) is amended in subsection (a)(4)—

(1) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(2) by striking “the harm” and inserting “(A) except in the case of subparagraph (B), the harm”;

(3) in subparagraph (A)(ii), as redesignated by this paragraph, by striking the period at the end and inserting “; and”; and

(4) by adding at the end the following:

“(B) the volunteer—

“(i) was operating an aircraft to promote the activities of volunteer pilots that fly for public benefit and to sustain the availability of the services that such volunteers provide, including transportation at no cost to financially needy medical patients for medical treatment, evaluation, and diagnosis, and for humanitarian and charitable purposes; and

“(ii) was properly licensed and insured for the operation of such aircraft.”.

REDUCING FEDERAL SPENDING AND THE DEFICIT BY TERMINATING TAXPAYER FINANCING OF PRESIDENTIAL ELECTION CAMPAIGNS AND PARTY CONVENTIONS—MOTION TO PROCEED

CLOTURE MOTION

Mr. REID. Mr. President, I move to proceed to Calendar No. 11, H.R. 359, and I send a cloture motion to the desk.

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

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to Calendar No. 11, H.R. 359, an act to reduce Federal spending and the deficit by terminating taxpayer financing of Presidential election campaigns and party conventions.

Harry Reid, Daniel K. Inouye, Jeff Bingaman, Tom Udall, Kent Conrad, Patrick J. Leahy, Benjamin L. Cardin, Carl Levin, Jack Reed, Kay R. Hagan, Mark R. Warner, Richard J. Durbin, Jeff Merkley, Mark Begich, Al Franken, Bill Nelson, Charles E. Schumer.

Mr. REID. I ask unanimous consent the mandatory quorum under rule XXII be waived.

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

Mr. REID. I now withdraw my motion to proceed.

The PRESIDING OFFICER. The motion is withdrawn.

RECOGNIZING WOMEN SERVING IN THE UNITED STATES ARMED FORCES

Mr. REID. I ask unanimous consent the Senate proceed to S. Con. Res. 8.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 8) recognizing women serving in the United States Armed Forces.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. REID. I ask unanimous consent the concurrent resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid on the table, with no intervening action or debate, and any statements be printed in the RECORD.

Mr. President, before you rule on this, last week they had a very good series on National Public Radio about women in the military. It was really wonderful. It was so full of information. They talked about a woman who had served in the military in World War II. They had a general, a woman, the first four star general to be a woman. The show had a woman who had been in the military in the 1980s and a daughter who is a graduate from West Point now, going to medical school as a result of her military service. It was really terrific.

Of course, the issue the Pentagon is working through, and it is quite difficult, is combat for women. They had one woman there on this program who was awarded the Silver Star for her gallant actions, her heroic actions. She was part of a caravan. It was attacked and she was the hero of the battle. The shooting went on for 45 minutes.

I am very happy to be reading this into the RECORD. I ask the Chair to rule that this is without objection because it certainly is the right thing to do, to recognize women serving in the U.S. Armed Forces.

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

The concurrent resolution (S. Con. Res. 8) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

S. CON. RES. 8

Whereas women have served with distinction in the United States Armed Forces since the American Revolution and have made significant and lasting contributions to the security of the United States;

Whereas in 2011, women comprise nearly 16 percent of the United States Armed Forces and serve in positions of responsibility in the active and reserve components of the Army, Marine Corps, Navy, Air Force, and Coast Guard, as compared with less than 5 percent in 1976 when women were first integrated into the service academies;

Whereas women serve at the highest levels in the Department of Defense and other governmental organizations contributing to the defense of the United States; and

Whereas the accomplishments of generations of women have contributed to the history of the United States Armed Forces and to the strength of the United States: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) recognizes the importance of women to national defense throughout the history of the United States; and

(2) encourages the people of the United States to honor women who have served and who continue to serve the United States in the United States Armed Forces.

MEASURE READ THE FIRST TIME—H.R. 1

Mr. REID. There is a bill at the desk. I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the title of the bill for the first time.

The legislative clerk read as follows:

A bill (H.R. 1) making appropriations for the Department of Defense and the other departments and agencies of the Government for the fiscal year ending September 30, 2011, and for other purposes.

Mr. REID. I now ask for a second reading in order to place the bill on the calendar under the provisions of rule XIV, and I object to my own request.

The PRESIDING OFFICER. Objection having been heard, the bill will receive the second reading on the next legislative day.

MEASURE DISCHARGED AND PLACED ON CALENDAR—S. RES. 70

Mr. REID. Mr. President, I ask unanimous consent that the Rules Committee be discharged from further consideration of S. Res. 70, and the resolution be placed on the calendar.

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

ORDERS FOR TUESDAY, MARCH 1, 2011

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 10 a.m. tomorrow, Tuesday, March 1; that following the prayer and the pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day; that following any leader remarks there be a period of morning business for 1 hour, with Senators permitted to speak therein for up to 10 minutes each, with the time equally divided and controlled between the two leaders or their designees, with the majority controlling the first half and the Republicans controlling the second half; further that the Senate recess from 12:30 to 2:15 to allow for the weekly party caucus lunches; finally, following morning business, the Senate resume consideration of the Patent Reform Act of 2011.

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

PROGRAM

Mr. REID. Mr. President, Senators should expect rollcall votes to occur throughout the day in relation to amendments to the patent reform bill. It is a very important piece of legislation. We waited for years to get this on the floor of the Senate. If Senators have amendments, they should move

them quickly because we hope to finish this bill very quickly.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. REID. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that it adjourn under the previous order and under the provisions of S. Res. 78 as a further mark of respect to the late former Senator James McClure.

There being no objection, the Senate, at 7:02 p.m., adjourned until Tuesday, March 1, 2011, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate:

EXECUTIVE OFFICE OF THE PRESIDENT

CARL SHAPIRO, OF CALIFORNIA, TO BE A MEMBER OF THE COUNCIL OF ECONOMIC ADVISERS, VICE CECILIA ELENA ROUSE.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

DAVID LEWIS BUTTRICK
ALAN CHOUSET
HENRY E. CLOSE III
CALVIN D. DIXON
CLYDE DYSON
THOMAS J. ELBERT, JR.
RANDALL W. ERWIN
RICHARD FITZGERALD
BRYAN S. HOCHHALTER
JOHN P. KENYON
BOYD C. SHORT, JR.
JOHN F. TILLERY
ROBERT D. WARD
THEADORE L. WILSON

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be major

MARTIN D. ADAMSON
JAMES B. ANDERSON
MARTIN R. BOOTH
ROBERT E. BORGER
WILLIAM J. BRASWELL
BRIAN K. CLOUSE
GARY A. COBURN
DARREN B. DUNCAN
ELBERT A. FADALLAN
LANCE K. GIANNONE
DAVID B. KRUSE
MARSHALL E. MACCLELLAN
SHAWN L. MENCHION
ROBERT J. MONAGLE
ERIK W. NELSON
RONALD R. RAGON
STEVEN R. RICHARDSON
JOHN G. SACKETT
HERBERT C. SHAO
JOHN MARION VON ALMEN

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR REGULAR APPOINTMENT IN THE GRADE INDICATED IN THE UNITED STATES ARMY JUDGE ADVOCATE GENERAL'S CORPS UNDER TITLE 10, U.S.C., SECTIONS 531 AND 3064:

To be major

PAUL L. ROBSON

THE FOLLOWING NAMED OFFICER FOR REGULAR APPOINTMENT IN THE GRADE INDICATED IN THE UNITED STATES ARMY UNDER TITLE 10, U.S.C., SECTIONS 531 AND 716:

To be major

BRIAN M. BOYCE

THE FOLLOWING NAMED INDIVIDUAL FOR REGULAR APPOINTMENT IN THE GRADE INDICATED IN THE UNITED STATES ARMY MEDICAL CORPS UNDER TITLE 10, U.S.C., SECTIONS 531 AND 3064:

To be lieutenant colonel

JAN I. MABY

THE FOLLOWING NAMED OFFICERS FOR REGULAR APPOINTMENT IN THE GRADES INDICATED IN THE UNITED

STATES ARMY UNDER TITLE 10, U.S.C., SECTIONS 531 AND 716:

To be major

JASON K. BURGMAN
CODY D. WHITTINGTON

THE FOLLOWING NAMED INDIVIDUALS FOR REGULAR APPOINTMENT TO THE GRADES INDICATED IN THE UNITED STATES ARMY MEDICAL CORPS UNDER TITLE 10, U.S.C., SECTIONS 531 AND 3064:

To be lieutenant colonel

LEE A. BURNETT
ANTHONY J. CANFIELD
JOHN M. GRAY

To be major

ROBERT A. MARSH

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

To be colonel

KENNETH P. DONNELLY
JEFF L. FISHER
RODNEY B. PAINTING
STEPHEN M. POTTER
BRUCE D. REED
RICHARD J. VANARNAM, JR.

THE FOLLOWING NAMED OFFICERS FOR REGULAR APPOINTMENT IN THE GRADES INDICATED IN THE UNITED STATES ARMY UNDER TITLE 10, U.S.C., SECTION 531:

To be lieutenant colonel

KEVIN J. MCCANN
JAMES A. SEVERNSON

To be major

RANDY R. COTE
TODD O. COULSON
QUINCY A. GAINES
MELVIN R. HEMPSTEAD
FRED W. MILLER
ANTHONY NELSON
ERIC C. POSERN
MATTHEW R. PROVOST
WILSON R. STERLING
GORDON E. VINCENT

THE FOLLOWING NAMED OFFICERS FOR REGULAR APPOINTMENT IN THE GRADES INDICATED IN THE UNITED STATES ARMY UNDER TITLE 10, U.S.C., SECTION 531:

To be colonel

JOHN S. KUTTAS

To be lieutenant colonel

JOHN D. JASINSKI

To be major

CHRISTOPHER T. ALLEN
JENINE A. BETSCHART
JOHN W. BLACK
KEVIN T. BLACK
BRADLEY A. CARLSON
DALE B. COPARANIS
SCOTT F. DREIBELBIS
PAUL G. HARRELL
JONATHAN S. HEDGE
DESIREE J. LEDAN
TINA M. SCHOENBERGER
CONRAD A. SCHUPAY
WESLEY G. WHITE

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

DOUGLAS L. EDSON

THE FOLLOWING NAMED INDIVIDUAL FOR APPOINTMENT TO THE GRADE INDICATED IN THE REGULAR NAVY UNDER TITLE 10, U.S.C., SECTION 531:

To be captain

DANIEL A. FREILICH

CONFIRMATIONS

Executive nominations confirmed by the Senate, Monday, February 28, 2011:

THE JUDICIARY

AMY TOTENBERG, OF GEORGIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF GEORGIA.

STEVE C. JONES, OF GEORGIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF GEORGIA.