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Senate

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

PRAYER

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

Lord, God, speak to us so that what we speak may have the ring of reality and the tenor of truth.

You have granted the Senators the gift of words. May they use this gift wisely today. Help them to speak words that inspire and instruct. Keep them from glibness—from easy words that change little—or from harsh words that cause discord. Enable them to say what they mean and then mean what they say, so that they are able to stand by their words with integrity. And since the world listens so carefully to what is said here in this Chamber, guide the Senators to differ without denigration and communicate without condemnation. May they judge each other's ideas but never each other's values. In this way, may the Senate exemplify to the world how to maintain unity in diversity and the bond of patriotism in the search for Your best for America. Dear God, help us to listen to You and to each other. In Your all-powerful name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable CHUCK HAGEL, a Senator from the State of Nebraska, 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.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDING OFFICER (Mr. HAGEL). The Senator from Pennsylvania.

RECOGNITIONS

Mr. SPECTER. Mr. President, permit me to comment about how good it is to have Reverend Ogilvie back with us, looking so well after his recent bout with the doctors and the hospital, one which he and I share. It is nice to have Reverend Ogilvie back.

Let me compliment our distinguished President pro tempore for opening the Senate this morning so hale and hardy.

The PRESIDENT pro tempore. I thank the Senator very much.

SCHEDULE

Mr. SPECTER. On behalf of the leader, I have been asked to announce that the Senate will resume consideration of the pending Nickles amendment on the Labor-HHS bill regarding the Social Security trust fund. It is hoped that Senators who have filed amendments will work with the bill managers. What we propose to do is continue to alternate, and we are going to seek time agreements of 30 minutes equally divided so that we can move ahead and complete the bill. We have contentious amendments which are pending on both sides. We are working on the Republican side to try to have these amendments considered with very short time agreements, or reasonably short time agreements so that we can proceed.

We have the obligation to finish this bill, or at least the expectation of finishing this bill by the close of business tomorrow. There are dinners both Wednesday evening, this evening, and tomorrow evening which will keep our sessions not too long unless we establish a window, which we will have to do. And if a window is established, that means very late night sessions if we are to recess from 6:30, 7 o'clock, 8:30 or 9 o'clock. That is something to be avoided. We have culled down the amendments, and we think we are in a position to move ahead very promptly.

The leader has asked me also to announce that the Senate may consider conference reports to accompany the Agriculture appropriations bill and any other conference reports available during this week's session of the Senate.

Until one or two other Senators arrive, I would like to take a moment or two to comment about another matter of business, a very important matter, and that is the Comprehensive Test Ban Treaty.

COMPREHENSIVE TEST BAN TREATY

Mr. SPECTER. Mr. President, the President invited a number of Senators, both Democrats and Republicans, to the White House last night for dinner, including the distinguished Senator from Nebraska, who is now presiding. I had expressed a view publicly before the dinner began that I thought the vote on the Comprehensive Test Ban Treaty should be deferred; it should not be held on Tuesday. I have stated that position because it is plain that there are not enough votes in the Senate to pass the treaty. I favor the treaty. I said so publicly some time ago. I think it is also not timely to take up the treaty on the existing schedule because of the complexity of the issue.

Yesterday, the Armed Services Committee held 5 hours of hearings. I attended part of them. The subject matter is very complicated. It is my judgment that Senators are not really prepared to vote on the matter and that the vote may take on partisan overtones, political overtones, party partisan overtones, which I think would be very undesirable.

It has been reported publicly that all 45 Democrats are in favor of the treaty; that there are only a very few Republicans who are in favor of the treaty, and that many Senators on both sides have really not had an opportunity to study the treaty in depth to have positions which might lead some to disagree with the party position.

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

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It is my thinking that it would be calamitous—a very strong word, but I think that is the right word—if the Senate were to reject the Comprehensive Test Ban Treaty. At the present time around the world, many eyebrows are raised because the Senate has not ratified the treaty. But if the Senate were to reject the treaty, then it would be highly publicized worldwide. It would be an open excuse for countries such as India and Pakistan to continue nuclear testing, which I think is very undesirable, destabilizing that area of the world, and give an excuse for rogue nations such as Iran, Iraq, Libya, and other rogue nations to test, and it would be very undesirable.

It is a complicated issue because our distinguished majority leader has scheduled the vote under a unanimous consent agreement with the minority leader after very substantial pressures have been building up with many floor statements demanding a vote.

The majority leader gave them what they asked for, and it was agreed to. It is not an easy matter to have that unanimous consent agreement vitiated. Any Senator can object to the vote. We will go ahead and schedule it. The administration has expressed the view it does not want to make a commitment to have no vote during the year 2000. The leader has propounded a substitute unanimous consent agreement, as I understand it—I wasn't on the floor at the time—which would vitiate the unanimous consent agreement on the condition that no vote be held in the year 2000.

The administration takes the position if they were to agree to that, or go along with it, that it would look as if they were backing off the treaty and it would be complicated for other world leaders as to how the administration would explain that kind of a position when we were pressing other nations to stop nuclear testing and to end proliferation.

It may be the matter is really for the Senate without the administration. We set our own schedule. Perhaps a group of Senators representing both Democrats and Republicans could take the responsibility to oppose a vote during the year 2000.

Another idea which occurred to me this morning was to have a vote in the year 2000 but have it after the election so the treaty does not become embroiled in Presidential politics. One of the key Democrats expressed the view that he would oppose considering the treaty in the year 2000 because it would become embroiled in Presidential politics and surely lose.

If a debate were to be scheduled by mid-November and then a vote held in November that could accommodate the interests of not having it involved in a Presidential campaign and still give President Clinton an opportunity to have the treaty decided upon during his tenure as President with him being in the position to advocate.

I make these comments because I think with the schedule for debate on Friday and then again on Tuesday and a scheduled vote on Tuesday that time is of the essence—in this case very much the essence, not unlike that expression which has arisen in real estate transactions—that there are very serious international implications.

I know many Senators will be following up on the dinner meeting of last night by communicating with our distinguished majority leader and by communicating with people on both sides to see if we can accommodate all of the competing interests.

We are facing one of the most important votes of our era. It will set back arms control and nonproliferation very substantially if this treaty goes down. If after study and deliberation and an adequate time for debate the treaty is rejected, so be it. That is constitutional process. But to have it go down with the kinds of pressures to schedule it, and a schedule which has been entered into knowingly with leaders on both sides having unanimous consent agreements all the time, and any suggestion that there is any inappropriate conduct on anybody's part is totally unfounded. That is the way we operate. But, as I view it, it is an unwise course for the reasons I have stated.

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2000

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 1650, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 1650) making appropriations for the Departments of Labor, Health and Human Services, and Education, and Related Agencies for the fiscal year ending September 30, 2000, and for other purposes.

Pending:

Nickles amendment No. 1851, to protect Social Security surpluses.

Nickles amendment No. 1889 (to amendment No. 1851), to protect Social Security surpluses.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I have some housekeeping.

Mr. SPECTER. Mr. President, I still have the floor.

I ask my distinguished colleague, the assistant majority leader, if we could propound a unanimous consent request to consider the pending sense-of-the-Senate resolution.

Mr. REID. Mr. President, I say to my friend, the manager of the bill, we are going to have to do that now. It would be appropriate if the debate started. We are in the process of checking to see who wants to speak against the pending amendment.

I say in response to my friend's statement earlier that we want to move this along. The staff has worked very well the last several days since we had our break. We are down now to about 16 amendments, give or take a few, both Democratic and Republican amendments. We have on our side agreed. We have time agreements on most of ours—not all of them but most of them. I think we can move forward on that basis.

I also say to my friend that I saw the Senator from Pennsylvania coming into the White House as I was leaving last night. I was invited down for a meeting. I should say to my friend that I had orange juice and some nuts. I see that he was served dinner. That is something I have to check into.

Mr. SPECTER. If the Senator and I had been there at the same time, we could have solved this problem.

Mr. REID. Over dinner.

Mr. SPECTER. The fact that I was arriving as the Senator from Nevada was departing led to the inability to solve it. If we had been there together, we would have had a very abbreviated meeting. We could have concentrated on dinner instead of debate.

Mr. REID. I think maybe the Senator's great skills in debates may have had something to do with the Senator being served dinner and me getting by with just orange juice and a bowl of nuts.

Anyway, I think we should proceed on this pending amendment and move forward with it. If the Senator from Pennsylvania has someone speaking on it, we will try to get people lined up to speak against it and try to move along as quickly as possible.

We called some of our people to come over and offer amendments. We could set that aside and move on to some of these amendments on which we have time limits.

Mr. SPECTER. Mr. President, I would be agreeable to setting the amendment aside. I have secured the agreement of the proponent of the sense-of-the-Senate resolution, Senator NICKLES, to 30 minutes equally divided. It is a sense of the Senate. It does not have the import of some of the other amendments which involve real money and not confederate money. The next amendment would come from the other side of the aisle. If somebody is ready to offer an amendment, I would be agreeable to setting this amendment aside until we can reach a time agreement.

Let me yield now to my colleague from Georgia.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. COVERDELL. Mr. President, it is my understanding that several from our side of the aisle are coming to speak on this, and Senator NICKLES will return at 10.

While they are assembling their amendments, we might talk on this for the next few minutes and then get a time agreement with Senator NICKLES and I for 30 minutes equally divided. He has indicated he will do that. We have a few minutes before they are ready to present their amendment. We might continue to discuss this amendment.

Mr. REID. I think that would be appropriate.

Mr. SPECTER. Mr. President, may I inquire of my distinguished colleague from Nevada whether an amendment is ready now or when an amendment will be ready to be offered.

Mr. REID. Mr. President, we have two Senators who are on their way. In Senate language, ''on their way'' doesn't mean they are walking into the building. They have indicated to us they are on their way. As soon as they are through the door, I will let the Senate know and we can get a time agreement on the amendment.

Mr. SPECTER. Mr. President, if I might say, for the information of all Senators who may be watching on television, we are very anxious to sort of queue up so we can move along with dispatch.

If there are Senators on our side of the aisle who wish to speak on this sense of the Senate, it would be my request that they come over promptly so they can speak—the same thing about Members on Senator REID's side of the aisle. If somebody has an amendment to offer, we can move this bill along and stack those votes and not have to have a late night session. The leader did talk about a window. We haven't had a window for a while. Windows which bring us back here late in the evening hours are not very much appreciated.

Mr. REID. Mr. President, I also say, if my friend will yield, to elaborate on his statement, Friday is fast approaching and people have things they want to do on Friday. Friday is scheduled now, and it may be vitiated based on the statement the Senator from Pennsylvania has made. The way the unanimous consent order is now in place, we are going to start debate on the Comprehensive Test Ban Treaty on Friday. There are a lot of people who have planned their schedules around that. If that is taken off for some reason, I am sure the majority leader will ask us to complete this bill, if it is not completed before Thursday.

I say to my friend that we need to move forward on this bill, if anybody has any anticipation of going back to their States on Friday.

Mr. SPECTER. Mr. President, that was well said.

Mr. President, may I yield to my colleague from Georgia?

The PRESIDING OFFICER. The Senator from Georgia.

Mr. COVERDELL. Mr. President, I am going to speak for a moment or two about the pending business, which is the Nickles amendment numbered 1851. It is a sense of the Senate and is quite short and very clear.

It is the sense of the Senate that Congress should ensure that fiscal year 2000 appropriations measures do not result in an on-budget deficit, excluding surpluses generated by the Social Security trust fund.

Basically, what he is saying is that if for any reason in our budgetary exercise we find ourselves having dipped into the Social Security receipts, go beyond non-Social Security receipts, there would be a sequester for across-the-board cuts to replenish it. The response from the other side is interesting because, of course, the President and the other side have said they don't want to use Social Security receipts and then they say current budgetary activities, depending on whose numbers you read, may have already done so.

I point out, it is not over until it is over. There has been no concluding action on our budget decisions. What this sense-of-the-Senate amendment states is ''if,'' depending on how much, it would require across-the-board cuts to protect Social Security—pretty clean and very simple. That is the sense-of-the-Senate resolution from Senator NICKLES of Oklahoma, amendment No. 1851. It is simple. It says when we finish all of our budget activities, finish all the conferences, and have everything concluded, if we have gone beyond other surpluses and dipped into Social Security, they will be replenished by an across-the-board cut.

The other side last week was imploring it is already maybe at $19 billion. It depends on whose numbers you look at. That is a 5-percent across-the-board cut. We are not there, is the point. If the budgeteers and appropriators are neglectful and we get into Social Security at that level, it will be appropriate there be a 5-percent across-the-board cut. Everybody has agreed—the President, the leadership on the other side and on our side—we should not use Social Security receipts to deal with this year's budget.

I think Senator NICKLES from Oklahoma offers a rational concept for assuring the American people—assuring those individuals who are concerned about Social Security, whether they are using Social Security or about to use Social Security—that this Congress is not going to use those to deal with the current expenditures.

Mr. SPECTER. May I interrupt my distinguished colleague to propound a unanimous consent agreement.

Mr. COVERDELL. I yield the floor.

Mr. SPECTER. I ask unanimous consent, and it has been cleared with Senator REID, that the pending amendment be subject to 1 hour of debate with time equally divided.

The PRESIDING OFFICER (Mr. SANTORUM). Without objection, it is so ordered.

Mr. SPECTER. I yield time to the Senator from Georgia.

Mr. COVERDELL. Mr. President, Senator NICKLES should be here shortly to speak on his own behalf. Basically, he outlined a very simple premise and a very important principle, that we are not going to use Social Security for new spending; we are going to protect Social Security receipts.

He has offered a concept by which that would be done. Its impact would depend on the amount to which appropriators and the Congress, through their budgetary practices, had used those receipts. They have two options: They can go back to the conference committee reports and make sure the spending does not get into Social Security, in which case this has no import. But if they do, if it is $5 billion, that will be a 1-percent across-the-board cut; if it is $20 billion, it will be about 5.

It is up to the conscience, work, and dedication of our appropriators to resolve.

He outlines early in the process a premise which I think is sound: if we get into Social Security, we will recover.

I yield the floor.

Mr. SPECTER. How much time does my distinguished colleague from New Hampshire desire?

Mr. GREGG. Ten minutes.

Mr. SPECTER. I yield 10 minutes to Senator GREGG.

Mr. GREGG. Mr. President, I rise in support of the Nickles amendment of which I am a cosponsor along with a number of other Members of the Senate.

This proposal addresses one of the underlying political debates we are confronting today in trying to reach conclusion on our entire budget, which is the manner in which we should handle Social Security surplus. It is a key element of how we can resolve this matter and resolve it in a way that fulfills at least the stated goals of the various parties.

We have heard the President say on a number of occasions he wants to protect the Social Security surplus and preserve it for Social Security. It has been our position, as the Republican membership of this Senate, that we should do exactly that. In fact, we have offered time and again something called a lockbox which would essentially guarantee all Social Security surplus be held independent of any other spending and would not be available for any other activities of the Government but, rather, be reserved for the purposes of paying down the debt and being retained in the Social Security trust fund as debt instruments.

Unfortunately, as we have moved down the road to address the operating budget of the Federal Government, it has been clear the administration wants to have it both ways: They want to say, on one side, protect the Social Security trust fund, and specifically the surplus which is now being generated by the Social Security accounts; but, on the other side, they want to propose a large amount of new spending which would inevitably lead to using up some portion of the surplus of the Social Security trust fund.

Senator NICKLES, other Members of this Senate, and I have come forward with this proposal which is a sense of the Senate and therefore isn't binding. Hopefully at some point it will be put into binding language. It says under no circumstances will Social Security

trust fund dollars or the surplus now being generated by the Social Security taxes being paid be used to operate the general functions of the Federal Government, and that we should have a mechanism to guarantee what is known as a sequester which is a system of saying, if ever we should spend a dollar or it is looking as if we are about to spend a dollar of Social Security surplus funds, there will be a sequester in spending of the general fund, the general operating accounts of the Federal Government, the discretionary accounts of the Federal Government, the ''sequester'' meaning those accounts would be reduced to the extent necessary in order to be sure no Social Security surplus funds would be used.

This, of course, is the proper way to proceed because it sets in place a mechanism which makes it clear, and which makes it absolutely a sure thing, that there will be not an invasion of Social Security surplus funds.

To step back a second, let's understand what the Social Security surplus funds are. We all pay Social Security taxes on our earnings. They are called FICA taxes. Those taxes go into what is known as the Social Security trust fund. That trust fund is used to pay for the operation of the Social Security system.

The Social Security system for many years ran a deficit where the taxes being raised were not enough to support the money being paid to support the benefits, or it was about to run a deficit. Therefore, we changed the tax law and we changed the structure of the benefits back in 1983 so the system was put into a solvent situation.

As the baby boom generation grew in its earning capacity and the older generations preceding, the World War II generations, retired, we found the earning capacity of the baby boom generation was so great it was generating a huge surplus. In other words, there was more money going into the Social Security trust fund than was needed to support the people on Social Security.

For a number of years, because the operating accounts of the Federal Government, the day-to-day operation accounts independent of Social Security, were running a deficit, the Social Security trust fund was borrowed from to mask the deficit of the operating accounts of the Federal Government. We ended up with the Federal Government day-to-day operations, whether defense, education, or social services, being supported by the Social Security taxes which were being paid into the Social Security trust fund.

With the occurrence of the good economy and a strict fiscal discipline put in place by this Republican Congress, we now are in a position where we are running what is known as a real surplus. In other words, the amount of money we are taking in in order to operate the Federal Government in its day-to-day activities is about the same, and it is starting to grow to the point where it is actually exceeding the amount of money necessary to operate the Federal Government. So things such as education, defense, and general social services can be paid for by the general revenues of the Federal Government. It is no longer necessary for us to invade the Social Security trust fund in any way to operate the Federal Government.

Yet there is still some pressure, because there is this surplus running up in the Social Security trust fund, to say we can spend a little more on the operations side of the Federal Government—a little more for defense, a little more for education. All we have to do is take it out of the Social Security trust fund to pay for it.

That is what this debate is about; there are many of us who believe that is not the proper way to do it. The money that goes into the Social Security trust fund should be reserved for the purposes of preserving and protecting Social Security. Some of us have even gone so far as to put forward major pieces of legislation, bipartisan in nature, which would structure a program to make the Social Security system solvent not only for today but for the next hundred years.

In fact, there is a bill that would do exactly that which I cosponsor with Senator BREAUX, Senator GRASSLEY, and a number of other Members, Senator KERREY, BOB KERREY from Nebraska. It would make the Social Security system solvent for years. It would use this surplus in the Social Security trust fund to accomplish that solvency.

That is really another story. But it points out it is important the Social Security surplus is preserved for Social Security, the preservation of Social Security, and it is not used to operate the general government.

In order to keep Social Security solvent, in order to keep the surplus from the day-to-day operation of the Federal Government, we have put forward this sense of the Senate. As I mentioned, what the sense of the Senate essentially says is, if it occurs that the day-to-day operation of the Federal Government—for national defense, for education, for general social activities—should exceed the operating income of the general government—income taxes, business taxes, various excise taxes we receive—if it should exceed those incomes, then rather than go into the Social Security trust fund to pay for that deficit, we will reduce the spending of the Federal Government to the point where the incomes of the Federal Government meet the expenses of the Federal Government on the operating side of the ledger and the Social Security surplus will, therefore, be kept protected and preserved for the purpose, I hope, of putting in place a large, comprehensive plan I just described to you, that Senators BREAUX, KERREY, and GRASSLEY, and I have introduced.

This proposal is a sense of the Senate. It is not even actually a legislative event. I hope someday it will be. But this legislation simply states that the Senate is not going to tolerate the invasion of the Social Security trust fund for purposes of operating the day-to-day functioning of the Government of the United States; that we are going to expect the Government of the United States to meet its day-to-day operating expenses from the traditional resources that are available to it for operations and not from the income that comes from those people who are paying Social Security taxes.

Rather than just making that as a statement, we are also taking it a step further, saying we shall create a sequester mechanism whereby there will be an actual reduction in spending on the day-to-day operations side of the account should there ever occur a situation where the Social Security trust fund was going to be used in order to pay for day-to-day operations. Thus, we create this clear, enforceable protection for Social Security and for our Social Security trust fund.

It is a very simple idea. It is a very appropriate idea. Most important, it is an idea that is absolutely consistent with everything we have heard from the White House and from the other side of the aisle as it has put forward its concepts of how we should protect and preserve the Social Security trust fund. Essentially, Senator NICKLES, I, and the other Senators who support this legislation, most of whom I guess are Republican, are really doing the work of the administration.

We know, for that reason, we are going to be supported both by the administration and Democratic Members of the Senate.

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

The Senator from Nevada.

Mr. REID. Mr. President, I yield myself 6 minutes.

The PRESIDING OFFICER. The Senator is recognized for 6 minutes.

Mr. REID. Mr. President, we have here an interesting saga. It started when the House decided to add another month to the fiscal year. That caused a little bit of controversy, to say the least. Then last week they came up with a new proposal, and that is the earned-income tax credit, which Ronald Reagan said was the best antiwelfare program he had ever known. The Republicans in the House decided what they were going to do was slow down the payments of this, the best antiwelfare program ever.

This ran into a little bit of trouble, including the frontrunner for the Republican nomination for President, George W. Bush, who said he thought it was wrong to try to balance the budget on the backs of the poor.

Just a short time ago, they came up with a new proposal. That is what we are here to talk about today, an across-the-board cut. Of course, an across-the-board cut would be devastating. In fact, it was attacked immediately by the Republican chairman of the House Appropriations Committee as a political blunder. He said: ''It's a mistake.

It sets a bad precedent. We have never done anything like that.'' This is the chairman, the Republican chairman of the House Appropriations Committee. So I think we should just step back and become more realistic and look at some reasonable offsets to fund Government the way it should be funded.

In this morning's Washington Post, in something called ''In The Loop'' by Al Kamen, he gave us the results of a little contest he held. He wanted to find out what people thought the new month should be named. Remember, the majority wants to extend the calendar year 1 month. Here are some of the names they have come up with. He said:

> We weeded out some suggestions that came as many as 10 times, such as Porkuary or Porkcember, Debtuary or Debtember, Budgetary. . . .

But some of those he thinks were winners were: ''Abracadember'' which is, magic, It is like ''abracadabra.'' And then ''Payupuary'' was also declared a winner. This is clearly voodoo economics; one of the names that won was ''Voodoober.''

We have another one that sounds pretty good—I certainly agree it should be declared a winner—''Gridlockedober,'' based upon the gridlock that occurred just a few years ago because of the Republicans shutting down the Government. Another one is ''Bustacap-uary.'' This was submitted by a Member of the House of Representatives.

Another one that was not submitted by a Member of the House of Representatives, but probably should have been—is called ''DeLaypril,'' named after the House whip.

I think it is good to add a little bit of levity to what is going on. But the levity should end and we should get serious about getting rid of the appropriations bills. When I say get rid of them, I mean just that. We should get them so they can pass muster here and be signed by the President. The way things are going now, I think the President is going to veto almost every appropriations bill that is going to be sent to him. It is apparent to me the appropriations bills have too much magic in them and really are pieces of legislation that deserve these derogatory names. We must get serious and pass a budget the American people will accept.

Mr. President, I yield the remainder of the time to the Senator from New Jersey.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey has the floor.

Mr. NICKLES. Mr. President, might I inquire of my colleague from New Jersey how long would he wish to speak.

Mr. LAUTENBERG. We have, by unanimous consent, established a half hour on each side. If the Senator from Nevada has used 6 minutes, then we have roughly 24 left.

Parliamentary inquiry: How much time remains?

The PRESIDING OFFICER. The Senator from Nevada, now the Senator from New Jersey, has 25 minutes 30 seconds. The Senator from Pennsylvania has 18 minutes 19 seconds.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent I may yield to the Senator from Oklahoma for 5 minutes without losing any time on our side. That comes off their time.

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

The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I thank my colleague from New Jersey for his cooperation. Of course, this will be charged to our time.

I appreciate the comments by Senator COVERDELL and Senator GREGG. I know Senator GRAMS from Minnesota will be speaking shortly on this amendment. I will make some quick comments, and maybe I will not take 5 minutes.

I hope we do not have to have across-the-board cuts to meet our objectives, but our objective is to make absolutely certain that we do not dip in, as some people say, or spend some of the Social Security surplus money.

Right now there are surplus taxes coming from Social Security. There are more taxes going in than going out. We want 100 percent of that to be used to pay down the national debt. We do not want to spend it. We do not want to spend it for anything other than paying down the national debt. Period. We are drawing the line.

I heard my colleagues from the Appropriations Committee—and I have great respect for the members on that committee; I served on it at one time—say: We do not want to; we do not have to. I agree with that. We even put in the resolution we would have across-the-board cuts only if necessary. I hope it will not be necessary. I do not think it will be necessary.

Right now, in totaling up the bills, from the Budget Committee and the Congressional Budget Office, basically if we have discretionary spending above $592 billion or $593 billion, then we will start dipping into the Social Security money. Current projections are if we continue spending, as outlined in all the appropriations bills, we will be above that figure by about $4 billion or $5 billion. We have not concluded major appropriations bills. We have not concluded the Ag bill, but we are very close. We have not concluded the Department of Defense bill, and we have not concluded the Labor-HHS bill which is the biggest bill. Among those three bills, we can find $5 billion, and there would be no reason whatsoever to have to make this cut.

In the event we do not, for whatever reason, then let's have some adjustments. If it turns out we are $5 billion over—and those are the figures given by the Budget Committee and Appropriations Committee—we will have across-the-board reduction cuts of about 1 percent. It will apply to Defense, Labor-HHS, and VA–HUD. It will apply to all agencies. That is minuscule, that is affordable, and that is doable. It will keep us from dipping into Social Security trust funds as we have done year after year.

A lot of us have been pretty resolute in saying we ought to have a line. We are breaching the line on the caps because we are exceeding the caps by using emergency designations. We are now saying the absolute line is let's not grab Social Security money. That money comes from payroll taxes. It is supposed to be set aside for retirement. It is not to be spent on a variety of programs, whether that is a $2 billion increase in NIH or a $2.3 billion increase in education, or a big increase in defense, or an $8.7 billion emergency Agricultural bill. It should not be spent for those things. If necessary, and hopefully it will not be necessary, we will implement across-the-board reductions to make absolutely certain that we do not dip into the Social Security trust funds.

I thank Senator GREGG, Senator COVERDELL, Senator GRAMS from Minnesota, Senator GRAMM from Texas, and others in supporting this sense-of-the-Senate amendment, and hopefully it will not be necessary; Congress will pass its bills and show at least enough discipline to not dip into the Social Security trust fund.

Again, I thank my colleague from New Jersey for his accommodation so I can attend another meeting. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I offer to let our friends on the other side who want to speak in opposition go ahead now if they want. I will pick up my time when that is done, if that is all right, if anybody has any interest.

Mr. NICKLES. Will the Senator yield for another half second?

Mr. LAUTENBERG. Yes.

Mr. NICKLES. Mr. President, I ask unanimous consent that Senator HAGEL be added as a cosponsor.

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

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I want to make sure we mean it when we say we are going to protect Social Security. Right now I ought to say welcome to the magic show because what we are hearing is rather hypothetical: If we want to protect Social Security by adopting across-the-board reductions in all discretionary appropriations, it should be sufficient to eliminate such deficit if necessary.

I believe it is more important to say how we are going to do that without at the same time dipping into Social Security. It is not realistic. This is pie in the sky, and the American public ought to know about what we are talking.

I do not support deep, indiscriminate cuts in education, defense, or law enforcement. Tell the veterans you want to cut further. I want to hear anybody stand on this floor and say to the veterans who served our country when we needed them and we made promises: Sorry, we are going to cut your benefits. I want them to talk about that. I want to hear them talk about how we are going to provide the kind of law enforcement we want when we will be getting rid of FBI agents and Border Patrol people. Cuts to the Immigration and Naturalization Service could result in a reduction of approximately 2,000 Border Patrol agents, when everybody is screaming about the number of illegal immigrants pouring across our borders. I want to hear them talk about programs such as Head Start that give children a chance to learn if they have not had the benefit of a home life that encourages learning. Mr. President, 43,000 children will be cut from the program.

I hope the American public listens. I know they get tired of our droning, but this is the kind of thing they ought to view with interest. I hope we are going to defeat this amendment.

Everyone knows it is now October 6. The fiscal year is almost a week old. But obviously, the Republican majority still does not know how they are going to put together their budget. They have declared they do not want to use Social Security surpluses. No, but the declarations ring hollow. In fact, they have been moving legislation that would raid those surpluses of billions of dollars, and they do not want to admit it.

The Republican tax bill, for instance, would use Social Security surpluses in the years 2005 through 2008. That is not very far away from our initial attempt to increase the longevity of Social Security.

In fiscal year 2008, that raid on Social Security would reach almost $50 billion. Public, listen to this: Now they are pushing bills that will use roughly $20 billion in Social Security funds this very year, the year which started October 1. That is not just my opinion, it is the opinion of the Congressional Budget Office, which is directed by a Republican appointee.

The majority has that right. Over the past few weeks, the majority has twisted itself into knots to evade the discretionary spending caps. They have used gimmick after gimmick, to the point where, frankly, the integrity of the whole budget process has been compromised.

I hope my colleagues can see this chart.

This is what a prominent paper, the Wall Street Journal, had in its issue of July 27: GOP using ''two sets of books.''

Lying about the numbers.

That is a budget expert, a fellow by the named of Stan Collender on the GOP. ''Directed Scorekeeping''—we will talk about that in a minute.

Republicans are double-counting a big part of next year's surplus, papering over the fact that their proposed tax cuts and spending bills already have exhausted available funds.

In the House, the Republicans have declared the census that we are required to take, mandated by the Constitution; it comes around every 10 years—they want to declare that an emergency so it gets out of the spending loop. It is hardly an unexpected crisis. Calling it an emergency gets around the discretionary spending caps. For House Republicans, apparently, that is more important than direct, honest budgeting.

The Republicans are also using two sets of books, as we see described here, to get around the discretionary spending caps. When it suits their purposes, the majority uses CBO scoring; when it does not, they use OMB scoring. This is mumbo jumbo. For those who are not familiar with what goes on here—using this set of books on the one hand and that set of books on the other hand.

If someone was the chief executive of a major corporation—I had the honor of serving in that capacity before I came here—and did that, they could wind up in jail—using books here to describe what is going on on one side, and using books over here to describe a different picture to the public. That is unacceptable behavior but certainly not in this institution. That way, they can pretend they are spending less than they technically are.

Today, I am releasing a report that explains this so-called ''Directed Scorekeeping.'' As the report explains, the majority is forcing CBO, the Congressional Budget Office, to fudge the numbers in an unprecedented way. The report is available from my office. I ask unanimous consent that a copy of that report be printed in the RECORD.

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

HOW THE GOP IS USING ''TWO SETS OF BOOKS'' TO HIDE USE OF SOCIAL SECURITY SURPLUS

[From the Office of Senator Frank R. Lautenberg]

THE ABUSE OF ''DIRECTED SCOREKEEPING''

Congress generally relies on the Congressional Budget Office (CBO) to evaluate the budgetary effects of legislation. This year, however, the Republican majority has repeatedly directed CBO to modify its scoring of appropriations bills, in order to make the bills appear less costly. Although such ''directed scorekeeping'' has occurred occasionally in the past, the extent of the practice this year is unprecedented.

According to a recent CBO analysis, congressional Republicans have directed CBO to make more than $18 billion in scorekeeping adjustments in the FY 2000 appropriation bill.[1] CBO generally includes these modifications in its reports on legislation by creating a special account called ''Budget Committee discretionary adjustment.'' This year, the adjustments in the Senate range from $5 million for the District of Columbia to $13 billion for the Department of Defense.

By forcing CBO to modify its scoring of legislation, the GOP has sought to hide more than $18 billion in new spending. This total exceeds the entire non-Social Security surplus, which CBO estimates at $14 billion.

Of course, changing the scoring of legislation does not alter the actual budget impact of that legislation. If CBO's actual estimates are used based on their own assumptions, it becomes clear that congress is on its way to spending at least $18 billion of Social Security surpluses in fiscal year 2000, and perhaps considerably more.[2]

Some Republicans defend ''directed scorekeeping'' as necessary to reconcile differences between OMB and CBO spending assumptions. But if accuracy is the goal, we should stick with CBO. A review of outlay estimates for appropriations enacted between 1993 and 1997 found that CBO's estimates were almost identical to the actual amounts spent in each year.[3] A more recent comparison of CBO and OMB estimates of defense outlays found that CBO's estimates were consistently higher than OMB's between 1997–1999, but that both CBO and OMB came in below actual defense outlays.[4]

The Republicans are also ''mixing and matching'' estimates—combining OMB's lower spending estimates with CBO's higher surplus projections. Choosing the best assumptions from each agency increases the potential for estimating error beyond what would occur under one set of assumptions. This practice is in clear violation of Section 301(g) of the Congressional Budget Act which states that the budget resolution and determinations made for Budget Act points of order ''shall be based upon common economic and technical assumptions''. Unfortunately, there is no practical remedy for violations of this section of the Budget Act since the chair in the Senate relies exclusively on the Budget Committee for all budget rulings.

Scorekeeping directives have been used in previous years, but not on this large a scale. Between 1991 and 1999, CBO was asked to change its estimates of appropriations bills four times by amounts ranging from $1.9 billion in 1993 to $5.5 billion in 1992. The adjustment this year, $18.7 billion, is $5.7 billion higher than the previous nine years combined.

Section 312(a) of the Congressional Budget Act gives the Budget Committees the prerogative to use their own estimates in the budget process. When this discretion is abused, there is no penalty, other than higher deficits. Ironically, American companies don't get off the hook so easily. In recent months, the SEC has cracked down on businesses that use accounting gimmicks to exaggerate profits. Several companies have been charged and some have paid fines. Unfortunately, only the American taxpayer picks up the tab when the Congress cooks the books.

The following table shows CBO estimates of scoring adjustments for the ten year period, fiscal years 1991–2000.

DIRECTED SCORING, FY 1991–2000

[Outlays; in billions of dollars]

Fiscal year	Defense	Nondefense	Total
2000 est.[1]	−13,073	−5,596	−18,669
1999[1]	−2,383	−235	−2,618
1993	−1,291	−565	−1,856
1992	−2,937	−2,532	−5,469
1991	−2,929		−2,929
1991–99	−9,540	−3,332	−12,872

[1] Estimates based on House adjustments.

Source: CBO.

[Memorandum of October 4, 1999]

To: Sue Nelson.

From: Janet Airis.

Subject: Across-the-Board Cut to Discretionary Appropriations.

This is in response to your request of an across-the-board cut to FY 2000 discretionary

[1] Footnotes at end of article.

appropriations. You asked us to calculate an across-the-board cut that would result in an estimated on-budget deficit for FY 2000 of zero, assuming that the current status CBO estimate (excluding ''directed scoring''), as of October 4, is enacted into law. Given your assumption, our estimate of the projected on-budget deficit is $19.2 billion. Our estimate of the outlays available to be cut is $351.7 billion. Dividing the projected deficit by the available outlays results in an across-the-board cut of 5.5%

This calculation is preliminary and done without benefit of language. If you have any questions, please contact me at 226–2850.

FY 2000 ACROSS-THE-BOARD CUT

[In billions of dollars, as of Oct. 4, 1999]

	Senate	
	BA	OL
Current action:		
Current Status (as of 10/4/99), excluding directed scoring	564.0	613.1
CBO July, 1999 Baseline	539.3	579.8
Excess over Baseline	24.7	33.2
Debt service on increase to disc. spending over baseline	.....	0.4
Total, excess over baseline	.....	33.6
Less projected on-budget surplus (CBO Economic and Budget Outlook, 7/1/99)	.....	14.4
Projected on-budget deficit as of 10/4/99	.....	−19.2
Calculation:		
Current Status (outlays new, excluding scoring adjustment)	564.0	351.7
Percent A–T–B cut to reduce deficit to 0 (projected deficit divided by new outlays)	.....	0.0546
Across-the-board cut amount	30.8	19.2
Current Status after across-the-board cut:		
BA and new outlays	533.2	332.5
Prior year outlays	.....	261.3
Total	533.2	593.8
CBO baseline plus $14.4 billion (estimated surplus)	.....	593.8

Note: This calculation assumes discretionary budgetary resources (e.g. budget authority, obligation limitations) are subject to the across-the-board cut.

Source: Congressional Budget Office.

FOOTNOTES

[1]CBO has been asked to adjust the House appropriation bills downward by $18.6 billion. The total adjustment from normal CBO estimates in the Senate is $18.3 billion. This includes a $2.6 billion reduction in the projected cost of the defense appropriations bill that Committee staff made to reflect OMB's scoring of a provision that accelerates a spectrum auction.

[2]Letter from CBO Director Dan Crippen to Rep. John Spratt, September 29, 1999.

[3]Congressional Budget Office, ''An Analysis of CBO's Outlay Estimates for Appropriation Bills, Fiscal Years 1993–1998'', October 1998 memorandum.

[4]Congressional Budget Office, ''An Analysis of the President's Budgetary Proposals for Fiscal Year 2000'', April 1999, page 75–82.

Mr. LAUTENBERG. Beyond using the emergency designation and using two sets of books, the majority has resorted to the gimmick of artificially shifting huge amounts of spending into the next fiscal year.

The Washington Post described this as adding a 13th month to the fiscal year, kind of changing the calendar. It is a gimmick, and the public, again, ought to take notice. It is like getting out of debt by putting existing debts on a second credit card. It may make you feel better today, but it is sure going to make things tougher tomorrow.

These are a few of the gimmicks that are being proposed in this legislation. But no matter how many are used, there is no getting around the fact that the majority has busted the spending caps, and they are spending Social Security surpluses. Let's make sure that is clearly understood. They are using the budget surpluses created in the Social Security account to fund Government. They want to take even larger cuts out of programs.

There is a better alternative. Instead of using scorekeeping gimmicks, we can use real offsets; that is, take it from another place. For example, we can close special interest tax loopholes. The Republicans even included some of those loophole closers in their tax bill, so this should not be at all that hard.

Another option that I personally favor is to simply go to the source that cost this country of ours lots and lots of money, the tobacco industry. Let them fully compensate taxpayers for the costs of tobacco-related diseases that they create. Why should they be protected? I do not understand it. Why cannot we get our friends across the aisle to join us in saying to the tobacco industry: Pay the $20 billion that you cost us with the diseases that you have helped render on our society?

It is an outrage. We are going to let them get away with what they do while we say to our citizens: OK, we are going to cut veterans benefits; we are going to cut police efforts; we are going to cut education. Come on. That by itself could virtually eliminate the raid on Social Security—$20 billion by the bills already approved by the Senate.

To its credit, the Justice Department is trying to recoup these costs through civil litigation against the tobacco companies. But as we all know, that could take years. Meanwhile, Congress can act now to make the taxpayers whole. We ought to do it.

The Nickles amendment, however, proposes another approach. It says: Rather than closing tax loopholes or asking the tobacco industry to pay its fair share, let's cut education, let's cut defense, let's cut the FBI, let's cut the Border Patrol, let's cut environmental protection, and let's cut veterans health care.

We heard it said that these across-the-board cuts might be a 2- or 3-percent difference. But those figures are not based on CBO's own estimates; they are based on the so-called ''Directed Scorekeeping.'' That is a direction from the Budget Committee or the leadership to say: Hey, you say it's going to cost $10 billion. I tell you what, let's say something else. Let's say it's only going to cost $9 billion. OK, $9 billion. There is no basis in fact, but let's say it.

It is based on politically driven assumptions about how much bills will cost, not the objective analysis of CBO estimators.

The truth is that if we are serious about protecting Social Security surpluses, the across-the-board cuts would have to be much greater. And if we look at the bills the Senate has already approved, we would need a 5.5-percent cut. And that is not my figure; that comes from the Congressional Budget Office—5.5 percent. The Transportation bill that we just processed through here—and I shared the Democratic leadership in getting that bill to the floor—would take a cut of over $2.5 billion.

But even that is unrealistically low. First, many Senate bills still need to be reconciled with the House, which has adopted a variety of emergency provisions—gimmickry—to allow for increased spending. In addition, Congress almost inevitably will increase spending for other items in the near future: Funding for hurricane victims—that ought to be fresh in our minds—for health care providers that are suffering from excessive cuts, preventing the expected closings of long-term care facilities in major quantities, for operations such as Kosovo; and then it is also a good bet that at some point this year there will be other emergencies: earthquakes, hurricanes, tornadoes—who knows what—that will also require more funding. If we do not offset that spending, it will come straight out of the Social Security surplus—cut the Social Security surplus.

When you account for these additional costs, you would have to cut discretionary spending roughly 10 percent under this amendment—10 percent. Do my colleagues want to go on record in supporting cutting education by at least 5 percent, more likely 10 percent? Do they want to call for cuts in defense, veterans programs, crime initiatives, and health research? I am sure the American public does not want that to happen, and none of us elected to represent them ought to support this wild scheme.

Senator NICKLES has offered his amendment as a second degree to his own underlying amendment. But at an appropriate point, once his second-degree amendment is disposed of, I plan to offer an alternative amendment. My amendment will call for rejecting scorekeeping gimmicks and indiscriminate across-the-board cuts. Instead, it will urge that we protect Social Security surpluses by closing special interest tax loopholes and using other appropriate offsets.

My alternative amendment does not limit the types of offsets that could be used, nor does it single anything out. But it would put us clearly on record in opposition to the broad-based cuts proposed by the amendment offered by the Senator from Oklahoma, and in strong opposition to the continued use of budget gimmickry to avoid tough decisions.

For now, I urge my colleagues to oppose the Nickles amendment. I ask the public who may learn of this amendment to let their Representatives know they do not like it, that they want to protect Social Security surpluses. Let's not make the deep cuts that are arbitrary in education, defense, crime, veterans, and other programs. Instead, let us close special interest tax loopholes, find other appropriate offsets that will allow us to save Social Security, as all of us agree should be done, in a direct and honest way.

Mr. President, I yield the floor and reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. SPECTER. Mr. President, how much time remains on our side?

The PRESIDING OFFICER. The Senator from Pennsylvania has 14 minutes 18 seconds, and the Senator from New Jersey has 10 minutes.

Mr. SPECTER. Mr. President, I yield 10 minutes to the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota is recognized for 10 minutes.

Mr. GRAMS. Mr. President, I rise strongly to support Senator NICKLES' pending amendment on the Labor-HHS bill, and I commend his leadership and vitality on this very important issue.

This amendment reassures the American people that Congress is not going to spend one penny of Social Security money, and it will put the Senate on record that we will honor that commitment.

We hear our colleagues from the other side of the aisle say Republicans are already dipping into Social Security. They want to spend more money.

That is not true. What we are trying to do is say we are going to go up to the edge but not go over; that is, not spend one dime of Social Security money. By being able to do that, we don't want to dip into the Social Security trust fund. We think everybody, across the board, on discretionary spending should make sure that doesn't happen.

That means we have an across-the-board cut. In other words, reduce all spending, in order to protect Social Security. That, I think, would be a fair and even way to do it.

Our colleagues on the other side don't want to cut spending. They are not talking about cutting spending at all in any programs. What they are saying—and the gimmicks they would use or the magic they would put into this budget—is simple tax increases. Let's penalize big tobacco, they say. But they don't tell us there are dozens of other tax increases buried in their proposal that would also affect every other average working American in this country. In other words, to support their higher spending level, they want to go out and attack the taxpayer. ''Let's raise taxes,'' ''close loopholes,'' are some of the words they use. The magic they put in it is tax increases.

That means every American out there can face higher Federal taxes in order to support larger spending. We are saying, let's do it the other way around. Let us be fiscally responsible. Let us not ask more of the taxpayer. Let us reduce spending across the board and do it in a very fair and equitable way.

I believe this is a crucial step to truly protect the Social Security surplus and save it exclusively for Americans' retirement, not for tax relief, not for government spending. This is a line we absolutely have to draw in the sand.

In fact, over the past few days I have been working on legislation which is related to Senator NICKLES' amendment. I will introduce the bill today.

This legislation will be complimentary to the Nickles amendment. His is a sense-of-the-Senate—my bill would create a mechanism to enforce our commitment. It would prevent anyone, whether it be the Congress or the administration, from raiding the Social Security surplus. This enforcement mechanism is simple and straightforward. Because we won't know whether we are spending the Social Security surplus until we get the CBO revised numbers in January, this bill will trigger an automatic across-the-board cut in discretionary spending to make up any differences if the January re-estimate shows we are spending any Social Security surplus. It would work similarly to the sequester of Gramm-Rudman-Hollings, but applies to Social Security surplus spending.

Let me address why it is so important to pass both the Nickles sense-of-the-Senate and my legislation. Economic forecasting is more of an art that a science. Many uncertainties, risks, and factors are involved. We have a budget of $1.8 trillion based on a variety of assumptions, estimates, forecasts and projections, with people using both CBO numbers and OMB numbers. It is highly likely that there are errors in this budget. While we should learn from our past mistakes and take a very prudent and conservative approach in our economic outlook and our spending, a $10 billion error in forecasting of $1.8 trillion is not uncommon.

However, some of our colleagues are out there accusing us of spending the Social Security surplus. the truth is, we don't want to, but honestly we don't know for certain at this point. Neither does the President nor our Democratic colleagues. That is, whey we need my bill as our insurance that we will live up to our commitment.

Some wave the CBO August letter to prove they are right. But Mr. President, as one economist observed, ''If you torture numbers long enough, they will confess to anything.'' This is true with the CBO estimates. As you know, the CBO is a scorekeeping office and it scores based on whatever assumptions Congress requires it to use. We could continue to argue indefinitely over the right assumptions. That does not solve the problem.

Since both Congress and President Clinton have agreed that saving Social Security should be our top priority and have committed to not spending the Social Security surplus for government programs, we must find a better way to keep our promise to the American people.

Republicans have made a number of attempts to create a lockbox to lock in every penny of the Social Security surplus, not for government spending, not for tax relief, but exclusively for Americans' retirement. Unfortunately, opposition by the Democrats has blocked the establishment of this safe lockbox.

In the absence of the Social Security safety lockbox, I hope that all of our colleagues and the President agree with us that we must draw a line in the sand. And live up to our pledge that not a penny of the Social Security surplus will be spent to fund this year's appropriations. Personally, I will vote against any spending bills that our right plans to spend Social Security money. If our spending plans do pass and we would, unintentionally wind up spending Social Security, my bill allows us to keep our commitment to the American people, by scaling back other spending to save Social Security.

Again, since we must use economic assumptions, the difficulty we are facing is because the numbers are so close we won't know if this year's appropriations have spent the Social Security surplus—or which specific spending bill or bills have spent the money—until next year when we receive the CBO re-estimate. Therefore we need an effective enforcement mechanism to ensure that Congress and the President do not touch the Social Security money.

The best mechanism is that proposed by Senator NICKLES' sense-of-the-Senate and my legislation. If this year's appropriations end up spending the Social Security surplus as a result of estimate errors, we will automatically rescind that amount by reducing government spending across-the-board and return it to the Social Security trust fund. This will affect discretionary spending only—not entitlement programs for seniors or the needy.

My biggest fear, is that without this mechanism Congress and the President may spend some of the Social Security surplus by using erroneous estimates. We would be forced to legislate after the fact if there is a re-estimate that shows spending of the Social Security surplus. The atmosphere of panic could cloud the type and speed of the remedy. The remedy should be my bill, and it should be passed before we face a problem, so we cannot play the blame game once we have a re-estimate.

The President's revised budget plan would have dipped into the Social Security surplus by $24 billion. Counting his $12 billion emergency spending request, the President would spend $36 billion of the Social Security surplus for fiscal year 2000. Compared with his original budget, which would have taken $150 billion from the trust funds, this revised plan is a great improvement.

However, the President still wants to spend money he pledged to save. That's not acceptable. We must say no to anyone who wants to spend even a penny of the Social Security surplus because we promised the American people we would save it. There is no excuse in an era of budget surplus to continue raiding the Social Security trust funds. Washington has done enough damage to America's retirement system.

In 1998, American workers paid $489 billion into the Social Security system, but most of the money, $382 billion, was immediately paid out to 44 million beneficiaries the same year. That left a $106 billion surplus. The total accumulated surplus in the trust fund is $763 billion.

Unfortunately, this surplus exists only on paper. The Government has consumed all the $763 billion for non-Social Security related programs. All it has are the Treasury IOUs.

Despite Washington's rhetoric of using every penny of Social Security surplus to save Social Security, last year's omnibus appropriations bill alone spent over $22 billion of the Social Security surplus. Without the enforceable mechanism provided by the Nickles amendment and my legislation, the Social Security surplus is likely to be spent to fund other government programs in fiscal year 2000 and the outyears.

Enough is enough. We must stop this outrageous practice. The time is now to show our resolve in protecting every penny of the Social Security surplus to ensure it will be available for Americans' retirement income security.

Do not mistakenly think that our colleagues across the aisle have changed their big spending ways by their rhetoric opposing spending the Social Security surplus. Do not believe for a second that they want to maintain fiscal discipline. They still want to spend more by taxing more.

Instead of controlling spending, the President and the Democrats have increased government spending and created even more government programs. They believe they know best how to spend taxpayers' money and that they can do more by spending more.

This solution to continue to grow funding for government programs at unprecedented high levels is to raise taxes. In the President's budget, he has not just proposed to penalize American tobacco companies, but to raise taxes on also small businesses, homeowners as well as millions of other Americans who are already overtaxed.

Again, the President's solution to avoiding spending the Social Security surplus will be to increase taxes. He will penalize American small businesses by changing their tax rules; he penalizes millions of American seniors who rely on life insurance products for their retirement; he penalizes non-profit trade organizations, which serve the disadvantaged in their communities so well, by taking away their tax exempt status; he penalizes other American companies by imposing environmental surtaxes and excise taxes. The President also penalizes millions of American homeowners by increasing their mortgage transaction fees; he penalizes millions of American travelers by raising taxes on their domestic air passenger tickets.

Is there anyone left who hasn't been penalized by the President and his colleagues in the Congress?

A tax increase is not the solution to this year's serious spending problem. Exercising fiscal discipline is our best solution. Although we don't know if we already have spent the Social Security surplus for fiscal year 2000 due to uncertain and incomplete estimates, we should take a very prudent approach on spending. On principle, we must do everything we can to ensure Washington will not have a chance to touch any Social Security money.

I am disappointed that instead of solving the problem, Washington is trying again to hide behind creative financing, forward funding, emergency spending and so-called technical adjustments to give the appearance we are not breaking the spending caps or eating into the Social Security surplus. I am also disappointed that Congress spends every penny of the $14 billion on-budget surplus for increased spending. Remember, this $14 billion is the tax overpayment which we promised to return to working Americans in the form of tax relief. I proposed this in the budget resolution and Congress included this in our budget resolution early this year.

I have warned repeatedly that if we don't return tax overcharges to the taxpayers or reduce the debt, Washington will spend it all, leaving nothing for tax relief or the vitally important task of preserving Social Security. This year's appropriations bills have proven my fear to be well founded. The last thing we want to do is to spend these tax overpayments to enlarge the government. Since President Clinton's veto prevents major tax relief this year, we at least should dedicate this on-budget surplus to reduce the national debt. But we are spending every penny of it, in violation of our commitment in the budget resolution.

Twenty-five years ago, the Congress passed the Congressional Budget Act, which created an annual budgeting process in the hope of controlling spiraling government spending. Twenty five years later we have made progress but are still unable to tame this beast.

Today, spending is at an all-time high, and so are taxes. The government is getting bigger, not smaller. Government spending is growing twice as fast as personal income. Discretionary spending has increased by over 20 percent since 1993.

The budget process has become so complicated that most lawmakers have a hard time understanding it. Of course, that hasn't stopped the proliferation of budget gimmicks to circumvent the intent of the Congress. The flawed budget process allows Members to vote to control spending in the budget and then turn right around and vote for increased appropriations.

Spending caps are the best example of the phrase ''fiscal discipline'' means nothing in Washington. Spending caps were supposedly a good tool to control spending—if the President and lawmakers could stick to them. But since the establishment of statutory spending limits, Washington has repeatedly broken them because of a lack of fiscal discipline. In fact, the first budget criteria in the past has been to first break the caps so spending could be accommodated.

Washington set new spending caps in 1990 after it failed to meet its deficit reduction targets. In 1993, President Clinton broke the spending caps for his new spending increases and created new caps. But in 1997, the President could not live within his own spending caps, and he broke them again. New spending caps were again re-negotiated and established in BBA.

By 1998, one year later Congress and President Clinton could not live within their new limits and proposed over $22 billion of so-called ''emergency spending'' and other unauthorized spending in the omnibus spending legislation to get around the caps. The use of ''emergency'' spending is far too broad, and has become a common budget gimmick.

This year Washington may spend $37 billion or more above the spending caps and use more creative bookkeeping to give the impression we are maintaining the caps. It demands more spending to fully fund government programs, but delays payment of the bills until the next fiscal year, placing more and more pressure on future caps and spending commitments.

Again and again, Washington lowers the fiscal bar and them jumps over it, or finds ways around it, at the expense of the American taxpayers. This is wrong. If we commit to living within the statutory spending caps, we must stick to them. We must use every tool available to enforce these spending limits. If we were still facing a budget deficit we would not be spending this much money. But because there is a surplus, the feeding frenzy continues. Again, a lack of fiscal discipline.

I understand the upward spending pressure the Congress is facing this year and in the outyears. But I believe we should, and can, meet this challenge by prioritizing and streamlining government programs while maintaining fiscal discipline. We can reduce wasteful, unnecessary, duplicate, low-priority government programs to fund the necessary and responsible functions of government. We could if we tried, but it seems it's easier just to throw more money at the budget. Many believe we can help more if we spend more, but the spending comes at the expense of somebody—and that somebody is usually the average, middle-class taxpayer.

It's true that our short-term fiscal situation has improved greatly due to the continued growth of our economy. However, our long-term financial imbalance still poses a major threat to the health of our future economic security. The President said tax relief was irresponsible. Wrong. It's spending appetite that is irresponsible.

Breaking the caps through more and more spending will only worsen our

short-term fiscal outlook and affect our ability to deal with long-term budget pressures.

We can run but we cannot hide from our budget problems. We must make hard choices and be honest about it. While ''advance appropriations,'' ''advance funding'' and ''forward funding'' are not uncommon practices here, it does not mean they are the right thing to do, particularly when these budget techniques are used to dodge much-needed fiscal discipline.

In the past 5 years, ''advance appropriations'' have increased dramatically, jumping from $1.9 billion in fiscal year 1996 to $11.6 billion in fiscal year 2000, an increase of $9.7 billion over 5 years. This year, President Clinton proposed advancing nearly $19 billion into fiscal year 2001. Advance appropriations create even worse problems for us in the outyears. We must end this irresponsible practice.

I realize how extremely difficult it is for appropriators to get their job done this year. I appreciate the fact that tremendous efforts are being made to keep our promise not to spend any of Social Security surplus. My point is, in an era of budget surplus, extra prudence and effort is needed to keep ourselves from spending more than we can afford. If we can maintain fiscal discipline, we will be able to honor our commitment to the American people not to take any money from Social Security.

Protecting the Social Security surplus from funding government operations is the last defense of fiscal discipline. I cannot emphasize how vitally important this line of defense is for both the Republican Party as well as the Democratic Party. If we lose this defense, our credibility and accountability with the Americn people will be gone.

Mr. President, the best protection is the Nickles sense-of-the-Senate amendment coupled with my legislation. If more accurate or actual numbers show Congress and the President have spent the Social Security surplus for fiscal year 2000 and beyond, an effective mechanism will ensure the money is returned. It is plain and simple. I hope my colleagues from both sides will support the Nickles amendment and my legislation.

Mr. REID. Will the Senator yield for a question?

Mr. GRAMS. I will yield.

Mr. REID. Is the Senator aware that the cut would probably have to be around a 9 percent across-the-board cut?

Mr. GRAMS. Why would it be 9 percent? Some of the latest numbers I have seen are anywhere from $3.8 to $5.6 billion, and all of the appropriation bills are not yet completed. They have not been submitted or voted on, so we are still estimating. If the Senator is talking about $30 billion or $40 billion, we are not in that range right now. Those accusations have been made, but according to the numbers I have seen, we are not in that range.

Mr. REID. I say to my friend, the Office of Management and Budget, in a meeting last night, indicated at least 9 percent. The House has a number of things in bills they have passed; they have declared those as emergencies. There are other matters that are double funded. For example, in order to pass this bill, there has been money taken from the Defense appropriations bill. There comes a time when we have to fund everything in realistic terms. As I have indicated, the Office of Management and Budget believes across-the-board cuts now would have to be about 9 percent.

Mr. GRAMS. Without agreeing to the Senator's numbers, let me say that if that were the case, wouldn't it show that we are spending more than we should and that that kind of a cut would be something that we should do? If we are going to go back and say to the taxpayer: We can't manage the books and somehow we have spent 9 or 10 percent more in discretionary spending than we have, and the only way we can make it up is to go out and penalize, as my colleagues have said, big tobacco, but also penalize in dozens of other ways with other tax increases—in other words, if we can't do our job responsibly—then we should go to the taxpayer and say, let's just have a little more revenue to make up those differences. I don't think it is going to be in the range of 9 or 10 percent. If that would be true, I think that would be a glaring argument we are overspending by 10 percent in discretionary spending and we should make every effort to trim that spending.

Mr. HARKIN. Will the Senator yield for a question? If the Senator will yield for a question.

Mr. GRAMS. I will yield just for one.

Mr. HARKIN. We have a letter from CBO that says dividing the projected deficit by the available outlays results in an across-the-board cut of 5.5 percent. That is from the CBO. I ask the Senator, if he hasn't, if he would take a look at that. I think he will see that is some pretty deep cuts he is talking about, 5.5 percent.

Mr. GRAMS. I think we are overspending by that much, too. I will say this once again, as I mentioned earlier in my statement. We are using a lot of different numbers. We are using a lot of assessments, projections. We are taking a lot of risks in a $1.8 trillion budget. If some of these numbers are wrong, then I think we need to go back and adjust them. The question, I guess, comes down to how do we adjust them. My colleagues on the other side would adjust them by raising taxes so they could keep spending more. What we are advocating is we would adjust our spending habits and spend less across the board. I think we need to do that because taxpayers today are paying taxes at an all-time record high. Forty-two percent, on average, of everything people in my State of Minnesota earn goes to pay taxes. I think that we can't continue to ask them to pay even more because we can't hold down their spending.

Thank you, Mr. President. I yield back my time.

The PRESIDING OFFICER. Who yields time?

Mr. SPECTER. How much time remains on each side?

The PRESIDING OFFICER. Four minutes 25 seconds. The Democratic side has 10 minutes.

Mr. SPECTER. I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. HARKIN. Mr. President, I yield myself 10 minutes. The CBO has projected that we are heading toward using at least $19 billion of the Social Security surplus next year. Again, I agree with Senator NICKLES that we should not be dipping into Social Security to pay for this year's appropriations bills. But, quite frankly, I believe the other side already has dipped into Social Security by the fact of what they have been doing with their spending bills.

While I do agree with Senator NICKLES on not dipping into Social Security, I don't agree with his solution. Again, he calls for an across-the-board cut against all discretionary programs, even those that we have already passed. They were passed by both sides, went to conference, came back, and they have been signed into law by the President. Now they want to take that back.

OMB has estimated a 9-percent across-the-board cut. We have a letter from CBO which shows that this across-the-board cut that Senator NICKLES is proposing would be about 5.5 percent. Well, let's take a look. The Senator from Minnesota said we are spending too much money. I am going to get into that in a second. Take a look at what we would have to cut with a 5.5-percent cut across the board. Our COPS program, our community policing program that puts cops on the streets, would have to be cut by $26 million; Head Start, $290 million cut; meals for seniors, $29 million cut; NIH, $967 million cut. That is almost a $1 billion cut in NIH. While Senator SPECTER and I and others, in a bipartisan manner, have worked to get the $2 billion increase for NIH and get it on the track to double in 5 years, this would whack about a billion dollars out of NIH.

Mr. REID. Will the Senator yield?

Mr. HARKIN. Yes.

Mr. REID. Will the Senator from Iowa, who has spent so much time on Head Start, explain why it would hurt American children to cut almost $300 million from Head Start?

Mr. HARKIN. First of all, we all agree this has been a bipartisan approach to put more money into Head Start to cover all 4-year-olds in the Head Start Program. We know an ounce of prevention is worth a pound of cure. Every study done, all the educators, everybody says if we can put the money into Head Start, we are

going to save a lot of money downstream.

Mr. REID. It is true, is it not, that it has been proven and apparent that we save money in welfare costs and costs to our criminal justice system by helping these kids?

Mr. HARKIN. That is true.

Mr. REID. Isn't it also true that, even funded at current levels, most kids who need help don't get it?

Mr. HARKIN. Yes. I think right now on Head Start, we are a little over 50 percent. About 50 percent of the eligible kids are served by Head Start. We are trying to get it up to 80 percent.

Mr. REID. If we cut almost $300 million, we are going to drop down to 30 or 35 percent.

Mr. HARKIN. That is correct—probably less than 40 percent. Four out of 10 kids who qualify, who need the Head Start Program, will be cut out of the program because of this cut.

Mr. REID. You heard the Senator from Minnesota say we have to start cutting, that we are spending too much money. Does the Senator from Iowa think we are spending too much money for the Head Start Program?

Mr. HARKIN. The Senator has put his finger on it. We are spending too little on that program. We need to fund it so every eligible child can get into that program.

Mr. REID. The Senator from Minnesota said what Democrats want to do is raise taxes. Hasn't the Senator from Iowa been trying for more than 3 years—would the Senator tell this Senator, because I want some understanding, as to what you are talking about for tobacco, for example, to cover some of these things?

Mr. HARKIN. I am going to get to where we can get the money so we can have the offsets, so we don't have—

Mr. REID. It is not out of taxes, is it?

Mr. HARKIN. Not one penny in taxes. I want to say to my friend from Nevada that the Senator from Minnesota said we are spending too much money. I am thinking that I might offer an amendment to cut NIH by $1 billion. Let's see how many votes we get on the other side. What if I offered an amendment to cut Head Start by $290 million? Do you think the Republicans would all vote to cut that? How about title I, education grants, $380 million in cuts to title I for our schools? How about veterans' health care, cut by $1.1 billion? Does anybody believe that if we offered amendments to cut those, we would get the votes to do that? Maybe the Senator from Minnesota would be the sole person who would vote to cut NIH by a billion dollars; I don't know. Perhaps we ought to have an amendment to see if that is what they want to do.

Mr. REID. Isn't it true that if we had amendments to increase spending for veterans' benefits by a billion dollars, they would pass overwhelmingly?

Mr. HARKIN. That is probably true. The Senator is absolutely right. When the Senator says we are spending too much and we have to cut spending, why doesn't he offer some amendments to cut NIH, title I, meals for seniors, and Head Start? No, they are going to try to hide behind this sort of across-the-board cut. An across-the-board cut means deep cuts in these programs.

The Senator from Nevada said we have a proposal where we can pay for these programs and it would not require any tax at all. This is what we could do. I have a proposal that has been scored by CBO. If we just penalize the tobacco companies that fail to reduce teen smoking—they set the targets to reduce teen smoking, but they are not meeting them. We are saying that they pay a penalty for not reducing that and it raises $6 billion. CBO has given us the score on that. We could fund the Department of Defense at the requested level. What DOD said is, fund them at that level. That saves us $4 billion. We could enact the administration's proposal for student loan guarantee agencies. That is $1.5 billion in savings.

I might add that the House, last week, went the opposite direction. They raised the student loan origination fees. I could not believe they did that. Talk about raising taxes; last week, the House raised the taxes on college students by making them pay more for their loans. They increased it by 25 percent. It affects about one-third of students. More than half of the students in my State of Iowa are affected by that. So they got a 25-percent increase in their origination fees.

Well, that is the opposite way to go. If we enacted the administration's proposal, we would save $1.5 billion. Reduce Medicare waste, fraud, and abuse by $13 billion. Well, again, the House bill—the counterpart to this—actually cuts funding for Medicare waste, fraud, and abuse. It retreats at a time when we have $13 billion estimated annually that we lose to Medicare for waste, fraud, and abuse.

What the House GOP did is to cut $70 million from the audits and other checks that save us $17 for every dollar spent. We know from the audit agencies and others that for every dollar we have spent on audits, every dollar we have spent on the checks, we got $17 returned from waste, fraud, and abuse. Yet the House bill cut money from fighting waste, fraud, and abuse. That is inexcusable. If we want to go after it, we could save $13 billion.

The last is reducing corporate welfare. We have a series of things—$2 billion tax deductibility of tobacco advertising; underpayments by oil and gas industry royalties for use of Federal lands; billions lost because of tax loopholes and gimmicks that allow foreign companies and multinationals to avoid paying their fair share by bookkeeping methods that shift funds to foreign tax havens. By doing that, we can save about $4 billion. So our total offsets are about $28.5 billion, and we haven't raised taxes on any American. Nobody would have to pay more taxes.

Yet this is the choice: Either have these kinds of offsets that will help pay for increased funding at NIH, veterans' health care, Head Start programs, meals for seniors; or what the Senator from Oklahoma wants to do, and that is to have a huge cut in all of these programs. That is really where we are.

As I said, I agree with the Senator from Oklahoma; we shouldn't be dipping into Social Security. But we shouldn't be cutting Head Start programs. We shouldn't be cutting Meals on Wheels, meals to seniors. We shouldn't be cutting NIH and biomedical research. We should focus on the waste, fraud, and abuse, focus on the tax loopholes, focus on the DOD funding at their requested level, and that will more than pay for the programs we have come up with on a bipartisan basis.

The PRESIDING OFFICER. The Senator from Pennsylvania has 4 minutes 25 seconds.

Mr. SPECTER. Mr. President, the consensus has been clear cut that Social Security trust funds ought not to be invaded. The pending Nickles amendment recites that the Congress and the President should balance the budget excluding the surplus generated by the Social Security trust funds. That is really agreed upon, I think on all sides.

The second finding is that Social Security surpluses should be used only for Social Security reform, or to reduce the debt held by the public, and should not be spent on other programs. That is generally agreed upon.

Then the sense-of-the-Senate clause: It is the sense of the Senate that Congress should ensure that the fiscal year 2000 appropriations measures do not result in an onbudget deficit, excluding the surpluses generated by the Social Security trust funds, by adopting an across-the-board reduction in all discretionary appropriations sufficient to eliminate such deficit, if necessary.

The sense of the Senate is not binding, as we all know; it is what we think ought to be done.

I do not like the idea of reducing the discretionary spending, although I think the figures cited by the Senator from Iowa are extreme. I don't think we are looking at a 5-percent across-the-board cut, which would have a deep impact on Head Start, which we ought not to do, or a deep impact on NIH, which we ought not to do.

In proposing this amendment, Senator NICKLES seeks to put the Senate on notice—and appropriately so—that we had better come within the confines, and not exceed the caps, and not go into Social Security. I think that is an appropriate objective.

When the Senator from Iowa articulates proposals for savings in quite a number of other directions, I don't think they are realistic. I don't think the Congress is going to cut defense by $4 billion. When he articulates the view about penalizing tobacco companies that fail to reduce teen smoking by $6 billion, that is a laudable objective, if we can find more tobacco money. It is

too bad we don't have some of the money which was worked out on the $203 billion settlement for the Federal Government. But I don't think that is likely either. Reducing waste, fraud, and abuse is the most lofty objective the Congress can articulate. But finding the money to achieve that is so hard.

While I have worked very closely with my distinguished colleague from Iowa, I don't really think those figures are realistic. I don't think we are going to reduce Head Start. I don't think we are going to reduce NIH. But there is a stick. It is a stick to stay within the budget limitations.

Among a great many alternatives which are undesirable, I believe the pending sense-of-the-Senate resolution is the least undesirable. So I am going to support it.

Mr. President, how much time remains?

The PRESIDING OFFICER. Thirty-five seconds.

Mr. SPECTER. Would Senator NICKLES like the last word?

Mr. NICKLES. Mr. President, I ask unanimous consent for 2 minutes.

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

Mr. NICKLES. Mr. President, I apologize to my colleagues for going to the Finance Committee. I have just a couple of comments.

I have heard some of the discussion which said if we enact this amendment, we will have a 5-percent reduction. That is not the case. I have heard my colleagues say the Congressional Budget Office says it. Well, frankly, you get into descriptions of who is doing the scoring. If you use the administration scoring, it is not 5 percent; it is 1 percent. We use some administration scoring, OMB scoring. When we had the Gramm–Rudman-Hollings law, we used OMB scoring. They were the ones who implemented it. We use OMB scoring in a lot of the bills we have before us. If that is the case, we are $5 billion off. I don't think we have to be $5 billion off. I think we can, within the last few bills, narrow it down. We can eliminate $5 billion of growth in spending. Across the board won't be necessary, it shouldn't be necessary, if we show just a little discipline.

I know others on the other side said we can raise taxes. That may be their proposal. But it is not going to pass.

Yet I know there is lots of demand for increases in spending. We are trying to say we should have some restraint. The restraint is that we shouldn't be dipping into the Social Security surpluses. If we are going to spend Social Security surpluses, let's have an across-the-board reduction—if necessary. I hope it is not necessary. Let's do that if necessary to restrain the growth of spending, so we can ensure that 100 percent of the Social Security funds are used for debt reduction or for Social Security and not used for more Government spending in a variety of areas, whether it is defense, Labor-HHS, or you name it.

I thank my colleagues for their cooperation.

I yield the floor.

I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. All time has expired.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent for 1 minute so I may respond.

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

Mr. LAUTENBERG. Mr. President, the Senator from Oklahoma stresses the difference between OMB and the Congressional Budget Office. It is the typical preference to use the Congressional Budget Office.

I point out a letter dated October 4 sent to a senior member of our staff. It says:

> Dividing the projected deficit by the available outlays results in an across-the-board cut of 5.5 percent.

This is from the Congressional Budget Office. They are the gospel, I think, when it comes to making decisions in the Budget Committee.

I ask unanimous consent that the letter be printed in the RECORD, and I yield the floor.

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

[Memorandum of October 4, 1999]

To: Sue Nelson, [Democrat Staff—Budget Committee].

From: Janet Airis [CBO Staff].

Subject: Across-the-Board Cut to Discretionary Appropriations.

This is in response to your request of an across-the-board cut to FY 2000 discretionary appropriations. You asked us to calculate an across-the-board cut that would result in an estimated on-budget deficit for FY 2000 of zero, assuming that the current status CBO estimate (excluding ''directed scoring''), as of October 4, is enacted into law. Given your assumption, our estimate of the projected on-budget deficit is $19.2 billion. Our estimate of the outlays available to be cut is $351.7 billion. Dividing the projected deficit by the available outlays results in an across-the-board cut of 5.5%.

This calculation is preliminary and done without benefit of language. If you have any questions, please contact me at 226–2850.

Mr. SPECTER. Mr. President, we have attempted to set this first- and second-degree amendment aside, but we cannot get consent to do that. We are now seeking unanimous consent to move to foreign operations. We are waiting for final clearance.

MEASURE PLACED ON THE CALENDAR—S. 1692

Mr. SPECTER. Mr. President, on behalf of the leader, I understand there is a bill at the desk due for its second reading.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative assistant read as follows:

A bill (S. 1692) to amend title 18, United States Code, to ban partial birth abortions.

Mr. SPECTER. Mr. President, I object to further reading of the bill at this time.

The PRESIDING OFFICER. The bill will be placed on the calendar.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative assistant proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. HUTCHINSON). Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—S. 1650 AND H.R. 2606

Mr. SPECTER. Mr. President, we are trying to move this bill on Health, Health Human Services, and Education. We are seeking short time agreements so we can finish this bill by the close of business tomorrow. Senator HARKIN and I, Senator REID and Senator COVERDELL's staff, are trying to get that done. We have not been able to move ahead at the moment because we cannot get consent to set aside the pending Nickles amendment, second-degree amendment. We are going to proceed now to foreign operations. We have consent on a proposal, which I am about to make.

I ask unanimous consent the pending first- and second-degree amendments be laid aside and the Senate now proceed to the conference report to accompany the foreign operations bill and there be 1 hour for debate equally divided; the conference report should be considered read.

I further ask the votes in relation to the pending amendment and the conference report occur following the use or yielding back of the time, and the votes occur in a stacked sequence with the second vote to be 10 minutes in duration.

Mr. REID. Reserving the right to object, and I shall not object, it is my understanding, then, we would vote first on the foreign operations conference report or the amendment of Senator NICKLES? Which do you want to vote on first?

Mr. SPECTER. Vote first on the conference report, since we will be taking that up.

Mr. REID. No objection.

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

Mr. SPECTER. Mr. President, therefore Senators may expect votes to occur perhaps as early as 11:45. We have lost about a half hour waiting for this transition, so it is my hope that although we have the unanimous consent agreement for 1 hour, we might accomplish the debate in a half hour and finish at 11:45, where we could then be expected to proceed to a vote. If the managers insist on taking the full hour,

then the vote will start at 12:15. But it is hoped, so we can move this bill along, to repeat, that we can have the time yielded back and start the vote as early as 11:45.

FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 2000—CONFERENCE REPORT

The PRESIDING OFFICER. Under the order, the Chair lays before the Senate a report of the committee of conference on the bill (H.R. 2606) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2000, and for other purposes.

The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2606), have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Under the order, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of September 27, 1999.)

Mr. REID. Mr. President, with the permission of the Senator from Pennsylvania, I ask a quorum call be initiated and the time run equally against both sides on this conference report.

Mr. SPECTER. Agreed.

Mr. REID. Mr. President, 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. REID. 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. REID. Mr. President, I ask unanimous consent the Senator from Oregon be allowed to speak as in morning business but the time would run against the underlying agreement on the foreign operations bill; he be allowed to speak for—5 minutes?

Mr. WYDEN. I appreciate the Senator's courtesy. If I could have 10, that would be appreciated. I know this is an important bill. I do not want to hold it up.

Mr. REID. Mr. President, we need to get agreement.

The Senator is speaking for 10 minutes.

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

The Senator from Oregon.

SENIOR PRESCRIPTION INSURANCE COVERAGE EQUITY ACT

Mr. WYDEN. Mr. President, I thank the Senator from Nevada who has been a strong champion of the rights of seniors. He and I serve on the Committee on Aging.

I take this opportunity this morning to talk about an extraordinarily important issue for the older people of this country, and that is the need to make sure senior citizens can get prescription drug coverage as part of the Medicare program.

I am especially proud that Senator OLYMPIA SNOWE and I have introduced what is now the only bipartisan prescription drug bill before the Senate, and I am hopeful in the days ahead we can get this legislation before the Senate and ensure that the millions of vulnerable older people in this country get decent prescription drug coverage under Medicare.

I believe it is time to get this issue out of the beltway, get it out of Washington, DC, and get it to the grassroots of America. That is why Senator SNOWE and I have initiated a grassroots campaign to get prescription drug coverage under Medicare.

As folks can see in the example next to me, we are hoping in the next few weeks that senior citizens and their families from across the country will send in copies of their prescription drug bills to their Senators. We think our proposal, the Senior Prescription Insurance Coverage Equity Act, known as SPICE, is the way to proceed because it is bipartisan, it is market oriented, it gives senior citizens choice in the marketplace, and uses marketplace forces to hold down costs for prescription medicine.

We use as a model the Federal Employees Health Benefits Program, which is what Members of Congress and their families have as the delivery system for health care. If it is good enough for Members of the Senate, Senator SNOWE and I believe it is good enough for the older people of our country.

We are hoping that instead of this just being a discussion within the beltway, with the various interest groups on one side or the other lining up, we hope in the days ahead, as a result of senior citizens sending in copies of their prescription drug bills and their families weighing in with their legislators, we can get our bipartisan bill moving.

More than 50 Members of the Senate have already voted for the funding proposal Senator SNOWE and I advocate. We propose there ought to be a tobacco tax to fund this program. We believe that is only right, because in this country, more than $12 billion goes out of the Medicare program each year to handle tobacco-related illnesses. We believe there is a direct connection between the funding proposal we establish and making sure older people get this benefit. With more than 50 Members of the Senate on record for the budget vote that Senator SNOWE and I offered earlier this year, we ought to be able to build on that vote and actually get this program added to Medicare.

I am especially pleased the approach Senator SNOWE and I have taken is one that can help lower the cost of prescription drug coverage for older people. A key part of this debate is coverage, but equally as important is the need to hold down the costs of these prescriptions. We are seeing around this country that the big buyers of prescription drugs—the health maintenance organizations and the large purchasers—get a discount and senior citizens are hit with a double whammy. Not only does Medicare not cover their prescriptions, but when a senior citizen walks into a pharmacy and picks up their prescription, say, in Arkansas or Oregon or Maine, they, in effect, are subsidizing the discounts the big buyers are getting as a result of their marketplace power.

Some have proposed a system of price controls, putting Medicare in the position of buying up all the medicine and using that as their idea of holding down costs. Senator SNOWE and I think that will end up generating a lot of cost shifting on to the part of other people who are having difficulty covering their prescription drug bills.

We favor a market-oriented approach along the lines of the Federal employee health plan. We are not talking about a price control regime or a run-from-the-beltway approach to this issue. We are talking about using marketplace forces to hold down the costs of prescription drugs for our older people.

It is especially urgent now. More than 20 percent of the Nation's senior citizens are spending more than $1,000 a year out of pocket for their prescription medicine. We have older people with incomes of $15,000, $16,000 a year spending $1,000 or $1,500 each year on their prescription drugs. Very often those seniors are not able to pick up a prescription their doctor phoned in to their neighborhood pharmacy because the senior citizen cannot afford it, and the prescription languishes for weeks at the pharmacy because they cannot pick it up.

That is what I have heard from seniors in my State of Oregon. We have heard from other seniors whose physicians tell them they should be taking three pills a day and they cannot afford that, and they start by taking two, and then they take one. Eventually they get sicker and they need much more expensive care.

In fact, the pharmaceuticals now and the medicines of the future are going to be preventive drugs. They are going to be drugs that help lower blood pressure and help us deal with cholesterol problems. As a result, in the long term, we are going to save significant dollars by preventing expensive institutionalizations and hospital services as a result of adding immediate prescription drug coverage to the Medicare program. Clearly, this benefit needs to be paid for.

The proposal Senator SNOWE and I have offered will generate more than $70 billion in the next few years to add this benefit to the program. I am very hopeful the Senate will move on a bipartisan basis to tackle this issue.

There are many, certainly, in Washington, DC, who think the prescription drug issue is too complicated and too political to deal with now, that we should wait until after the election. Senator SNOWE and I reject that approach. It is more than a year until the next election. We are hoping senior citizens, just as this poster next to me says, will send in copies of their prescription drug bills to their Senators. Tell the Members of the Senate exactly why this issue is important to them, why the lack of prescription drug coverage is causing them a hardship, and help Senator SNOWE and I ignite a grassroots movement to ensure that prescription drug coverage does become part of the Medicare program.

In effect, it is time for a wake-up call to the Congress. Some of the naysayers and those who say we ought to put this issue off I think are missing the real needs of the Nation's older people. If you have an income of $15,000 or $16,000 and you are spending $1,500 a year for prescription drugs, if you are giving up other essentials, such as electricity, to pay for your prescription drugs, you cannot afford to wait until after the next election.

It may be a luxury for people here in the beltway to wait until after the next election to talk about the need to come up with a practical solution to covering older people with their prescriptions. Senator SNOWE and I think waiting is not a luxury that the millions of vulnerable, older people in this country have. They cannot afford to wait.

We are hoping, as a result of this campaign we have launched in the last week to have folks send in a copy of their prescription drug bills, that this can serve as a wakeup call to this Senate and this Congress that the time to act is now.

We hope the Senate will choose the proposal we have developed. Undoubtedly, there are other very good ideas. I am sure we will hear from seniors, when they send in copies of their bills, about the best way to address this issue legislatively. Ours is a marketplace-oriented approach. It is based on the kind of program that Members of the Senate have.

We hope, in the days ahead, seniors from across the country will send us copies of their prescription drug bills. We want to see this coverage added now. We want to see the Senate address this in a bipartisan way.

With that, I yield the floor.

Mr. President, I suggest the absence of a quorum and ask unanimous consent the time be evenly charged.

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

The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 2000—CONFERENCE REPORT—Continued

Mr. MCCONNELL. Mr. President, to my amazement, we received a letter indicating the President might want to veto the foreign operations appropriations bill, a stunning development, it seems to me, almost inexplicable.

This bill, while not as much as the President requested, is as large as he signed last year and includes a number of items important not only to many of us but to him as well.

For example, if this bill were to ultimately be vetoed, the President would be vetoing—would be stopping—aid to the Newly Independent States of the former Soviet Union of $735 million; developmental assistance, which was $83 million over his request in this bill that he is threatening to veto; narcotics assistance at $285 million, which is $24 million above last year, the bill that he signed; for AIDS, $180 million to fight AIDS, which is $55 million above the bill that he signed last year; for UNICEF, an important program of the United Nations, there is $110 million in this bill for UNICEF, which is $5 million more than in the bill last year that he signed.

Obviously, we continue the Middle East earmarks to Israel and Egypt. Vetoing this bill would deny $3 billion to Israel. I think it is important to note that The American Israel Public Affairs Committee supports this bill. AIPAC supports this bill. I ask unanimous consent that letter of support be printed in the RECORD.

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

AIPAC,
Washington, DC, October 6, 1999.

Hon. MITCH MCCONNELL,
United States Senate,
Washington,DC.

DEAR CHAIRMAN MCCONNELL: We are writing to express our support for the Conference Report on HR 2606, the FY 2000 Foreign Operations Appropriations bill, which contains funding for Israel's regular aid package, including provisions for early disbursal, offshore procurement and refugee resettlement. The Middle East peace process is moving forward with both Israel and the Palestinians committed to resolving issues between them within a year. It is important that Congress support Israel as this process moves ahead, and we therefore also hope and urge that Congress find a way to fund assistance to the Wye River signatories before the end of this year.

Sincerely,

LIONEL KAPLAN,
President.
HOWARD KOHR,
Executive Director.
BRAD GORDON,
Legislative Director.

Mr. MCCONNELL. Mr. President, other items in this bill of interest: Child health, immunization, and education initiatives. For Kosovo—we fought a war there a few months ago—there is $535 million for Kosovo and for some of the countries surrounding Kosovo that were impacted by the war that was fought there. That is $142 million more than the President requested.

In addition, there is money in this bill for the environment, for biodiversity, for tropical rain forests, unique ecosystems initiatives. All of that will be denied if the President vetoes this bill.

For Lebanon and Cyprus, to help in the reconciliation process there, there is $15 million for Lebanon and $15 million for Cyprus.

Infectious diseases, especially polio and TB campaigns, which have been priorities of Senator LEAHY, all of that would be vetoed by this bill.

Funds for Georgia, for Ukraine, for Armenia, for Poland—all of which is supported vigorously by Americans of Georgian, Ukrainian, Armenian, and Polish descent—all of that would not go forward if this bill were vetoed. The vote on this bill, when it went through the Senate—and it is not all that different now from the way it was when it cleared the Senate—was 97–2. This is virtually the same bill, at $12.6 billion, which protects virtually all of the Senate priorities passed here at 97–2. On the threat reduction initiative, we have spent $5.9 billion in Russia over the years. There are no restrictions on the $735 million we provide for that area of the world preventing funding of this new $250 million initiative to control the nuclear problem there.

On development assistance, the President claims it is dramatically underfunded. In fact, we not only exceeded last year's level—that is the bill President Clinton signed—we exceeded last year's level of spending and we have exceeded his request for this year. The President requested $83 million less than the conference has provided.

The veto threat to the Senator from Kentucky is inexplicable. It doesn't make any sense, unless this important bill for the assistance of Israel and Egypt and Armenia and Georgia and Ukraine and a number of other worthwhile causes that are supported around the world is somehow being made part of a larger strategy by the administration to veto all of these bills.

This bill enjoys strong support from AIPAC, from Armenian Americans, from Georgian Americans, Polish Americans, Latvian, Lithuanian, Estonian, and Ukranian Americans. They are but a few of the Americans who appreciate this bill.

As I indicated, all of these items are threatened by the President's inexplicable decision to threaten to veto this bill.

Finally, let me say, before turning to my friend and colleague from Vermont, Senator LEAHY, I don't know where the President wants to get more money for this bill. Are we going to take it out of the Social Security trust fund to spend on foreign aid? Is that what the President is suggesting we do? Does President Clinton want us to take money

out of the Social Security trust fund and spend it on foreign aid? I don't think that is something we ought to be doing. I don't think the American people would like that.

I repeat, this is a bill that was supported overwhelmingly on a bipartisan basis when it cleared the Senate the first time. It is about the same size as the bill the President signed last year.

I don't think there is any rational basis for the vetoing of this bill. I encourage the Senate to speak once again on a broad bipartisan basis with a large vote to support this important bill which means so much to peace and stability around the world.

With that, Mr. President, I understand we are planning on voting around noon. I yield the floor.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, how much time is available to this side of the aisle?

The PRESIDING OFFICER. The Senator from Vermont has 14 minutes 50 seconds remaining, and the Senator from Kentucky has 17 minutes 24 seconds remaining.

Mr. LEAHY. Mr. President, I understand the distinguished Senator from Oregon, Mr. WYDEN, had spoken earlier as in morning business; is that correct, and that was taken from my time?

The PRESIDING OFFICER. The UC took the time from this bill.

Mr. LEAHY. I ask unanimous consent that the time taken by Mr. WYDEN be restored to my time.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. LEAHY. I thank the Chair. We may well not use it. I am trying to protect time for some who may want to come and speak.

It has been a week since the conference committee on foreign operations completed its work. The House tried, during that week, to muscle the votes to pass it, and yesterday they did, by a three-vote margin.

As stated by some of the leadership in the House, the bill is part of a grand Republican strategy to force the President to either except a large cut in funding for foreign policy or veto the bill and then be blamed for cutting Social Security to pay for foreign policy, even though everybody knows that is not going to happen. I think the American people are more savvy than that. They know that foreign policy is the key responsibility of the Federal Government. It has been ever since the days of Thomas Jefferson and Benjamin Franklin.

Today the world is far more complex, more dangerous, more independent than anybody could have assumed. They also know the President is not going to do anything to harm Social Security.

The House finally passed the conference report by three votes. The bill will pass here, with a third of the Senate voting against it. Then the President vetoes it. It is unfortunate we are here.

In that regard, let me say something about the distinguished senior Senator from Kentucky. I should warn him and alert him that I am going to praise him. That may bring about the Republican State committee initiating in Kentucky a recall petition, but that is the price of fame and glory.

The fact is, the distinguished senior Senator from Kentucky took an allocation, as chairman of this subcommittee, which by anybody's standards—his, mine or anybody else's—was too small. With that, he tried to fashion a bill that reflects the best interests of our country and the needs of our country and the great humanitarian nature of Americans.

He has done it extraordinarily well. He has bent over backward—I say this to all Democratic Members of the Senate as well as Republican Members—to accommodate the needs of Senators on both sides of the aisle. His chief of foreign policy, Robin Cleveland, and others have worked very closely with Senators on both sides of the aisle to try to accommodate all they could. Are there things not in here? Of course. You only have so much money.

There are things the Senator from Kentucky would like to increase in here, substantially. Without embarrassing him, I won't go down the list, but he could think of a number of areas. Are there things the Senator from Vermont would want to see increased? Of course, there are, substantial areas.

We have seen, for example, the situation we now have in New York City where, after an outbreak of encephalitis, there is now a feeling that this disease came over transported by a bird. It is now infecting birds and humans in New York. As birds migrate south, it will affect others. Where did the disease come from? A different continent. It demonstrates that every disease is only an airplane trip away.

We have money in here to approach that problem, working with a number of people, Dr. Nils Daulaire and others, to try to help countries identify diseases when they occur in their country, help them eradicate them there, help them contain them—both for the humanitarian effort of helping this country get rid of the disease, but also one that protects all the rest of the world so the disease doesn't spread. Could we use a lot more money? Yes, we could. Ironically, we will end up spending hundreds of times more in this country, if we don't do this, just to help protect our own people within our own borders, than the fraction of that amount we would spend to stop the disease from occurring in the first place. That is one example. AIDS, the greatest calamity to hit the world since World War II, does not have ample funds.

It has extra money in here. I complimented him and the distinguished Senator from Kentucky for helping get that money in. Both of us believe and both of us have said repeatedly that the money in here falls short of what is needed to protect our interests around the world.

For years, we urged the administration to fight harder for the foreign operations budget. Let me say this as a criticism of the administration of my own party: Too often, the administration has done too little, too late to build the support in Congress.

At the same time, the Congress has failed to allocate to our subcommittee the funds we need. This bill is $800 million below the 1999 level and $1.9 billion below the President's request, which, frankly, was not an unreasonable request. It is substantially less than this Congress was willing to give President Ronald Reagan for foreign aid. At a time when President Reagan was expressing concerns about foreign aid, he was still spending far more than we have in here, in a world much smaller than it is today.

It may surprise Senators to know that the President's fiscal year 2000 budget request for foreign operations, which he didn't get, is about the same as the amount we appropriated a decade ago. It is far less if you count inflation and far, far less if you count the amount we actually came up with.

We have a lot of interests around the globe. The United States, a nation of a quarter of a billion people, has the preeminent economy and military might in the world. But our economy and military might, by itself, does not protect our interests totally and does not enable us to continue our interests into the next century.

It is absurd that at the threshold of the 21st century, we continue to nickel and dime our foreign policy spending. We spend less than 1 percent of the Federal budget on foreign policy. Yet we are a worldwide power. Companies in my little State of Vermont are involved in international trade. We are, on a per capita basis, about third or fourth in the country in exporting outside our borders. With the Internet, any company in Vermont, or Kentucky, or Arkansas, or Illinois, or anywhere else, which does business on the Internet, if they are selling something, they are going to get inquiries from Sri Lanka, from Japan, from Germany, from the Middle East. We are a worldwide, interconnected economy.

We are also a nation that is called upon almost as a 911 source to help put out regional battles, fights, and so on, where democracy has not taken hold, and we will spend tens of billions, even hundreds of billions, of dollars to do that. But we won't spend a tiny fraction of that amount of money in our foreign policy budget to try to help democracy take place in the first place, so we don't have to call out the marines.

Unfortunately, the majority in Congress refuses to face up to that. We continue to underfund these programs

and to underfund our diplomacy in the Commerce-Justice-State appropriations bill.

It is an isolationist, shortsighted approach that weakens our security, puts undue burdens on our Armed Forces, and does damage to future generations of Americans. We still have Members of Congress who call this foreign aid, and they even brag about cutting foreign aid. These are the same Members of Congress who say, ''I will never leave the shores of this Nation while I serve in Congress,'' as though this Nation exists just within its shores—a nation where every one our Fortune 500 companies do business around the world, every one of our States' economies is greatly affected by what kind of business we do around the world. Our students travel abroad; our citizens travel abroad. I don't know how many times we have people going to other countries saying, ''I am an American, I must have some rights.'' What do we do to help support those rights?

To say we don't need to be involved in foreign aid, especially when the United States spends far less of its budget than most other nations—actually less in dollars than some— is simplistic, self-serving, and mostly inaccurate. These programs benefit all Americans.

We have a number of programs that are underfunded in this budget that create jobs in the United States. We create the greatest number of jobs in our economy in those jobs that affect our exports. To the extent that our foreign aid and foreign policy programs improve the economies of other countries, they improve our markets. But unlike the request the President has made for funding to support America's export community, the bill cuts those funds.

The President has requested funding to support national security programs, including to safeguard nuclear material in the former Soviet Union. If you want something to make you wake up at 3 o'clock in the morning, think of the inadequate controls over the nuclear material that is now stored in the former Soviet Union. Ask any American, ''Would you support something that would help us secure those nuclear materials?'' and they will say yes. This bill cuts those funds.

The President has asked for funds to build free markets, to strengthen democratic governments that support our policies, to protect the global environment. I don't think anybody opposes these programs, but we are just not going to pay for them. Rather than funding them at a level commensurate with the requirements and needs of a superpower with the world's largest economy, some want to make political points. I disagree with that. I think that is dangerous.

I voted to report the bill from the committee. I did that mostly out of respect for the efforts of the chairman of the subcommittee. I voted for it on the floor, as most Senators did, to send it to conference. But I said at that time my vote was contingent upon additional funding being added in conference. It did not happen.

I don't support everything the President has asked for at all. I want to make that clear. Some things I would vote against. But there is much in this conference report I do support. I don't support a cut in funding. I think the long-term security costs to our economy and our security will be far greater. It is simply irresponsible.

Year after year, I have voted for foreign operations bills I thought were too low. I thought last year's bill was too low, and I said so at the time. I voted for it because I thought it was the best we could do and it would not do irreparable harm to our national security. But this bill is $800 million less than last year's.

We have written a balanced bill. I have talked about the provisions I support, such as funding to combat HIV/AIDS in Africa and other development assistance programs. It also includes some provisions I don't support, but we had a fair debate and vote on them. That is fine with me.

Funding for IDA, which makes low-cost loans to the poorest countries, was cut by $175 million. Funding for the U.N. agencies was cut. Funding for the Korea Energy program cut by $20 million. Funding for peacekeeping was cut. Funding for nonproliferation, antiterrorism, and other security programs was cut. The Peace Corps was cut.

The world's population is going to pass 6 billion people next week, yet this conference report provides $50 million less for international family planning than the amount passed by the Senate in July and $100 million less than we spent 10 years ago, when the population was much smaller.

It cuts funding for the Global Environment Facility by $157 million below last year's level and $108 million below the President's request.

I want to see a bill the President can sign. I say this to the administration and the leadership of the House and Senate: You have many Members on both sides of the aisle who want a good bill. But all of you are going to have to help us get the money so we can have a better bill.

Mr. KOHL. Mr. President, I will be voting against the fiscal year 2000 Foreign Operations appropriations bill conference report. Although I supported this bill when it came through the Senate, I was hopeful that during the conference we would find the resources to address the serious deficiencies in this bill. Unfortunately, that was not the case and we have before us a bill that dramatically cuts the Administration's request for foreign operations by 14 percent.

At a time of great uncertainty around the world, when we are being called on to foster new democracies, support peacekeeping operations, prevent the spread of nuclear weapons, and provide critical support for the ongoing Middle East peace process, we have before us a bill which threatens to undermine many of these vital foreign policy interests. If we nickel and dime our foreign policy priorities now, we will pay a higher price down the road when we respond to the ensuing international crises.

I have generally supported our foreign aid budget. It is a less than one percent of our annual budget, a small amount to protect our national interests and provide tremendous benefit to those in need. In the past, however, when our spending contributed to burgeoning deficits, I opposed foreign aid or for that matter any spending bill that surpassed the spending levels of the previous year. However, in this era of budget surpluses the debate has shifted to a question of priorities. And, it is in this context that I must oppose this bill. We cannot afford to give short shrift to basic priorities traditionally funded in this bill. It is my hope that after the President vetoes this bill, we produce a bipartisan foreign operations budget that can be supported by all.

Mrs. FEINSTEIN. Mr. President, I rise to oppose the Foreign Operations Conference Report and to express my disappointment that in passing this report the Committee has not provided funding for the U.S. commitment to the Wye River agreement.

This conference agreement, which provides $12.6 billion in funding, is nearly $2 billion below the President's request and $1 billion less than last year's bill. This low level of funding makes it all but impossible for the U.S. to maintain its leadership role in the international community. Indeed, nearly every major account in the conference report is underfunded, including funding for voluntary international peacekeeping, the Peace Corps, Multilateral Development Banks, the Enhanced Threat Reduction Initiative, African development loan initiatives, the Global Environment Facility, and debt relief for the world's poorest countries.

Most troubling, one specific initiative, the Wye assistance for the Middle East peace process, is nonexistent.

As Israel and the Palestinian Authority move ahead with implementation of the Wye agreement and final status negotiations, it is vital that the United States also do its part in meeting its commitments and obligations.

On Monday I, and twenty-one of my colleagues, sent letters to the President and to the Majority and Minority leaders about the critical importance of meeting our Wye commitments. Let me tell you why I consider this to be such an important issue.

On September 4, 1999 Prime Minister Barak and Palestinian Authority President Arafat signed the Sharm el-Shiekh Memorandum, expediting the fulfillment of Israeli and Palestinian obligations under prior treaties, particularly the Wye agreement, and establishing a time line for the completion of final status negotiations by

September 13, 2000. Under this agreement: Israel has now relinquished an additional 7 percent of the West Bank, with 5 percent more slated for turnover to the Palestinian Authority later this year; Israel has released 199 Palestinian prisoners with another 150 scheduled for release later this year; Israel has started to open the Shuhada Road in Hebron; the Palestinian Authority has submitted its list of police; and, Israel and the Palestinian Authority have formally initiated final status negotiations.

Israel and the Palestinian Authority are meeting their obligations, and as Israel, Jordan, and the Palestinian Authority continue to make progress in these negotiations, it is all the more critical for the United States to provide the financial assistance and support that has been promised.

Whereas the first land transfer from Israel to the Palestinian Authority did not involve the movement of Israeli troops or bases, the next two planned transfers will involve the redeployment of troops, bases, and other infrastructure at considerable cost to Israel. In fact, there is some concern in Israel that if the U.S. is unable or unwilling to meet its commitments under Wye, the budget of the government of Israel will be thrown into chaos.

The United States has pledged to provide $1.2 billion to Israel, $400 million to the Palestinians, and $300 million to Jordan to assist them in meeting their obligations under the Wye accord, as well as for economic assistance for Jordan and areas under the Palestinian Authority.

The United States has a deep commitment to Israel and its Arab partners in the peace process to help advance negotiations and to help meet the financial burden placed on the parties in the peace process in meeting their obligations. We have undertaken this commitment both because it is the right thing to do and because it serves well vital U.S. national security interests.

The Wye agreement represents an important step on the road to peace in the Middle East. We must meet our obligations under Wye, and I do not believe that Congress should pass a Foreign Operations Appropriations bill that does not include such funding.

I do not believe that the United States can adequately pursue our national interests and foreign affairs priorities with this Conference Report. It will not allow the U.S. to continue to operate important international programs at current levels, will undoubtedly detract from the stature of the U.S. in the international community, and lets down our partners in the Middle East peace process. I urge my colleagues to join me in opposition to this conference report.

Mrs. MURRAY. Mr. President, as a member of the Foreign Operations Appropriations Subcommittee, I have always supported the subcommittee's bill here on the Senate floor. We always have difficult and controversial choices before our subcommittee. Under the leadership of Senators MCCONNELL and LEAHY, we have been able to do a reasonable job crafting a bill with bipartisan support.

Unfortunately, that is not the case this year. I will be voting against the foreign operations appropriations measure. I take this action for a number of reasons.

Most importantly, this bill is woefully underfunded. The bill is $2 billion less than President Clinton's request and some $800 million below last year's congressionally approved funding level. This account has already been cut significantly in recent years. The most recent cuts, in my estimation, will cripple our already meager foreign aid efforts. We spend a great deal of time here in the Congress talking about the U.S. role as the world's lone superpower. The foreign operations bill is a test of our sincerity in providing global leadership beyond the realm of U.S. military might.

This bill does so many things that project an America to the world that we can and should all be proud of. We educate young girls, we provide microcredit loans to small family enterprises, we export democracy throughout the world, we cooperate with human rights activists and monitors, and we create opportunities for American citizens and business interests abroad. Unfortunately, the bill on the floor today cripples our efforts to work internationally, vital work that is in the national interest of the United States.

The foreign operations bill fails to provide any funding to the important Middle East peace process. The President had requested $500 million in assistance to aid the implementation of the Wye River Accords. This small investment in peace and security is even more important given the recent agreement between Israel's new government and the Palestinian Authority. Now is the time to reassert U.S. support for the peace process that, at this moment, shows so much hope and promise.

I also am disappointed that this bill underfunds our export promotion programs. For example, the Export-Import Bank, which protects and creates American jobs, is funded below the 1999 level and far below the Administration's 2000 request. U.S. workers compete in the global economy. That's a fact. It is equally true that other governments in Asia and Europe do far more to help their exporters succeed. Our ability to compete and win abroad for American workers is impacted by the foreign operations bill. And this bill could do far more for American workers.

Finally, I continue to have reservations regarding the funding levels and the restrictive language placed on our international family planning assistance programs. The restrictive language is particularly harmful as it cripples the provision of valuable family planning programs which aid population control, economic development, environmental protection and some many other areas. Our false family planning debates driven by domestic politics here in the United States only harm thousands of women and families in the developing world.

Mr. President, this bill will not become law. President Clinton has promised a veto for numerous, very legitimate reasons. I encourage the President to follow through with a veto if this bill makes it to his desk. And I am anxious to work with my Senate colleagues on a new version of this bill. This is an important bill. Given the resources, I am confident that Senator MCCONNELL and Senator LEAHY can deliver a bill the Senate will again endorse with wide bipartisan margins.

Mr. BIDEN. Mr. President, I have to say that I am disappointed in the foreign operations appropriations conference report. In my estimation then, and in my estimation now, this bill has two huge flaws: First of all, the bill as a whole is under funded. It simply does not dedicate the necessary monies for our nation's foreign operations.

The Administration has indicated that the President will veto this bill, and I approve that decision. The amount in this bill is nearly $2 billion less than the administration's request. That is unacceptable.

The second major problem is that, not only is overall funding inadequate, two essential programs have either faced draconian cuts, or have not been funded at all. It is on those programs that I wish to speak.

Perhaps the biggest failure of this bill is that it does not provide the amount that the President requested to support the Middle East Wye River Agreement.

I find it irresponsible that the conference report does not include a single penny to fulfill our commitment to support the agreement. Early in September, Israel and the Palestinian Authority signed an agreement to carry out Wye and to move to final status negotiations.

Just as the peace process is getting back on track, this conference report sends a signal of American retreat from our historic moral and strategic commitments in the Middle East.

The $800 billion in aid missing from the conference report for fiscal years 1999, and the $500 missing form this year's appropriation were requested to support Israel, Jordan, and the Palestinian Authority in critical areas.

In Israel, funds were requested to assist Israel in carrying out its military re-deployments and to acquire anti-terrorism equipment. In the Palestinian Authority, support was requested for education, health care, and basic infrastructure in order to reduce the influence of radical groups that thrive off of economic misery.

In Jordan, support is needed to bolster the new King as he takes bold and risky moves to support peace and aggressively fight terror.

The parties in the region will need to know that we are a reliable partner as they move to the most contentious issues in the peace process. This conference report calls into question our ability to carry out our commitments.

The second failure of this year's conference report is that it does not fund the Expanded Threat Reduction Initiative, an essential part of U.S. efforts to reduce the chances for the proliferation of weapons of mass destruction from the former Soviet Union.

Almost every one of the Department of State budget increases proposed in the Expanded Threat Reduction Initiative has been zeroed out in the conference report. This occurred despite the inclusion in the Senate bill of two floor amendments calling for the conferees to achieve full funding of these program requests. I regret that this message was ignored by the conferees, and Frankly I fear that their action could endanger our national security.

Some of the programs that are unfunded in this bill were to help Russia's biological weapons experts find new fields of work. If we fail to do that, these very same experts could later threaten our crops, our livestock, and our very lives.

Assistance for the Newly Independent States was decreased by 445 million from a Senate passed level that was already $250 million below the Administration's request. While it is unclear where the additional cut would be made, it could reduce existing non-proliferation assistance programs such as the International Science and Technology Centers in Russia and Ukraine. Through these centers over 24,000 former weapons scientists have found jobs in places other than nuclear and biological weapons labs in Iraq and Iran.

The same could be said for the Civilian Research and Development Fund. This foundation provides training for Russians who are former weapons scientist so that they can embark in non-military careers. Not only the United States, but the entire world has benefited from this.

I accept the fact that Congress has to make some tough choices in all of our appropriations. There are literally a dozen more programs in this bill that I would like to see increased funding for. We cannot designate as much money as we would like in all the areas we would like. However, I believe that the programs I have outlined above are crucial to the effective execution of United States foreign policy.

By ignoring them, we are creating serious problems which may very well be costly to correct. Diplomacy and assistance are cheap compared to the price we pay when they fail. When the Senate passed its appropriation bill in June, I hoped that these flaws I have just discussed would be corrected. They were not. As it stands, I cannot support the conference report.

Mr. SMITH of New Hampshire. Mr. President, the foreign operations conference report includes a major concession to the Clinton administration—it strikes language which attempted to stop U.S. taxpayer dollars from being used to promote abortion abroad, imposing an imperialistic, left-wing, pro-death agenda on the nearly 100 countries who have, for deeply-held religious reasons, upheld the sanctity of human life and who believe that life, including lives of the innocent and unborn, are sacred in God's eyes.

Regrettably, the House-passed language, the Smith-Barcia Foreign Families Protection amendment, while not cutting funding for the international population assistance, would have at least restored the prohibition on using these funds to support foreign organizations that lobby to repeal or undermine the laws of foreign governments against abortion. Since the Senate refused to negotiate with the House on a proposed compromise on the issue, as a result, the conference report on foreign operations has no pro-life safeguards. The Senate conferees did not accept the House's proposal to reinstate last year's ban on funding for the U.N. Population Fund in exchange for dropping the Foreign Families Protection Act Amendment.

The UNFPA has cooperated with the Peoples Republic of China in implementing coercive population control including forced abortion and sterilization. There are examples of poor people around the world being coerced into sterilization and fertility experimentation, sometimes, as was reported in Peru, by the threat of withholding food aid.

More recently, in Kosovo, Concerned Women for America reported that while refugees sought water, clothing and other basic necessities, the UNFPA and Planned Parenthood delivered what they considered ''life-saving supplies''—working with the UNHCR, whey dispatched ''emergency reproductive health kits'' for about 350,000 people for a period of 3 to 6 months.

These kits included oral and indictable contraception kits, sexually transmitted disease kits, intrauterine device (IUDs) kits, complications of abortion kits, vacuum extraction equipment and, condoms (UNFPA press release, 4/8/99).

The U.S. State Department estimates that of the 350,000 refugees, 10 percent are either pregnant, breastfeeding or caring for very young infants. Also, Kosovo has one of the two highest total fertility rates in Europe, making it a prime target for population controllers like UNFPA (Planned Parenthood press release, 4/13/99).

UNFPA and Planned Paenthood are putting these women at risk. CWA found a doctor with 10 years experience with the UNHCR, as well as numerous non-governmental organizations (NGOs), who was willing to testify without attribution about the danger of providing birth control pills and emergency ''contraception'' to refugee women. This doctor worked extensively within the U.N. and externally to prevent distribution of emergency ''contraception'' which causes chemical abortion in the early stages of pregnancy and manual vacuum aspirators used to perform abortions.

The doctor confirmed the fact that refugee women who use birth control pills are vulnerable in two specific ways. First, they do not receive information to make an informed decision, nor are they guaranteed a doctor's continuing care.

Vacuum aspirators included in the UNFPA kit are particularly dangerous. These manual devices cannot be sterilized, risking fatal infections, and can puncture the uterus. Rather than life-saving, these devices can be life-threatening.

The UNFPA and PPFA are exploiting these desperate, vulnerable refugee women. They are attempting to indoctrinate them with the U.N.'s radical notions about sexuality and abortion. Abortions may only intensify their physical and emotional distress. Post-abortion syndrome (PAS) is a type of Post-Traumatic Stress Disorder, once believed only to affect war veterans.

This year, unsuccessfully, an effort was made in the House to transfer funds from ''international family planning'' programs to child survival programs—this is based on the pleas of many respected people in the children's health field, including health ministers in Africa, who have begged the West for basic medicines like penicillin and rehydration salts. They have said their shelves are overflowing with condoms, while they watch their infants and young children die from basic maladies that would never go untreated in the industrialized world. Their calls have gone unheeded. The Clinton Administration's foreign policy priority is to ensure that women can abort their babies, not to ensure that mothers who give birth can properly care for their children.

The fight is not over—the issue of protecting women and their unborn children and of respecting the pro-life, pro-family laws of foreign nations will resurface this year.

Mr. DODD. Mr. President: I rise in opposition to the adoption of H.R. 2606—the fiscal year 2000 foreign operations conference report.

Let me say at the outset that it is very unusual for me to oppose an appropriations bill of this kind, but I do so today because I believe that if it becomes law it will jeopardize United States interests globally. Why are our interests threatened? They are threatened because this bill does not provide the wherewithal to the Clinton administration so that it can effectively carry out United States foreign policies and programs. Many programs being funded by this bill are at drastically reduced levels. The total dollar value of the appropriations contained in this conference report are approximately $2 billion below levels requested by the President.

The conferees apparently did not think that the Middle Peace Process is of critical interest to the United States because nowhere can a find funding in support of the implementation of the Wye Agreement—clearly a critical component in ensuring that the peace process more forward. I believe that this omission is extremely unwise and is reason enough alone for Members of this body to oppose it.

But that is not the only problem with this bill. Let me discuss some of the other deficiencies as well.

First, Mr. President, we all know how much bipartisan support the Peace Corps engenders in both Houses of Congress. Peace Corps volunteers are our ''citizen diplomats'' abroad. The lasting good will and friendship that results from American men and women serving as volunteers for two years in countries that need and want their presence is immeasurable. No one that I know of has any complaints about the organization. Yet, this bill would short change its fiscal year 2000 budget by $35 million, making it nearly impossible for the Peace Corps to meet its congressionally mandated goal of placing 10,000 volunteers in the field early in the next decade.

Nor does this conference report contain a penny for use by the Clinton administration as its initial responses to the tragic natural disasters that have just occurred in Turkey and Taiwan. Surely we could have provided some start up monies to assist our friends in their hour of need. Similarly, money was not included in this bill to assist the people of Kosovo begin the painful process of rebuilding after the devastation wrought by Serbian forces earlier this year.

The phrase ''penny wise and pound foolish'' comes readily to mind as one reviews the provisions of this bill. Let me highlight some of the most important deficiencies as I see them: $175 million reduction in loan programs designed to help the poorest nations address their critical needs; $157 million reduction in global environmental protection programs; $26 million below the Senate passed appropriated amounts for the U.S. Export Import Bank and additional unnecessary Congressional notification requirements that could delay approval of export credit applications; $85 million reduction in debt relief for the poorest countries; $200 million reduction in regional democracy building and economic development programs for Africa, Latin America and Asia; $297 million reduction in democracy and civil society programs in the independent states of the former Soviet Union; and $20 million reduction in funds to support the Korean Peninsula Development Organization and seriously restrictive legislative conditions which jeopardize important ongoing U.S. diplomatic efforts to contain the North Korean nuclear threat to the Korean Peninsula.

This is certainly not an exhaustive listing of all the problems I have with this bill, but merely the highlights, or low lights as the case may be, of the serious inadequacies with the foreign operations conference report. Having said that I believe that the issues I have cited are more than enough reason for members to vote against this legislation and I urge them to do so.

The PRESIDING OFFICER (Mr. BURNS). The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, I am sorry my friend and colleague, the Senator from Vermont, is not going to be able to support the bill. But I do want to commend him for his ongoing effort with regard to demining. The Leahy War Victims Fund has had a dramatic impact not only on rehabilitation but also on safety; in addition, Senator LEAHY's interest in and devotion to the subject of infectious diseases. He has single-handedly driven the funding levels up. The surveillance, control, and treatment have improved throughout the world because of his commitment.

I commend him for that.

Mr. President, it is my understanding that both sides are interested in having this vote at noon. I am prepared to yield back my time, if Senator LEAHY is, and we will proceed with the vote.

Mr. LEAHY. Mr. President, my understanding is that no one else on this side wishes to speak.

In that case, I yield our time.

Mr. MCCONNELL. Mr. President, I yield the remainder of my time.

The PRESIDING OFFICER. All time is yielded.

The yeas and nays have not be ordered.

Mr. LEAHY. I request the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the conference report. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative assistant called the roll.

The result was announced—yeas 51, nays 49, as follows:

[Rollcall Vote No. 312 Leg.]

YEAS—51

Abraham	Enzi	Mack
Allard	Fitzgerald	McCain
Ashcroft	Frist	McConnell
Bennett	Gorton	Murkowski
Bond	Gramm	Nickles
Brownback	Grams	Roberts
Bunning	Grassley	Roth
Burns	Gregg	Santorum
Campbell	Hatch	Sessions
Chafee	Helms	Shelby
Cochran	Hutchinson	Snowe
Collins	Hutchison	Specter
Coverdell	Inhofe	Stevens
Craig	Jeffords	Thomas
Crapo	Kyl	Thompson
DeWine	Lott	Thurmond
Domenici	Lugar	Warner

NAYS—49

Akaka	Bingaman	Byrd
Baucus	Boxer	Cleland
Bayh	Breaux	Conrad
Biden	Bryan	Daschle
Dodd	Kerrey	Reid
Dorgan	Kerry	Robb
Durbin	Kohl	Rockefeller
Edwards	Landrieu	Sarbanes
Feingold	Lautenberg	Schumer
Feinstein	Leahy	Smith (NH)
Graham	Levin	Smith (OR)
Hagel	Lieberman	Torricelli
Harkin	Lincoln	Voinovich
Hollings	Mikulski	Wellstone
Inouye	Moynihan	Wyden
Johnson	Murray	
Kennedy	Reed	

The conference report was agreed to.

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

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

The motion to lay on the table was agreed to.

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2000—Continued

VOTE ON AMENDMENT NO. 1889

The PRESIDING OFFICER. Under the previous order, the question is on agreeing to amendment No. 1889 to amendment No. 1851. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 54, nays 46, as follows:

[Rollcall Vote No. 313 Leg.]

YEAS—54

Abraham	Fitzgerald	McConnell
Allard	Frist	Murkowski
Ashcroft	Gorton	Nickles
Bennett	Gramm	Roberts
Bond	Grams	Roth
Brownback	Grassley	Santorum
Bunning	Gregg	Sessions
Burns	Hagel	Shelby
Campbell	Hatch	Smith (NH)
Chafee	Helms	Smith (OR)
Cochran	Hutchinson	Snowe
Collins	Hutchison	Specter
Coverdell	Inhofe	Stevens
Craig	Jeffords	Thomas
Crapo	Kyl	Thompson
DeWine	Lott	Thurmond
Domenici	Lugar	Voinovich
Enzi	Mack	Warner

NAYS—46

Akaka	Feingold	Lincoln
Baucus	Feinstein	McCain
Bayh	Graham	Mikulski
Biden	Harkin	Moynihan
Bingaman	Hollings	Murray
Boxer	Inouye	Reed
Breaux	Johnson	Reid
Bryan	Kennedy	Robb
Byrd	Kerrey	Rockefeller
Cleland	Kerry	Sarbanes
Conrad	Kohl	Schumer
Daschle	Landrieu	Torricelli
Dodd	Lautenberg	Wellstone
Dorgan	Leahy	Wyden
Durbin	Levin	
Edwards	Lieberman	

The amendment (No. 1889) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. SPECTER. Mr. President, I ask unanimous consent that the next order of business be 9 minutes for the Senator from North Carolina, Mr. HELMS. I

further ask consent that Senator LAUTENBERG be recognized to offer a second-degree amendment and there be up to 1 hour for debate equally divided in the usual form. I further ask consent that upon the use or yielding back of the time, the vote on the Lautenberg amendment be stacked for consideration later today.

The PRESIDING OFFICER (Mr. BUNNING). Is there objection?

Mr. WELLSTONE. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. SPECTER. Mr. President, I withdraw the request. Why, I don't understand, but I will withdraw the request because it is faster to do that than to find out what the reason is why we can't stack. I say, by way of explanation, if we stack the votes, we can move more expeditiously to dispose of the Senate's business. But I hear an objection to that.

I ask unanimous consent that after Senator HELMS is recognized for 9 minutes, that we proceed to Senator LAUTENBERG's second-degree amendment for 1 hour, equally divided, and that the Senate vote in relation to the Lautenberg second-degree amendment without intervening action.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. SPECTER. Might I add, before proceeding to Senator HELMS' recognition, Senator HARKIN and I are in agreement, as are others managing the bill, to try to get time agreements for 30 minutes equally divided. If we are to move the bill, we need to do that. I think it is not inappropriate to say that we can get as much done in 30 minutes equally divided as we can with an hour equally divided. I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. I concur with the Senator.

The PRESIDING OFFICER. Under the previous order, the Senator from North Carolina is recognized for 9 minutes.

COMPREHENSIVE TEST BAN TREATY

Mr. HELMS. Mr. President, as the Senate proceeds toward its still-scheduled debate on the Comprehensive Test Ban Treaty, I am confident that the record will show most former senior U.S. government officials remain strongly opposed to Senate ratification of the CTBT.

The Senate—and the American people—will hear from many distinguished officials in the coming days, as they speak out against the CTBT. Of course, the Clinton Administration will try to counter that other well-known people support the CTBT, but those who support ratification of this proposed total nuclear test ban are a distinct minority.

In looking over the record, however, I found that many of the very people the Clinton Administration claims now support such a permanent and total nuclear test ban treaty in fact explicitly rejected it when they served in the U.S. Senate and in uniform.

They argued at that time (a) that such a test ban was unverifiable, and (b) that the U.S. needs to preserve the ability to conduct nuclear tests if the American people are to be assured of the safety and reliability of our nuclear weapons.

Make no mistake: These are all great Americans, whom I admire and respect, who served their country with distinction. In calling attention to their statements of the past for the record today, I certainly imply no disrespect.

To the contrary, I hope the record will reflect their judgements at that time because I believe that those judgements on a zero-yield test ban were right back then—and those judgements are still right today.

For example, as a U.S. Senator, our distinguished former colleague, Bill Cohen of Maine, was a leading light on defense issues in the U.S. Senate. Indeed, he vigorously objected to the termination of nuclear testing when he served here as a U.S. Senator. He objected, he said, because the termination of nuclear testing would undermine efforts to make U.S. weapons safer.

Throughout the months of August and September 1992, Senator Cohen vigorously fought efforts by Senators Mitchell, Exon, and Hatfield to kill the United States nuclear test program.

Here is a sample of Senator Cohen's 1992 views as expressed on the Senate floor on September 18 of that year seven years ago:

> We have made, in fact, remarkable progress in negotiating substantial reductions in nuclear arsenals. While we have made substantial reductions, we are not yet on the verge of eliminating nuclear weapons from our inventories. We are going to have to live with nuclear weapons for some time to come, so we have to ask ourselves the question: Exactly what kinds of nuclear weapons do we want to have during that time?

Senator Bill Cohen declared further seven years ago:

> . . . [W]hat remains relevant is the fact that many of these nuclear weapons which we intend to keep in our stockpile for the indefinite future are dangerously unsafe. Equally relevant is the fact that we can make these weapons much safer if limited testing is allowed to be conducted. So, when crafting our policy regarding nuclear testing, this should be our principal objective: To make the weapons we retain safe.
>
> . . . The amendment that was adopted last week . . . does not meet this test . . . [because] it would not permit the Department of Energy to conduct the necessary testing to make our weapons safe.

Similarly, Vice President AL GORE likewise adamantly opposed a ''zero-yield'' test ban—i.e., one that would ban all nuclear tests—as a United States Senator, on the grounds that such a ban was unverifiable.

Indeed, on May 12, 1988, Senator GORE objected to an amendment (offered to the 1989 defense bill) because it called for a test ban treaty and restricted all nuclear tests above 1 kiloton.

A 1 kiloton limit ban, Senator GORE said at that time, was unverifiable. At Senator GORE's insistence, the proposed amendment was modified to raise the limit for nuclear testing from a 1 kiloton limit to a 5 kiloton limit.

For the RECORD, here's what Senator GORE's position as taken on the Senate floor in 1988:

> Mr. President, I want to express a lingering concern about the threshold contained in the amendment.
>
> Without regard to the military usefulness of lack of usefulness of a 1 kiloton versus the 5 kiloton test, purely with regard to verification, I am concerned that a 1 kiloton test really pushes verification to the limit, even with extensive cooperative measures. . . . I express the desire that this threshold be changed from 1 to 5.

If Senator GORE argued on the Senate floor that a 1 kiloton test ban was unverifiable, surely the zero-yield—ban—i.e. a ban on all nuclear tests would be equally unverifiable.

President Clinton has argued that several former Chairmen of the Joint Chiefs of Staff strongly back his call for a Comprehensive Test Ban Treaty banning any and all nuclear tests.

It's interesting that their statements, when they were still in uniform, however, raise doubts about Administration's claims that they vigorously support the CTBT. Consider, for example, what General Colin Powell, then the Chairman of the Joint Chiefs, said on December 1, 1992:

> With respect to a comprehensive test ban, that has always been a fundamental policy goal of ours, but as long as we have nuclear weapons, we have a responsibility for making sure that our stockpile remains safe. And to keep that stockpile safe, we have to conduct a limited number of nuclear tests to make sure that we know what a nuclear weapon will actually do and how it is aging and to find out a lot of other physical characteristics with respect to nuclear phenomenon. . . . As long as we have nuclear weapons, I think as good stewards of them, we have to conduct testing.

General Powell previously had made much the same declaration during a Senate hearing on September 20, 1991:

> We need nuclear testing to ensure the safety, surety of our nuclear stockpile. As long as one has nuclear weapons, you have to know what it is they will do, and so I would recommend nuclear testing.

What General Powell said was as true back then as it is today.

Similarly, Admiral William Crowe also opposed the Comprehensive Test Ban Treaty while he was Chairman of the Joint Chiefs of Staff. In testimony before the Senate Foreign Relations Committee on May 5, 1986, he stated:

> [A comprehensive test ban] would introduce elements of uncertainty that would be dangerous for all concerned.

He further declared:

> I frankly do not understand why Congress would want to suspend testing on one of the most critical and sophisticated elements of our nuclear deterrent—namely the warhead.

General David Jones likewise stated, during his confirmation hearing before the Senate Armed Services Committee:

I would have difficulty recommending a zero test ban for an extended period.

Among the General's reasons for opposition were, according to a May 29, 1978 press account, that the CTBT

is not verifiable, and that U.S. stockpile reliability could not be assured.

Numerous press accounts from 1994 and 1995 indicated that General John Shalikashvili maintained strong reservations regarding a zero yield test ban, and made clear that he favored maintenance of the ability to conduct low-yield testing under any negotiated treaty.

Indeed, these comments by these former Chairmen of the Joint Chiefs—while in uniform—strongly echo the current views of other former Chairmen of the Joint Chiefs, such as Admiral Tom Moorer and General John Vessey, Jr., both of whom today strongly oppose the CTBT.

Again, I must emphasize that all of these men are distinguished Americans whom I greatly respect and admire.

Indeed, my point today is simply to show that the arguments of Senators Cohen and GORE, and Chairmen Powell, Crowe, Jones and Shalikashvili were right then—and they are still right today:

Nuclear testing is vital to maintaining the safety of our nuclear weapons and the reliability of our nuclear deterrent.

A ''zero-yield''—i.e., a total and complete—nuclear test ban is unverifiable.

A Comprehensive Test Ban Treaty that bars any and all nuclear testing is dangerous for the American people, and I am confident that the United States Senate will not ratify such a dangerous treaty.

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2000—Continued

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

AMENDMENT NO. 2267 TO AMENDMENT NO. 1851

(Purpose: To reject indiscriminate across-the-board cuts and protect Social Security surpluses by closing special interest tax loopholes and using other appropriate offsets)

Mr. LAUTENBERG. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative assistant read as follows:

The Senator from New Jersey [Mr. LAUTENBERG] proposes an amendment numbered 2267 to amendment No. 1851.

At the end of the amendment add the following:

SEC. ___. PROTECTING SOCIAL SECURITY SURPLUSES.

(a) FINDINGS.—The Senate finds the following:

(1) The Congressional Budget Office has projected that Congress is headed toward using at least $19,000,000,000 of the social security surplus in fiscal year 2000.

(2) Amendment number 1851 calls for across-the-board cuts, which could result in a broad-based reduction of 10 percent, taking into consideration approved appropriations bills and other costs likely to be incurred in the future, such as relief for hurricane victims, Kosovo, and health care providers.

(3) These across-the-board cuts would sharply reduce military readiness and long-term defense modernization programs, cut emergency aid to farmers and hurricane victims, reduce the number of children served by Head Start, cut back aid to schools to help reduce the class size, severely limit the number of veterans served in VA hospitals, reduce the number of FBI and Border Patrol agents, restrict funding for important transportation investments, and limit funding for environmental cleanup sites.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that instead of raiding social security surpluses or indiscriminately cutting defense, emergency relief, education, veterans' health care, law enforcement, transportation, environmental cleanup, and other discretionary appropriations across the board, Congress should fund fiscal year 2000 appropriations, without using budget scorekeeping gimmicks, by closing special-interest tax loopholes and using other appropriate offsets.

Mr. LAUTENBERG. Mr. President, obviously, I went in a slightly different direction as we introduced our second-degree amendment because I wanted the clerk to particularly read some of the implications of what it is we are facing if we adopt the Nickles amendment.

My amendment is a substitute for the Nickles amendment. It is very simple. It expresses the sense of the Senate that the Congress must not permit raiding Social Security surpluses nor indiscriminately cut defense, emergency relief, education, veterans' health care, law enforcement, transportation, environmental cleanup, and other discretionary appropriations across the board. Instead, we should fund fiscal year 2000 appropriations—I point out that the year began October 1—without using budgetary gimmicks by closing special interest tax loopholes and using other appropriate offsets.

In my view, this is a much more rational and appropriate way to approach the budget. Deep across-the-board cuts are a bad way to do business. They will prove extremely unpopular. Americans didn't send us to Washington to simply use a meat ax approach to governing. They want us to do it thoughtfully. They want us to go after waste and inefficiencies, to use our judgment and support essential programs such as education. The Nickles amendment, by contrast, puts the budget process on automatic pilot. It would cut indiscriminately.

I read from the text of the Nickles amendment where they say in the sense-of-the-Senate amendment that ''Congress should ensure that the fiscal year 2000 appropriations measures do not result in an on-budget deficit''—that on-budget is excluding Social Security trust funds. They put parentheses around it—''by adopting''—this is the solution they offer—''an across-the-board reduction in all discretionary appropriations sufficient to eliminate such deficit if necessary.''

The language is quite clear. But to further clarify, it says cut these programs—the ones I talked about—cut veterans' health benefits, cut educational benefits, cut law enforcement, cut FBI, cut border guards even though our border is saturated by illegal immigration. And we ought to make an orderly process about that.

The Nickles amendment makes no distinction between critical priorities such as education, defense, and lower priorities such as corporate subsidies or pork barrel spending.

There is no need for a meat ax approach. The Republicans' own tax bill proposed to close various tax loopholes. Now that the bill has been vetoed, why not use some of the same loopholes to help protect Social Security, to prevent potentially painful cuts in education and other priorities?

Why not search for waste from other Government programs? How many of us have talked about that waste as we campaigned for office? Shouldn't we go after that before we take money away from our schools or our Armed Forces?

My amendment does not specify the offsets we should adopt, and it in no way endorses raising income taxes on ordinary families, but it does say we have to treat the budget candidly.

One of the things we should all be alerted to—the public in particular, but certainly we who are going to vote on this—it says: ''GOP Using Two Sets of Books,'' in a commentary by the Wall Street Journal of July 27:

Republicans are double-counting a big part of next year's surplus, papering over the fact that their proposed tax cuts and spending bills already have exhausted available funds.

If it were up to me, as I said earlier, I would ask the tobacco industry to compensate the taxpayers for the damage they have caused and help pay for the tobacco-related diseases that cost us some $20 billion a year. If we could get that $20 billion a year, we wouldn't have to be faced with the prospect of cutting Social Security surpluses by some $19 billion.

Once again, my amendment doesn't endorse that particular approach, or any specific provision. It just says: Let's be honest with the American people, and let's find real offsets.

I will tell you what I learned from the Congressional Budget Office in a letter to one of my staff people:

Our estimates of the outlays available to be cut is $351.7 billion. Dividing the projected deficit by the available outlays results in an across-the-board cut of 5.5 percent.

Across-the-board cuts—that is all of those programs that we have discussed several times.

We shouldn't use gimmicks. We shouldn't use that kind of treatment, and not indiscriminate, across-the-board cuts which drastically slash funding for teachers, military personnel, veterans, and other priorities. In fact, we have an endorsement of

that view, I think it is fair to say, when Appropriations Committee chairman BILL YOUNG of Florida says to cut 2.7 percent of all discretionary spending would result in cuts of about $7 billion from defense which would wipe out the pay increase that lawmakers recently provided for the military.

We all know the military is having a problem recruiting new members and getting new recruits to join the various branches. Would we want to discourage that effort even though we are having a problem filling those important positions that we must have to protect ourselves? I think not.

Mr. President, pretty simply, I hope my colleagues will support the amendment.

I yield the floor. I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. COVERDELL. Mr. President, several comments: First, I commend the Senator from New Jersey for at least a more, in my judgment, candid discussion of this debate than we heard last week because the resolution that he offers says the Congressional Budget Office has projected that Congress is headed toward—headed toward doesn't mean they are there—whereas last week in the debate you would have thought it was a fait accompli.

The point is, we don't know if any funds or spending levels would have been at such a level that they would have affected Social Security. No one knows that now. Everybody is trying to avert that. Here comes Senator NICKLES' amendment which says if we don't avert that, it would relate to across-the-board cuts. I think all of us understand that the number, if any of it applies to Social Security, would never be of the magnitude discussed in the amendment by the Senator from New Jersey.

The point I wish to make is that it is a nebulous amendment because it says it is headed for—in other words, we don't know. But then they draw the conclusion that it might result in reductions of 10 percent across the board. We heard 1 percent. If it were around $5 billion, it would be 1 percent. If it were $19 billion, it would be probably around 5 percent. To get to 10 percent, we would probably have to be at about $40 billion.

The point is, this is a very imprecise amendment about something. It is like an attempt to be a crystal ball. What are the appropriators, what is the Senate, and what is the Congress going to ultimately do with the pressure?

The amendment also has a technical flaw because it suggests in the language that it would cut emergency aid to farmers and hurricane victims when across-the-board cuts do not apply to emergency funding—something the authors may want to review.

Senator NICKLES said if spending is such that it utilizes some Social Security receipts, they will require an across-the-board cut. I think the American people can understand that.

This resolution says we could cut spending, which of course is what Senator NICKLES suggests ought to happen as well; but if that doesn't work, we will just raise taxes. The Senator from New Jersey points out these are taxes that would not affect ordinary families. All taxes affect ordinary families. There is no such thing as a corporate tax. It really doesn't exist. Corporate taxes are expenses to the corporation. The ladder consumers buy, the loaf of bread consumers buy, the gasoline consumers buy, on anything consumers buy, consumers pay all corporate taxes.

He talks about the possibility of taxing tobacco companies yet again after the settlement. Who pays any charge to the cost of the tobacco? The people who buy it, the ordinary people who use the product.

The major distinction has at least been reduced between the two bills. They both say ''if,'' ''could,'' ''maybe,'' but the principal distinction is that the Senator from Oklahoma says if any of those funds come from Social Security receipts, they have to be replaced by an across-the-board reduction, which is an incentive to reduce spending so that doesn't happen; and the Senator from New Jersey says there is a major incentive to reduce expenditures to keep it from happening, but if it does, we will raise taxes; we will take more out of everybody's pocket. That is the principal distinction.

I am pleased the debate has eliminated both suggestions that anyone really understands what that amount, if any, might be. I am pleased the amendment of the Senator from New Jersey acknowledges that.

It boils down to two different approaches about what to do if it were to happen. The Senator from Oklahoma says we would have across-the-board spending reduction; the Senator from New Jersey says we would raise taxes. He does admonish it would not be a tax that would affect an ordinary person. I point out that all corporate taxes are paid for by all consumers.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative assistant proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. VOINOVICH). Without objection, it is so ordered.

Mr. LAUTENBERG. Mr. President, I want to continue to use some of the time we have reserved. How much time remains?

The PRESIDING OFFICER. The Senator has 21 and a half minutes.

Mr. LAUTENBERG. Mr. President, I listened to our colleague from Georgia with interest. He said we were not too specific about things. But we are specific about one thing, and that is we do not want to touch Social Security.

A long time ago, someone said: Touch not a hair on that old gray head. I have the color hair that evokes thoughts of Social Security, and I am eligible to be a recipient. I know how important it is, as does everybody here. I do not want to diminish everybody else's view. They all know how important it is.

Let's start with what is in the Nickles amendment. It says that Congress should eliminate any on-budget deficit by adopting an across-the-board reduction in all discretionary appropriations, if necessary. All discretionary appropriations —that could mean anything: Farmers' aid, Veterans Administration, FBI, drug enforcement, Coast Guard, you name it. All these programs would have to suffer deep cuts under this amendment because, according to CBO, the Senate has already approved legislation that would use $19 billion of Social Security funds. And we're likely to use even more Social Security funds when we conference with the House, which is proposing higher spending levels, and when we provide relief to hurricane victims and others suffering from genuine emergencies. Mr. President, before I go further, I see my colleague from Illinois on the floor. I yield 5 minutes to him, and then we will be able to come back to our point.

Mr. DURBIN. Mr. President, those who are trying to follow what is happening on Capitol Hill at this moment in time should be aware of some of the basics. Our calendar year for budget purposes ended on October 1. We started a new year. So, ''happy new year'' to all who are following this debate. Unfortunately, we do not have our spending bills passed.

In fairness, neither Democrats nor Republicans have a very good record of passing these bills on time. But I think most people would concede, we are at a moment in time in the history of this institution where we have never faced such chaos as we do today. There does not seem to be any exit strategy. People are getting too comfortable here. Instead of thinking about ending this session in a responsible way and going home, we are still jousting back and forth politically, and that is sad.

What is even sadder is the situation in which we find ourselves today. After all the time we spent on the budget and after all the suggestions about how to resolve it, we do not have anything near a dialog between the President and the leaders on Capitol Hill. Some say they do not want the President to come up to Capitol Hill because that may not be a good environment for the debate. Some say the Republican leaders are afraid to go to the White House because they have had their pockets picked there in the past. I suggested we set up folding chairs on The Mall and let them meet there, let the whole world watch, and let's see if we can bring it to a conclusion.

I think the American people ought to pay attention to this debate because now what we hear from the Republican

side of the aisle is that in order to exit this place, they want to have an across-the-board cut in all the appropriations bills. That may sound eminently fair: Everybody suffers. But keep in mind, some suffer more than others. When you start cutting back in programs such as Head Start and you have the kinds of cuts we need to balance the budget, 43,000 children are taken out of this program where we try to get them ready for school. How many people do you want the cut at the Federal Bureau of Investigation? How many people do you want to cut from the border guards to stop drugs from coming into the United States?

These are legitimate questions, and spending committees make these decisions as they build their budget bills. Now, in a effort to get out of town, we hear from the Republican side of the aisle, ''Let's just have an across-the-board cut,'' and I think that is sad. We have had entirely too much gimmickry in this budget debate already. At one point in time, one of the Republican Senators suggested we should amend, not a bill but the calendar, not the legislative calendar but the real calendar; let's create a 13th month in a year. We were going to have a contest to see if we could come up with a name for it in an effort to at least have some bipartisan agreement. But after it did not pass the laugh test, it was dropped as an idea.

Then last week, the Republican leaders in the House said: We'll take the millions of Americans, working Americans, who get some tax relief called the earned-income tax credit, and let's just delay paying those people. That was a suggestion from the House Republican leaders. That did not even pass the George W. Bush compassionate conservative test. He announced to his party and America: Don't do that. You have to find a way out of this short of hurting people who are working for a living and struggling to get by.

It seems as if every week there is a new notion, the latest one being this across-the-board cut. Let's try to get to the bottom line here. You will hear us toss out CBO, OMB, on and on. We love to do that in Washington. The Congressional Budget Office comes up with some estimates on spending and the economy. The Office of Management and Budgeting does the same. Sometimes they agree; sometimes they don't. It is a calculated guess. But they both seem to agree at this point in time that we will be borrowing money from the Social Security trust fund in order to bring this to a conclusion. I don't want to see that happen. But it has happened for years and years and years, and this year we would borrow less than we usually do. I hope we do not have to borrow any, when it is all said and done.

President Clinton came to us and said: Here are some offsets. Here are some things you can do that will, in fact, provide the revenue we need for us to leave on time.

I think some of them were reasonable. Let me give you an idea. One of them suggested a 50-cents-a-pack tobacco tax. I know from serving in this body, my colleagues are not going to warm up to that idea. I support it. Yes, it is true, the Senator from Illinois just said he supports a tax increase on tobacco products, because when the price goes up, the kids stop buying them. When kids stop buying them, they start weaning themselves from an addiction that can ultimately lead to death and disease—50 cents a pack, $6 to $8 billion a year, money that can be spent for education, for health care, for priorities in this country. I think the President is on the right track.

So I sincerely hope, before we resort to cutting such things as education and FBI, border guards, military personnel—personnel staffing reductions—we ought to step back for a minute and see if there is not some common ground left here.

The most amazing thing about this across-the-board cut debate is that the ink is hardly dry on the Republican proposal that was offered, and then thrown off the table, to give America a $792 billion tax cut. You may remember it. It has only been a few weeks ago. We had so much money, we were awash in money, we were going to start giving it back in huge sums. Thank goodness the American people and many leaders in Washington said wait a minute, take another look at it.

The PRESIDING OFFICER. The 5 minutes of the Senator has expired.

Mr. DURBIN. I ask unanimous consent for 3 additional minutes.

The PRESIDING OFFICER. Who yields time?

Mr. LAUTENBERG. I yield the time to the Senator from Illinois.

Mr. DURBIN. So when the proposal was made by the Republican side for the $792 billion tax cut, many people said: Wasn't it 24 months ago that this Senate floor was consumed in a debate about amending the Constitution of the United States to pass a balanced budget amendment to stop the deficits once and for all, to bring discipline by the Federal court system imposing limitations on spending?

Yes, it was a little over 2 years ago. That is what we were talking about.

Then the proposal came from the Republican side: We have so much money now that we can give away a massive tax cut, primarily to the wealthiest people in this country.

The idea was rejected by Alan Greenspan who has no political ax to grind and wants to see the economy move forward. The idea was rejected by economists, as well as leaders from the President on down, and most important, it was rejected by the American people.

A few weeks later, the same Republican Party that had this massive tax cut tells us we are in desperate straits as to this year's budget, and we have to do across-the-board cuts in law enforcement, education, and health care. That tells us, frankly, the captain on the ship does not know where he is headed. The captains, in these cases, are the leaders in the House and the Senate on the Republican side.

I will tell you where I think they should be heading, and I think the American people expect this to happen. We have to end this in a sensible fashion. We have to make certain when it is done we meet our basic obligations—obligations to kids and school, obligations to those who depend on us for the very basics, obligations to Social Security to make sure it is strong beyond the year 2032, and as for Medicare, beyond the year 2015. These should be viable systems. That is our first obligation.

It is our obligation, as well, to provide for the basics of this country—the national defense, to make sure the men and women in uniform are treated humanely and they have not only good assignments but are adequately compensated for the service they give to our country.

The list is pretty obvious and most American families would agree with them, but we have not gotten the dialog underway between Democrats and Republicans on Capitol Hill. I sincerely hope this idea of an across-the-board cut is rejected. I believe the Appropriations Committee has to make priority judgments on spending. The President's offset package will save us some money.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DURBIN. I hope this happens soon. I yield the floor.

Mr. LAUTENBERG. Mr. President, I yield to the Senator from Nebraska—how much time does the Senator need, 5 minutes?

Mr. KERREY. Five or 6 minutes.

Mr. LAUTENBERG. Five or 10. I prefer he not take the ''or''; take the 5 or 6 minutes, please. I yield 6 minutes to the Senator from Nebraska.

The PRESIDING OFFICER. The Senator from Nebraska is recognized for 6 minutes.

Mr. KERREY. Mr. President, I ask the distinguished Senator from Georgia and the Senator from New Jersey if I can split my time because though I do support the amendment of the distinguished Senator from New Jersey, I have an unusual argument. It may sound as if I am both for it and against it. I appreciate him yielding time to me.

It is terribly important we do save Social Security, but my frustration in the entire Social Security debate is to date, what has happened is the Social Security issue has prevented us from increasing discretionary spending and getting a budget that meets the needs of the American people. It has prevented us from doing a tax cut of any kind, whether it is $300 billion or $500 billion or $700 billion. It has prevented us from doing Medicare reform. It locked us up in a box.

We cannot seem to get anything done because we are not willing to fix Social

Security. We want to have the issue, but when we get down to the details of the problem, it is not an easy problem to solve because we basically—not basically—we have a liability on the table that is about 33 percent larger than what current taxes will fund. That is the problem.

For 150 million Americans under the age of 45, that means they are going to face a benefit cut of between 25 and 33 percent. Thus, the announcements recently sent out by Mr. Apfel, the head of the Social Security Administration, are not accurate. He is telling people how much money they are going to get if Congress raises taxes. The last time I checked, there is not a single vote in this body to raise payroll taxes. If that is the case, it is likely to be every beneficiary under the age of 45 is going to be looking at a pretty substantial benefit cut. That is the problem we have to address.

There are a number of legislative proposals that have been introduced, but, again, relevant to this debate, you would think everybody is about to fix Social Security. The lockbox does not fix Social Security. All it does is use the payroll tax to pay down the debt. After having used the payroll tax to keep the deficit low for 16 years, we are now saying to Americans who get paid by the hour: You get the pleasure of reducing all the debt.

For the median family of $37,000 a year, they will pay about $5,500 in payroll taxes versus $1,300 or $1,400 in income taxes. It is not, in my view, a very fair transaction.

If we enact Social Security legislation, it could be a very good transaction because we could do tax reduction for those families. We could help them on the discretionary side helping their children go to college by doing some things as well to make certain their kids get a good education in our K–12 system. There are a lot of good things that could occur if we fix Social Security.

There are only 29 Members of Congress who have signed on to any specific legislation at all. I call that to the attention of those who are watching this debate because, again, one would think, given all the interest in Social Security, they were about to pass Social Security reform legislation.

Earlier today, the chairman of the Finance Committee had a meeting in which he was discussing the need to extend some tax provisions, the R&D tax credit most specifically, but also making some changes in the individual alternative minimum tax, a very unfair and pretty heavy tax on working families that have multiple deductions.

We were talking about that, and I suggested to the chairman that the Finance Committee take up Social Security reform; let's mark up the bill. There is a majority on the committee who would vote for a specific piece of legislation. It is not likely we are going to.

As I see it, the Republicans are a little bit distrustful of what the President might do. The President has a proposal on the table that takes $25 trillion of income taxes to extend Social Security solvency for 20 years. Republicans, I believe, have correctly identified that as a mistaken way to sort of fix Social Security.

I am willing to join with Republicans in that regard and hope, as we debate these various proposals, that enthusiasm will grow as a consequence of looking at what is happening to 150 million beneficiaries who will not be eligible for another 20, 30, or 40 years. What happens to them if we do not take action? They are the ones who are going to pay a price. The terrible paradox about that is not only are they going to pay a price with delay, but the lockbox basically says to them: You are going to shoulder the burden for debt reduction until we finally come to grips with this particular problem.

Time is not on our side. The problem does not get easier. If you favor tax increases, the tax increases will be larger the longer you wait. If you favor cutting benefits, the benefit cuts get bigger the longer you wait. If you favor, as I do and a number of us in the Senate, making some modest reduction in benefits but coupling that with increased payments for lower-wage individuals and the establishment of savings accounts that would enable individuals, in combination with a defined benefit program, to actually get more than what is currently promised—with either one of those three proposals, the longer you wait, the more the beneficiaries and taxpayers are going to suffer. It does not get easier for them. It gets harder for them. It may be easier for us as we head to elections, but it is not easier for the American people to watch this debate get locked up over this lockbox issue, seeing who favors saving Social Security the most. It does not benefit the American people for us not to enact legislation that will fix Social Security.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

Mr. NICKLES. How much time remains?

The PRESIDING OFFICER. The Senator from Pennsylvania has 17 minutes; the Senator from New Jersey has 5.

Mr. SPECTER. Mr. President, I ask my colleague from Oklahoma how much time he wishes.

Mr. NICKLES. If the Senator can give me 5 minutes.

Mr. SPECTER. I yield 5 minutes.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized for 5 minutes.

Mr. NICKLES. Mr. President, shortly, within the next 10 or 15 minutes, we will be voting on the Lautenberg second-degree amendment. I urge my colleagues to vote no on the amendment. I looked through the amendment. Although it is a sense-of-the-Senate amendment, it should be factual. This is not factual. Amendment No. 1851 calls for across-the-board cuts which could result in a broad-based reduction of 10 percent. That is not true. There is no way in the world it can be 10 percent unless Congress goes on a drunken spending spree. Maybe some people want to do that. We are not going to do that.

You can get into all kinds of discussions using CBO or using OMB.

Further, the amendment says we should do it without using budget scorekeeping gimmicks.

The gimmick is, we are using the administration's scorekeeping. That is a gimmick. Maybe it is wrong, but I have heard many people on the other side say OMB is more accurate than CBO. If you used all CBO numbers, it would be, at most, a 5 percent reduction. So 10 percent does not even belong in this debate. Using OMB scorekeeping, you are talking about 1 percent. I actually believe we will not have to.

I have talked to the chairman of the Appropriations Committee, and he says we can make it. We are talking about spending $500 billion. We are only $5 billion off. That is about 1 percent. We ought to be able to do that.

The Labor-HHS bill we are debating right now has some big increases in some programs. Maybe we could scale back those increases just a little. NIH grows from $15 billion to $17 billion, but the President only requested an increase of $300 million. Does it have to grow by $2 billion?

Education. I have heard some of my colleagues say, oh, those Republicans are cutting education. The bill has a $2.3 billion increase over last year and $500 million more than the President requested. There is a $500 million increase in the bill that is before us dealing with labor.

So my point is, I think we can tighten up a little bit and not have across-the-board cuts. I just mentioned Labor-HHS. Maybe we could also do it in defense; maybe we could do it in a couple of other areas.

But the way I read the Lautenberg amendment, getting around the false statements that it could cut up to 10 percent, it says: ''closing special-interest tax loopholes''—that is another way of saying let's raise taxes—''and using other appropriate offsets.''

If the Senator has the votes to raise taxes, let him try to raise taxes. This Congress passed a tax cut, not a tax increase. The Senator had a chance to offer tax increases. They did not pass. I am just saying maybe he still wants to raise taxes, but that did not happen. The tax cuts were not signed into law. The President vetoed that. So we are not going to get tax cuts.

So I am saying, whatever happens, let's make sure we do not dip into this money of the Social Security surplus. We are saying 100 percent of that should be used to pay down the national debt—100 percent of it. We should not be raiding that money to spend on all these other appropriations bills. That is what I am saying.

I look at the substitute offered by my friend and colleague from New Jersey that says: Hey, let's raise taxes; let's use other appropriate offsets. I do not know what they are. If he has ''other appropriate offsets,'' offer them.

I want to help work with my colleagues to make sure we don't take money out of the Social Security fund. I am willing to do it. We have bills on the floor now where we can do it.

Maybe we should have other offsets for the Labor-HHS bill. Maybe we should have other offsets for other appropriations bills. But if we try to put them all together, let's make sure we do not dip into Social Security money. Let's not do that. We should not do it.

I think this amendment by my colleague from New Jersey says: Well, instead of any cuts in spending, let's raise taxes. I think that would be a mistake. I do not think the votes are there to do it. I do not think it will happen in this Congress.

So I urge my colleagues to vote no on the Lautenberg amendment.

Mr. ROTH. Mr. President, I want to make some brief observations in reference to the debate on the Lautenberg amendment to the Labor/Health and Human Services/Education Appropriations bill for fiscal year 2000. The Senator from New Jersey suggests that there is an aversion to identifying and addressing tax loopholes. I would point out that in the Finance Committee we have worked in a bipartisan manner to identify and address areas of our tax code which are viewed as candidates for change. These measures have raised tens of billions in revenue over the last few years. Some examples in this area include action the committee took to effect the tax treatment of corporate owned life insurance (COLI), liquidating REITs and tax shelter registration requirements.

Indeed, we are required to consistently look for avenues where we can adjust our tax code to enact change going forward. We are faced with just such a situation right now in crafting our so called extender bill. The items we are seeking to go forward with include permanently shielding individuals from the alternative minimum tax—an important item to ensure that our families are able to take advantage of measures designed to advance their education and child care needs. We are looking to create job opportunities with the extension of the work opportunity tax credit, the R&D tax credit and the welfare to work tax credit and to enable working men and women to continue their education both at the undergraduate and graduate level through the employer provided education assistance program. In the environmental area we are looking to continue provisions which enable communities and businesses to address brownfields. I would point out that millions of people benefit from these provisions.

I believe it is possible to craft legislation which will provide for programs which have been identified as priorities—health care for our veterans, education, aid for our farmers, environmental programs and health research. We have worked in the Finance Committee to advance these priorities as well and will continue to do so going forward in a bipartisan manner.

Mr. LAUTENBERG. Mr. President, I ask if the distinguished Senator from Pennsylvania wants to use any of the time available on that side at this time.

Mr. SPECTER. Mr. President, I intend to make comments for a few minutes, and then I will be prepared to yield back the remainder of our time so we can proceed to a vote, if the Senator from New Jersey is prepared to do the same.

Mr. LAUTENBERG. Mr. President, I will use just a couple minutes to respond, and then we will have finished.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. I listened very carefully. One of the things that sometimes the public does not understand is, we can disagree on things because it is an honest view of what is taking place. Perhaps our friends on the Republican side would see things one way and we on this side see them another way. But when we talk about OMB and CBO, these are rather arcane acronyms for the public at large. We work with them all the time. They are arcane for us.

But OMB is something that usually is thought to represent the White House view, the administration view, on calculating where we are, our budget—how much we are spending and how much we are taking in. So I guess it is easy to say that those of us who are on the same party side as the White House want to pay attention to what OMB says and those who represent the majority in the legislature—the House and the Senate—want to rely exclusively on CBO—except when it is convenient. This difference is what we are seeing now in talking about whether or not we use OMB scoring.

Our distinguished colleague from Oklahoma said: Well, we want to use some of the scoring the President uses, from OMB. But, Mr. President, they only want to use OMB scoring selectively—only when OMB's numbers make it appear that they are using less of the Social Security surplus.

In court, you are not allowed to do that. I am not a lawyer, but I know lawyers can't pick and choose from the laws of various states when they present their cases, and use only those laws most favorable to their clients. They have to live under the rules of their jurisdiction.

But here in the Congress, the Republican majority wants to use CBO scoring when it suits their purposes, and OMB scoring when it doesn't.

For example, the majority is using CBO's estimate of the non-Social Security surplus. That's because CBO is projecting a $14 billion non-Social Security surplus, whereas OMB's estimate is much lower—$6 billion.

But then when it comes to scoring the defense appropriations bill, all of a sudden the majority wants to use OMB numbers.

In other words, they are using two sets of books.

Mr. President, there may be rare occasions when the majority will truly believe that CBO has erred in their scoring. But that is not what is going on here. This ''directed scoring'' is not based on the merits. The Republicans are simply trying to make it appear that they are spending less than they really are. And that they are using less Social Security surpluses than they actually are.

I also would point out that when the Senator from Oklahoma says, well, they want to raise taxes, let me remind the Senator that when the tax bill was sent to the President, it had $5.5 billion over 10 years of tax increases. So the Republicans themselves have admitted that there are legitimate savings to be had from closing loopholes. But apparently now their position is that there is not a single loophole to be closed in the tax code. Or at least that we should not close any loopholes before we cut education and defense first.

I say, let's take a look at the tobacco industry. Let's try to recover some of the expenses they force us to incur. Let's see if we can't get back the $20 billion a year it costs taxpayers to treat tobacco-related diseases. That by itself would essentially solve our budget problem and allow us to avoid dipping into the Social Security trust fund.

Mr. President, if there is any time left, I yield it back and hope our colleagues will support this sense-of-the-Senate amendment.

Mr. DORGAN. I wonder if the Senator from New Jersey would yield.

The PRESIDING OFFICER. There are only 8 seconds remaining of the time of the Senator.

Mr. LAUTENBERG. I yield the 8 seconds.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I am interested in the comment by the Senator from New Jersey about ''he is not a lawyer, but'' with respect to what has been offered on the floor of the Senate. I would suggest that if the Presiding Officer were a judge and was looking for competent evidence, evidence that had a factual basis, the speeches would be much shorter in this Chamber.

One of the things I have been impressed with over the years is the difference in the kinds of assertions—on both sides of the aisle. I am not referring to anything the distinguished Senator from New Jersey has said. But when he talks about the authenticity of representations of fact, this body takes extraordinary liberty in what is represented as fact. When it comes to the numbers, my preference would be—and I know the Senator from New Jersey did not use the expression ''lying

about the numbers,'' it is some budget expert—but I do not think a comment about lying, suggesting untruthfulness, is very helpful.

Mr. LAUTENBERG. Will the Senator yield for a comment?

Mr. SPECTER. I will.

Mr. LAUTENBERG. In my opening comments, I said that we viewed things differently. There was no suggestion of lying or dishonesty. I displayed this because that is what was said by a bunch of experts. I was careful not to accuse any of my colleagues of acting unethically.

Mr. SPECTER. I thank my colleague from New Jersey for that. I walked in a little late and hadn't heard him say that. Maybe he repeated it. I respect the comment that there are different views. But to have a chart about lying, when the matters are subject to widespread disagreements as to how you calculate numbers, I would be very critical of budget expert Stan Collender—not critical of Senator LAUTENBERG—for using the expression ''lying.'' I don't think that advances the ball very much.

I agree with a great deal of what is in the Lautenberg amendment. I agree we ought not cut Head Start, education, VA hospitals, border patrols, transportation, environmental funding, defense funding. I think that is exactly right. But when the Senator from New Jersey comes down to the sense of the Senate and says we should avoid using budget scorekeeping gimmicks, close special interest tax loopholes, and use other appropriate methods, starting with the budget loopholes—the President's budget had more than $20 billion of advance funding. Advance funding, regrettably, has become a commonplace practice that has been engaged in on all sides. I think the precedent and the custom are used generally and not subject to criticism from someone who uses them.

When the President submits a budget with a tax increase of 55 cents a pack on cigarettes resulting in revenues of $6.5 billion, I might support that kind of a tax increase, but it is not money in the bank. It is pie in the sky. It is not even Confederate money. It doesn't exist anywhere. So when the President includes that in his budget, that is hardly a subject to criticize Republicans on grounds of gimmickry.

When the advance funding is accepted that the President uses, and the Republicans have used it, too, but you can't have a tax increase to pay for discretionary programs under the Balanced Budget Act. I don't know if that is a very good provision, but I do know it is the law. I do know it is a law the President signed. So when the sense-of-the-Senate resolution calls for eliminating gimmicks and you have that approach—I won't call it gimmickry; why disparage the administration; just call it ''that approach''—it hardly is valid.

Then the final line on the amendment by the Senator from New Jersey is ''and by using other appropriate offsets.'' I am all for appropriate offsets, but what are they? Where are they?

I think what we have to do—and we are still struggling on this—is to bring our appropriations bills within the caps, not to cut Social Security. I agree totally with the Senator from New Jersey on not touching Social Security. I think that is an accepted conclusion on all sides.

We are struggling with this bill, and we have a lot of amendments yet to be offered. This is a very massive bill, $91.7 billion. This bill was crafted in the subcommittee, the full committee, to take the maximum load that could be borne on this side of the aisle. I may be wrong about that. My distinguished colleague from Oklahoma raises some significant questions with me about the propriety of that amount of money.

Well, we have to really, my metaphor is, run between the raindrops in a hurricane to find a bill which shall be passed by this body and go to conference with the House and can be signed by the President. I had occasion to have a word or two with the President about this bill last night, when we were talking about the Comprehensive Test Ban Treaty. The President doesn't like the bill because it takes out a lot of his programs.

The Constitution gives some authority to the Congress on appropriations—a little more expressed, explicit authority to the Congress than to the President, although the President has to sign the bills, but we do have some standing. So when we disagree with some of the priorities and have added $2.3 billion to education and are $500 million more than the President, we are trying to fit this bill within the budget constraints and within the caps which we have.

While we have dueling sense-of-the-Senate resolutions, I intend to vote against the resolution offered by the Senator from New Jersey. I voted for the resolution offered by the Senator from Oklahoma. I think, in all candor, that neither of these resolutions advances this bill a whole lot. What we have to deal with on this bill are the hard dollars and the specific programs. In the interest of moving the bill ahead, I will inquire how much time I have remaining in anticipation of yielding it back.

The PRESIDING OFFICER. Five minutes 43 seconds.

Mr. SPECTER. I yield the floor.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Mr. President, I will use my leader time. I know if we are not out of time, we are just about out of time. I will take a few minutes of my leader time to talk about this amendment.

I rise in strong support of the amendment. I do so in large measure because I believe it reflects the approach that represents the only way we are ever going to bring about a consensus on spending and the budget before the end of this year.

I don't have it at this moment—I have asked my staff to bring it—but the chairman of the appropriations committees in both the House and the Senate have expressed themselves publicly about the impropriety of across-the-board cuts. They have said it is the easy way; it is not the most appropriate way.

Indiscriminate cuts have never been the right way to approach deficit reduction, but these indiscriminate cuts are not the only way our Republican colleagues have suggested we go about meeting our budget objectives in the past. They have used a number of devices. Some of them have been the subject of a good deal of discussion in recent days.

George W. Bush has noted how inappropriate it is to use the EITC, and they appear to have backed away from using the tax credit available to working families. They have suggested accelerating the timing of the spectrum auction by $2.6 billion. They have suggested using two sets of books, one by and for congressional Republicans and one by the CBO. They have suggested declaring LIHEAP an emergency, the Low-Income Home Energy Assistance Program. They have suggested declaring the year 2000 census as an emergency. They have suggested that we raid the Labor-HHS appropriations bill. None of these have worked. Now we find our Republican colleagues suggesting maybe just an across-the-board, indiscriminate cut.

We made some very difficult decisions with regard to defense earlier this year. We made the decision to provide them a pay raise for the first time in some time. Yet it appears our Republican colleagues are now prepared to go back and cut that pay raise and cut the other portions of the defense budget as well. We estimate that if you are going to pay for everything Republicans suggest with across-the-board cuts, a 3 percent cut won't do; the cut required is closer to 10 percent. That is what the Office of Management and Budget says.

So if we cut defense by 10 percent, if we cut all the programs associated with disaster and agriculture by 10 percent, if we cut education by 10 percent, I wonder whether our colleagues want to do that. Yet that seems to be where they have relegated themselves, given the fact that none of their other budget gimmicks have worked. You can't accelerate spending. You can't turn the EITC program into an ATM machine.

You can't use many of the approaches that have been previously proposed by our Republican colleagues. They now know that. However, as I said, congressional Republicans didn't figure this out until after we witnessed the unusual occurrence where they were criticized by one of their Presidential candidates. They will soon find out that across-the-board spending cuts will not work either.

What works is what the senior Senator from New Jersey is now suggesting. What works is that we demonstrate some real leadership and find the offsets necessary to pay for these programs, or find the cuts that may be required to pay for these spending bills—not indiscriminately, but by making some tough choices. That is what we are suggesting. We are going to have to make tough choices in cuts or in offsets, but we have to make the tough choices together—Republicans and Democrats negotiating how to resolve this. We resolved it last year. That is how we should do it this year. In many cases, we have been locked out of the deliberations. Up until now, we haven't been involved in some of the conference committee deliberations.

So I hope everybody realizes that in the end, if we are going to solve this problem, we have to do it in the way the senior Senator from New Jersey is suggesting. Let's solve it by showing some leadership, let's solve it by working together, let's solve it in the age-old traditional way of sitting down and finding the cuts and the offsets required to pay for the commitments we are making in the budget this year.

I am happy to yield to the Senator from North Dakota for a question.

Mr. DORGAN. Mr. President, I wonder if a lot of this debate isn't about some here running for cover on the Social Security issue.

Isn't it the case that several years ago, we had a very substantial debate about amending the Constitution to require a balanced budget? Isn't it true the author of the previous amendment and others were demanding on the floor of the Senate that we write into the Constitution the proposition that Social Security revenues ought to be able to be used to pay for other programs in order to claim a balanced budget? Isn't that the case?

If that is the case, how do they come to us now and say we don't want to use Social Security moneys for the operating budget when, in fact, they wanted to put it in the Constitution 3 years ago?

Mr. DASCHLE. The Senator from North Dakota makes a very interesting point. We had that debate and we had some votes back then. I think the Senator from North Dakota and the Senator from Nevada were the prime sponsors of the amendment that said you cannot use Social Security trust funds for the purposes of general revenues in calculating a balanced budget. I think we lost that amendment fight on a party-line vote. And now, in the last couple weeks, the CBO has already said: Look, Republicans are now acting in a manner consistent with their votes on this constitutional amendment. We now know that, according to CBO, they have already used $18 billion. Those aren't our numbers, those are CBO numbers. They have already done that. But that is the way they voted 3 or 4 years ago when we had that constitutional amendment debate—to use Social Security trust funds for the purposes of general revenues, for the purposes of meeting whatever obligations there may be. So they are consistent.

But I don't think anybody ought to be misled. Now there is some talk about, well, we ought to use across-the-board cuts. They know across-the-board cuts involve deep cuts in defense, in education, in commitments to the environment, and in disaster and emergency assistance. They know that isn't going to happen. The only way it is going to happen is to do what is now on the table. This ought to be a 100–0 vote. Every Republican and Democrat ought to be supporting this amendment because it is the only way we are going to resolve this impasse. The sooner we recognize that, the better.

Mr. KENNEDY. Will the Senator yield for a question?

Mr. DASCHLE. I yield to the Senator from Massachusetts for a question before I yield the floor.

Mr. KENNEDY. In listening to the Senator's explanation of his understanding of what the underlying issue was, and also the Lautenberg proposal, did the 1 percent underlying proposal consider tax expenditures? We have about $4 trillion in tax expenditures. The 1 percent, as I understand it, doesn't take into consideration a review of tax expenditures, where we might be able to find places where we could tighten the belt on some of these tax expenditures, and we would not need these kinds of offsets in the areas of education or health. I wonder whether the Senator's understanding of the 1-percent cut would include a review of tax expenditures.

We have seen some important cutbacks in terms of freezes in various expenditure programs, and we have seen some cutbacks in various programs in the period of the last few years in some important areas of education and health, but we haven't had a real review of these tax expenditures. I wonder whether the Senator—as we come down to this period of time—thinks that issue might be at least something we ought to consider or debate.

Mr. DASCHLE. The Senator from Massachusetts makes a very important point. Not $1 of tax expenditures are on the table in their proposal. What they are suggesting is that we cut education first, that we cut disaster assistance first, that we cut LIHEAP first, that we cut defense first; and only after we have done all of that, I suppose they would assume we might look at tax expenditures. But there is not a word about looking at the $4 trillion of possibilities in the tax expenditure category before we look at cutting education for children, before we look at cutting Head Start, before we look at cutting afterschool programs, before we look at cutting title I and funding for disadvantaged children. All of those cuts are on the table but not $1 in tax expenditures. So the Senator from Massachusetts is absolutely correct.

Mr. KENNEDY. Finally, does the Senator not agree with me that we have seen a comprehensive review of these various programs, as we should, to find out how effective the programs are? These programs that we authorize and appropriate money for have been watched carefully in the past several years. But I don't know of a single hearing that has been held in the Senate of the United States to have a similar kind of review of tax expenditures, to find out whether there are inefficiencies and waste, or whether they are accomplishing what the public purpose and goal was when they were devised. There very well may be an opportunity to squeeze some resources out of tax expenditures so we don't have to cut education and health and home heating oil. Does the Senator think that ought to be part of this debate and discussion as we talk about the questions of funding these critical programs?

Mr. DASCHLE. If I may respond, the irony is that the only tax matter that has been on the table for our Republican colleagues has been the earned-income tax credit, the tax credit affecting working families who are trying to get off welfare, who are trying to ensure that they pay their bills on time, who appreciate the importance of having that little help in April of every year. In fact, our colleagues on the other side of the aisle, and on the other side of the Capitol, made the point last week that these families need some help in managing.

Well, I have heard, ''I am from the Government and I am here to help you'' in a lot of different ways, but this is a new chapter. There is no way we are going to help working families manage their money better by taking away the one financial tool they have in the Tax Code. That doesn't help them. It is a charade that even George W. Bush fully understood and appreciated and spoke out on.

I think the Senator from Massachusetts is absolutely right. That ought to be a consideration as well. We ought to be looking at $4 trillion in possibilities there, at least prior to the time we commit to cut the first dollar of education, the first dollar of health care for children, or the first dollar of Armed Forces personnel stationed abroad. That, it seems to me, would be the prudent approach.

Mr. REID. Will the leader yield for a brief question?

Mr. DASCHLE. I am happy to yield to the Senator from Nevada for a question.

Mr. REID. The Senator from Massachusetts and the Senator from South Dakota talked about tax expenditures. Is that the same thing some of us refer to as ''corporate loopholes,'' ''corporate welfare,'' and ''tax loopholes''?

Mr. DASCHLE. That is what I am talking about. Obviously, when we talk about tax expenditures, people sometimes wonder what reference that is. In many cases, we are talking about loopholes. In fact, it is interesting that our Republican colleagues, in order to pay for the huge tax cut they had proposed

earlier this year—which ended up going nowhere—used corporate loophole closures as a way to pay for part of it. So even they have acknowledged on occasion that these corporate loophole closures are something we should be looking at; not in this case, however. In this case, they are proposing that we cut education first, that we cut health care first, and then we look at other things, perhaps—although it isn't addressed in this proposal.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I ask unanimous consent that an additional amount of time be granted to this side equal to the time used in excess of the leader's allotted time. I first make an inquiry as to how much in excess of the leader's allotted time was just used.

Mr. REID. Parliamentary inquiry. Reserving the right to object, how much time?

The PRESIDING OFFICER. A total of 20 minutes was used.

Mr. REID. Is there a request pending?

The PRESIDING OFFICER. There is a request pending.

Is there objection?

Mr. LAUTENBERG. Parliamentary question: Is there not time usually reserved as leader time and as time allocated outside of debate?

The PRESIDING OFFICER. There is time reserved for the two leaders.

Is there objection?

Mr. REID. Yes.

The PRESIDING OFFICER. Is there objection?

Mr. REID. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. SPECTER. Mr. President, I had inquired of the Parliamentarian how much time was being used when it was up to 17 minutes. I was informed that the Parliamentarian never interrupts the leader when the time is in excess. I didn't want to break with that custom. But it seemed to me, as a matter of comity and fairness, that if excess time was being used, there ought to be that much additional time on this side. But I understand the rules. If there is objection to that, so be it.

How much more time is left on this side of the aisle?

The PRESIDING OFFICER. Five minutes.

Mr. SPECTER. Mr. President, I listened with interest to the arguments by the Senator from South Dakota. When he talks about Democrats being locked out, certainly he isn't talking about this bill. The ranking member and I worked on this bill in a collaborative partnership. I don't know if he is referring to other bills or just this bill, but there was no lock out here. When the Senator from South Dakota objects to across-the-board cuts and says—may we have order, Mr. President—that we ought to take a look at matters one by one and make the tough choices, we ought to have the offsets, I would certainly be in favor of that.

If the Senator from New Jersey had made specific requests on offsets, I would have been glad to vote on them one by one instead of saying ''other appropriate offsets.'' If he had identified special interest tax loopholes, I would have been prepared to vote on those one by one instead of the generalization. But I think it is worth noting that on this bill nobody on that side of the aisle has made any suggestion for any offset—not at all.

We added to block grants $900 million by an amendment from the Senator from Florida. We had $900 million offered from day care and added to the bill by the Senator from Connecticut. We had $200 million offered but rejected by the Senator from California for afterschool; $200 million offered but rejected on class size by the Senator from Washington. We have amendments pending now by the Senator from Minnesota, Mr. WELLSTONE, $3 billion for disadvantaged education; $3 billion for Head Start. Other amendments, the Senator from Massachusetts, $200 million on one; the Senator from New Mexico, Mr. BINGAMAN, $200 million on another.

I think those are all very worthwhile programs. But it hardly lies in the mouth of those on the other side of the aisle to talk about hard decisions of offsets when they don't talk about any offsets and they don't talk about any hard decisions. They don't talk about specifics.

I don't like across-the-board cuts, either. I have said so. I don't think we are going to have across-the-board cuts. I think that is the sword of Damocles which is hanging over this appropriations process to keep us within the caps. But we have hardly heard of any offsets or any tough decisions on the other side of the aisle.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator has 2 minutes.

Mr. NICKLES. Mr. President, I will make a couple of comments, and then we will vote.

For the information of all of our colleagues, we will have a vote momentarily on the Lautenberg amendment, or at least in relationship to the Lautenberg amendment.

I have heard: Well, if you follow the amendment that has already passed, we will have to have a 10-percent reduction.

I want to say categorically that is false, and people shouldn't try to mislead people. What we are saying is we should not be taking money out of Social Security trust funds to spend it on a bunch of other programs. We should show some discipline. I absolutely don't want across-the-board cuts. I want to make those cuts. I want us to live within the numbers necessary so we don't touch Social Security. That is $14 billion more than the caps. All right. We will go up to that amount, but not more than that amount. We need some limit.

This bill has been growing like crazy. The Labor-HHS bill, as Senator SPECTER mentioned, the bill that he reported out of committee, had significant growth; it had more money than the President requested for education. Somebody said: Well, if we adopt the last amendment, which is already adopted, and we followed that, we would have cuts in education.

We would have maybe 1 percent. But guess what. The education bill went up by $2.3 billion. You could have a 1-percent reduction in that and still spend more than the President requested.

The Labor-HHS bill over the year has been growing like crazy. In 1996, it was $63.4 billion; in 1997, it was $71 billion; in 1998, it was $80.7 billion. The bill we have before us is $84.4 billion. As Senator SPECTER mentioned, we already have amendments adding a couple of billion dollars on top of that. We defeated amendments to try to add a couple billion dollars more.

There is a whole slew of amendments to spend billions more as if there is no budget, as if there is no restraint whatsoever. And Senators are saying, wait a minute, you really are spending Social Security surpluses, and we shouldn't be doing that. We said we are not going to do it. We passed a resolution that says if it is necessary, we will have across-the-board cuts. We don't want to touch Social Security. Yet we have amendment after amendment saying let's spend more. Many of us reject that.

I yield the remainder of our time.

I move to table the Lautenberg amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table amendment No. 2267. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 54, nays 46, as follows:

[Rollcall Vote No. 314 Leg.]

YEAS—54

Abraham	Enzi	McCain
Allard	Fitzgerald	McConnell
Ashcroft	Frist	Murkowski
Bennett	Gorton	Nickles
Bond	Gramm	Roberts
Brownback	Grams	Roth
Bunning	Grassley	Santorum
Burns	Gregg	Sessions
Campbell	Hagel	Shelby
Chafee	Hatch	Smith (NH)
Cochran	Helms	Smith (OR)
Collins	Hutchinson	Specter
Coverdell	Hutchison	Stevens
Craig	Inhofe	Thomas
Crapo	Kyl	Thompson
DeWine	Lott	Thurmond
Domenici	Lugar	Voinovich
Edwards	Mack	Warner

NAYS—46

Akaka	Biden	Breaux
Baucus	Bingaman	Bryan
Bayh	Boxer	Byrd

Cleland	Johnson	Murray
Conrad	Kennedy	Reed
Daschle	Kerrey	Reid
Dodd	Kerry	Robb
Dorgan	Kohl	Rockefeller
Durbin	Landrieu	Sarbanes
Feingold	Lautenberg	Schumer
Feinstein	Leahy	Snowe
Graham	Levin	Torricelli
Harkin	Lieberman	Wellstone
Hollings	Lincoln	Wyden
Inouye	Mikulski	
Jeffords	Moynihan	

The motion was agreed to.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

AMENDMENT NO. 1851, WITHDRAWN

Mr. NICKLES. Mr. President, I ask unanimous consent to withdraw my underlying amendment No. 1851.

The PRESIDING OFFICER. Is there objection?

Mr. HARKIN. Reserving the right to object, parliamentary inquiry.

The PRESIDING OFFICER. Is there objection to the motion of the Senator from Oklahoma?

Without objection, it is so ordered.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. On our sequencing, we are now ready for an amendment from the Senator from Massachusetts, Mr. KENNEDY. He and I have had an informal discussion on a unanimous consent request to not have any second-degree amendments, to vote on or in relation to the Kennedy amendment after 30 minutes equally divided. And I supplement that with no second-degree amendments prior to the motion to table.

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. Reserving the right to object, I do not object to doing half an hour. I am instructed by the leadership on our side that they not start a vote until 4:15. But I can wind up if you want to start on a second.

Mr. SPECTER. It is my intention to stack the votes, to take them up later today, so there will be no vote before 4:15.

Mr. KENNEDY. Fine.

Mr. NICKLES. Reserving the right to object, was the request for a time agreement on the Kennedy amendment?

Mr. SPECTER. Yes.

Mr. NICKLES. I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Pennsylvania still has the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. I renew my unanimous consent request to have 30 minutes equally divided, no vote before 4:15, no second-degree amendments, and a tabling motion on or in relation to the Kennedy amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AMENDMENT NO. 2268

(Purpose: To protect education)

Mr. KENNEDY. Mr. President, I send an amendment to the desk and I understand, therefore, that not withstanding other previous agreements in regard to first-degree amendments, this would qualify as a first-degree amendment.

Mr. SPECTER. That is right.

The PRESIDING OFFICER. Without objection, the clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY] proposes an amendment numbered 2268.

Mr. KENNEDY. 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:

At the appropriate place, insert the following:

In order to improve the quality of education funds available for education, including funds for Title 1, the Individuals with Disabilities Education Act and Pell Grants shall be excluded from any across-the-board reduction.

Mr. KENNEDY. Mr. President, I yield myself 5 minutes.

Mr. President, this is a very simple amendment. Simply stated, this amendment says:

In order to improve the quality of education, funds available for education * * *

And then it says, such as:

Title I, the Individuals with Disabilities Education Act [IDEA] and Pell Grants shall be excluded from any across-the-board reduction.

Just a few minutes ago, we were having a debate on the floor of the Senate on the questions about overall general reductions in the budget which would have affected these education programs. We had a brief debate on alternative ways in order to try to deal with some of the budgetary considerations and constraints.

During that discussion and debate, I asked whether we had actually even given consideration to trying to find additional kinds of funding by closing some of the tax expenditures which are generally understood as tax loopholes. We did not receive any assurances on that. Really, as a result of that debate, as we are moving on through this whole appropriation bill, and in anticipation there may be another opportunity or another occasion where Senators will come forward and ask for a reduction in the funding levels across the board, this amendment just excludes the education programs.

We can ask why we ought to exclude education programs. Why not other programs? We could have some debate and discussion on that issue. But the principal reason for excluding these programs is because over the period of recent years, we have seen a series of reductions in education programs as a result of House and Senate Appropriations Committee action.

Going back to 1995, we had a House bill—this is just after the Republicans had gained control of the House and Senate—that actually requested rescission of $1.7 billion. Then the House bill in 1996 was $3.9 billion below 1995; in 1997, $3.1 billion below the President's request; in 1998, $200 million below the President's request; in 1999, $2 billion below the President's request.

We know this appropriation bill that has been reported out by the Appropriations Committee is in excess in total numbers of what the President requested. We also know it is on its way to the House of Representatives for negotiation.

The purpose of this amendment is, no matter what we are going to do in terms of other kinds of activities to reduce funding of various provisions of the legislation, we are not going to reduce funding in the area of education. That is basically the reason for this amendment. We know that the title I program works; the Pell program works; IDEA works; the other education programs work. We have had good debates on those measures over the past months. It is very important that we understand that.

We are now experiencing a significant increase in the total number of students who are going to be involved in K through 12 education. We will see 500,000 students this coming year attending our schools, an all-time high. We know we will need 2.2 million teachers over the next 10 years, and we are getting further behind, hiring only about 100,000 teachers a year. Even with the current efforts we have made in recruitment we are still falling further and further behind.

We are also finding that more young families and needy families are able to get their children through college. One of the most interesting developments that has taken place in this last year is, we have the best repayment of student loans in over 10 years. This means that young people who are going to post-secondary education are taking advantage of the federal loan programs, and are repaying those loans. This is a very important and significant indication that there is a great need for these federal loans, and that young people across this country are demonstrating a responsible attitude by repaying those loans on time.

I had raised the question earlier of whether we should not fully fund these important education programs, and other health care measures, child care measures and the community service block grant—I yield myself 3 more minutes. I have asked if we couldn't find some reductions in terms of tax expenditures to find that funding.

Only a few months ago, under the Republican tax bill, they effectively found $5.5 billion over 10 years in their legislation. All we are saying is, if you can find $5.5 billion over 10 years, you can certainly find enough now to protect the programs dealing with education, dealing with health care, dealing with the LIHEAP program and some of these other nutrition programs. These are programs which are a

lifeline to the neediest people in our society. That is what we are resisting. We are resisting this wholesale way of trying to diminish the continued commitment and responsibility we have to the neediest children and to the neediest workers and the neediest parents in our society. That is what brings us to the floor of the Senate today.

I see my friend and colleague from Iowa. How much time do I have, Mr. President?

The PRESIDING OFFICER (Mr. CRAPO). Eight minutes 41 seconds.

Mr. KENNEDY. I yield 4 minutes 30 seconds to the Senator from Iowa and the other 4 minutes to the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. I thank the Senator for yielding me this time. I compliment him on this amendment.

There is all this talk going around about across-the-board cuts. We just had the amendment offered by the Senator from Oklahoma which he withdrew. As you can see, there is some sentiment on the other side of the aisle to have some across-the-board cuts. Again, we have tried to resist those because, as the Senator from Massachusetts said so eloquently, there are a lot of people out there who could be drastically hurt—low-income people, needy people, seniors, veterans, and others.

What this amendment addresses is the education end of it. Both sides of the aisle have said time and time again that education is our No. 1 priority. The leader said that earlier this year. Both sides have been saying education is our No. 1 priority. What this amendment basically says is, as I understand it, if there is going to be any across-the-board cut—and there shouldn't be because we have plenty of offsets; we don't need an across-the-board cut—if there is an across-the-board cut, we will exempt education, only education, including IDEA, the Individuals with Disabilities Education Act, title I, and Pell grants.

What the Nickles amendment would have done—again, it is sort of rolling around out there about an across-the-board cut—CBO said the Nickles amendment would translate into a 5. 5-percent cut. For title I, that would be a $380 million cut. OMB said it would be as much as a 10-percent cut. That would be $800 million. So somewhere between a $380 and a $800 million cut in title I. Afterschool programs would be cut $20 to $40 million; ed technology, $35 to $70 million; and special education would be cut from $300 to $600 million, if, in fact we had an across-the-board cut.

Again, I urge Senators to vote for this amendment because it will send a signal, loudly and clearly, that if there are any across-the-board cuts, we are not going to take it out of education. We understand that education is our No. 1 priority. We understand we have to invest in education. The last thing we want to be included in any kind of across-the-board cut would be any cuts in education.

I compliment the Senator from Massachusetts. This is a great amendment. This ought to receive a 100–0 vote to protect education from any across-the-board cuts.

I yield back whatever time I have remaining.

The PRESIDING OFFICER. The Senator from Illinois had been yielded 4 minutes. Does the Senator from Oklahoma wish to speak at this time?

Mr. DURBIN. I would be happy to yield to the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, two or three comments are in order.

Some people are still debating the amendment to which we have already agreed. I withdrew it. It was a sense of the Senate, a sense of the Senate which said we shouldn't be raiding Social Security funds. I don't think we should be raiding Social Security funds for education or for defense or for other issues. We have a lot of money. Defense is going up by $17 billion. Education alone is going up by $2.3 billion, even more than the President requested. As I stated before, if you do have an across-the-board cut, it is only 1 percent. And if you cut 1 percent off that 37.3, you are talking about $370 million off an increase that is $2.3 billion. So you still have an increase of $2 billion in education alone.

People are entitled to their own interpretation. They are not entitled to their own facts. Education has grown dramatically. The entire Labor-HHS bill, on which I have already quoted the figures, has grown from—I don't have it right in front of me—about $50 billion a few years ago to about $90 billion today.

So when I see charts: ''Republicans slashing education,'' it is just absolutely false. We have more money in this bill than the President requested. And even if you have a 1-percent reduction—and I hope we don't; I have said this time and time again; I hope we don't have an across-the-board reduction—I hope the appropriators will work with everybody to stay within the limit to which we agreed, which actually, so everybody will know, is $592 billion, and if we do that, we won't be touching Social Security. That is what we ought to do.

You can fund an increase in education, an increase in NIH, an increase in defense, an increase in HUD, an increase in veterans, and still not raid Social Security. That is what we are trying to do.

Just for the information of my colleagues, I withdrew the amendment. I don't believe the Senator's amendment is in order. I don't know how you amend something that is not underlying. I make that point and yield the floor at this time.

Mr. DURBIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. DURBIN. Mr. President, I will yield to the Senator from Pennsylvania, if he wishes.

Mr. SPECTER. The Senator may go first.

Mr. DURBIN. Mr. President, I thank the Senator from Massachusetts for raising this issue. In reply to my colleague, the Senator from Oklahoma, I believe the Senator from Massachusetts is making it clear, now that we know that lurking at least in the backs of the minds of many of the Republican leaders is the idea of an across-the-board cut, to somehow develop an exit strategy, the Senator from Massachusetts reminds us that across-the-board cuts means a cut in education.

Let me give you some specifics, if I might. When I look at the committee report from this education funding bill, I see that if the 5.5-percent cut that is envisioned by some of the Republican leaders is put into place, we will reduce the amount of money for title I, the major Federal educational program for disadvantaged children, to below last year's level of funding. So those who say this is a harmless cut that will never be noticed are not portraying this accurately, I'm afraid.

I am prepared to discuss the facts with the Senator from Oklahoma, and the facts, unfortunately, lead to the conclusion that if we take his across-the-board cut strategy, we are going to cut educational funding below last year's level of spending. In so doing, whom do we jeopardize? Title I, of course, sounds pretty general and pretty bureaucratic, but this program is critically important for 11 million kids across America. Who are these kids? These are the kids most likely to drop out of school; these are the kids most likely to need special help to stay up with their classes and not fall behind; these are the kids who need that extra tutor for reading so they don't get behind the class, get discouraged, and drop out of school or, frankly, become a problem in the classroom. That is what title I is about. That is the program that would be cut by the Senator from Oklahoma.

It is not the only program. The Congressional Budget Office says that the 5.5-percent across-the-board cut that is envisioned by some Republican leaders will cut many other programs as well: $26 million from the COPS Program, a program to put more police on the street and in communities, which is bringing down crime in America. Is there a higher priority? I don't think there is in my State of Illinois. The Head Start Program, from which millions of kids from poor families get a helping hand before they start kindergarten so they can succeed, we would see $290 million cut from that program by this idea of an across-the-board cut. National Institutes of Health: Of all of the progress we have made in improving Federal funding for medical research, we would cut $967 million out of the progress and research into diseases and problems facing American families. I think that is a serious mistake.

Title I education grants, a $380 million cut.

Let me tell you some of the other cuts in education effected by this Republican strategy of across-the-board cuts. Afterschool programs: All of us stood on this floor in horror over what happened at Columbine High School in Littleton, CO. We knew something went wrong in a very good school. Children lost their lives. We said: What is it that we need to do to protect our kids in school and to make sure fewer kids go astray? We were told by the experts time and time again that we need counselors at the schools to seek out troubled kids, and we need programs at the schools so kids can use their time effectively.

An across-the-board cut would reduce the amount of money available to American schools for afterschool programs. By reducing that amount of money, it is just going to lessen our opportunity to reach out to kids who need something constructive to do in a supervised environment after school. So when my friends on the Republican side say that the easy way out, the painless way, is an across-the-board cut, they don't want to face reality. Those cuts will touch people who need a helping hand. They are going to touch kids who might drop out of school. They are going to cut afterschool programs. They are going to cut the kind of tutoring we need to make sure that kids succeed.

In this day and time, at this time in our history, with the prosperity of the American economy, with the strength of this budget and of our budget process, have we reached a point where we have no recourse but to cut the most basic program for America—education? I think not. The President has come up with a list of offsets that will preserve the Social Security trust fund and still keep our budget in balance. I urge this Senate to adopt the amendment offered by the Senator from Massachusetts.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, the anticipation is that we are not going to have across-the-board cuts because the totality of the appropriated bills will come within the caps. Senator STEVENS was on the floor and we were discussing the last amendment. That continues to be the reassurance from the chairman of the Appropriations Committee. I can personally vouch for the fact that we are striving mightily on a conglomerate of 13 bills to come within the caps. I am personally opposed to the cuts across the board, as I have already said. When the Lautenberg amendment was argued a few moments earlier this afternoon, I said if there were specific proposed cuts, we ought to take them up one at a time. I hope we don't get to that either. If we do get to cuts, I think that education ought to be preserved.

This bill has an increase in education of $2.3 billion, some $500 million more than the President's budget. That reflects the concerns that the distinguished ranking member, Senator HARKIN, and I have had. If there are to be cuts, I would want to exclude education.

It is true that it becomes difficult, once something is excluded, to not want to exclude other items. I would not want to see a cut in NIH. It hardly makes a lot of sense to add $2 billion to NIH if it is going to be cut almost $1 billion. Senator HARKIN and I probably would have increased it $3 billion in that case.

The Senator is laughing. It is good to have a laugh in the middle of the afternoon.

But what we have to do is avoid across-the-board cuts. If it comes to that, then we will start to make exclusions, and we are making choices to have other cuts instead of these cuts. Then when we start to exclude virtually everything, we will ultimately have to come down to what cuts are necessary if these 13 appropriations bills do not come within budget.

Mr. President, I see no other Senator on the floor seeking recognition. How much time remains?

The PRESIDING OFFICER. Ten-and-a-half minutes.

Mr. SPECTER. We are looking for a Senator to offer the next amendment.

Mr. HARKIN. Will the Senator yield?

Mr. SPECTER. Yes.

Mr. HARKIN. If we can yield back time, then the vote on this would be held at what time?

Mr. SPECTER. We are going to stack them later in the afternoon, but not in advance of 4:15, which was the point raised by Senator KENNEDY.

Mr. HARKIN. I ask the chairman, are we then through with this amendment and we are open for other amendments right now?

Mr. SPECTER. That is correct, as soon as I yield back the balance of the time, which I intend to do.

Mr. HARKIN. Will the Senator yield for me to make a couple of comments?

Mr. SPECTER. I yield.

Mr. HARKIN. We have a list of amendments. I urge Senators on our side to please come over and offer the amendments that we have listed. People are protected in their amendments, but we want to get the bill done. Any Senators who may not be on the floor but who are available, please come over and offer your amendments. We have time agreements, and we can get these out of the road this afternoon before we start voting later on. It would be a shame not to use the time we have right now available to us to offer amendments and get them debated.

Again, I urge Senators on the Democratic side to please come over.

Mr. KENNEDY. Will the Senator yield?

Mr. HARKIN. Yes.

The PRESIDING OFFICER. The Senator from Iowa is speaking on time yielded from the Senator from Pennsylvania.

Mr. KENNEDY. Mr. President, I wonder if we could have the attention of the Senator from Pennsylvania.

Mr. HARKIN. The Senator from Pennsylvania has the floor; is that correct?

The PRESIDING OFFICER. The Senator from Pennsylvania controls the remaining time.

Mr. KENNEDY. Mr. President, I was inquiring if the Senator would yield just for a question.

Mr. SPECTER. I do.

Mr. KENNEDY. I saw the Senator from Iowa indicating that we might have a lull. I see the Senator from Texas on her feet. There was a desire by the committee to move forward on this bill and I would be glad to move on to one of the other amendments with a short time agreement as well. I see the Senator from Texas. We will be glad to cooperate.

Mr. SPECTER. If I may respond, I would be glad to entertain the next amendment of the Senator from Massachusetts on a short time agreement. We are sequencing. We would like to now yield to the Senator from Texas to make a statement, and then we will proceed with an amendment on this side.

The PRESIDING OFFICER. The Senator from Texas.

Mr. SPECTER. Mr. President, I yield the remainder of my time.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the Senator from Maine and I have 10 minutes equally divided to speak on an issue pertaining to the bill but not actually offering an amendment.

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. If it is agreeable to go ahead, we will be set to go. I am willing to work out a time agreement. As far as I am concerned, the Senator from Texas may want to go right ahead. I can follow her right away.

Mr. SPECTER. We have another amendment on this side. We are sequencing time. We will be yielding to Senator HUTCHISON now. We have another amendment on which we hope to have a short time agreement. Then we will return. Is the Senator from Massachusetts prepared to accept another time agreement of 30 minutes equally divided?

Mr. KENNEDY. I think the Senator from Rhode Island wishes to speak, if we can make it 45 minutes.

Mr. SPECTER. All right. Let's do this. I ask unanimous consent that in sequence after the Senator from Texas and the Senator from Maine are recognized for 10 minutes equally divided, there then be an amendment offered on the Republican side. We would then go to the Senator from Massachusetts, Mr. KENNEDY, for his amendment, a second-degree amendment, with 45 minutes equally divided.

Mr. REID. Reserving the right to object, does the Senator from Pennsylvania know how long the second amendment will take? Ours will be 45 minutes.

Mr. SPECTER. I haven't worked that time agreement out. I haven't talked

to the proponent. But I expect it to be 30 minutes equally divided. I would not want to make a commitment to that because I haven't cleared that.

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. Reserving the right to object, I would not object with an amendment with a short-time agreement. There was some talk that there may be an offering of another type of amendment—one that might require a longer time agreement.

Mr. SPECTER. We don't anticipate offering the ergonomics amendment—if that is the Senator's question—at this particular time.

Mr. REID. Continuing to raise the objection, it is my understanding that Senator KENNEDY would be able to debate for 45 minutes equally divided prior to there being a motion to table.

Mr. SPECTER. That is correct.

Mr. REID. And no amendment would be in order.

Mr. SPECTER. That is correct.

Mr. REID. Prior to the motion to table.

Mr. SPECTER. No second-degree amendment would be offered prior to the motion to table.

The PRESIDING OFFICER. Hearing no objection, the Senators from Texas and Maine are recognized for 10 minutes each.

The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I ask that after 5 minutes I be notified so I can yield my colleague her 5 minutes.

The PRESIDING OFFICER. The Senator will be notified.

Mrs. HUTCHISON. Mr. President, I am talking today about an amendment that I would like to offer but am not able to because it would be subject to a rule XVI point of order. It is an amendment that has been offered before and passed by the Senate. Yet we have not been able to prevail in conference. It is just an amendment that would clarify the law in a particular area, and one that I think would improve the options that would be available in public schools.

Mr. SPECTER. Mr. President, will the Senator from Texas yield for a unanimous consent request?

Mrs. HUTCHISON. Yes.

Mr. SPECTER. We now have the intervening amendment to be offered by Senator COVERDELL, after Senators HUTCHISON and COLLINS speak, and I ask unanimous consent that on Senator COVERDELL's amendment there be 30 minutes equally divided.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. REID. Reserving the right to object, we need to see the amendment.

Mr. COVERDELL. I will get a copy for the Senator.

Mr. REID. Could we know the subject?

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that my time start now.

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

Mrs. HUTCHISON. Mr. President, the amendment I hope to provide in the ESEA authorization that is going to take place either later this year or next year would allow public schools the option of offering single-sex classes or single-sex schools in the public arena.

We all know that the hallmark of America is that we have a public education system that would give every child an equal opportunity to fulfill his or her potential. Many of us acknowledge that the public school systems throughout our country are failing the test today. What we are trying to do is give more options to public schools to acquire the necessary tools to provide each child the nurturing and the special attention they need to succeed.

My amendment would clarify existing Federal law by allowing Federal education funds to be used for single-sex public schools and classrooms as long as comparable educational opportunities are made available for students of both sexes. Remember, there is an option. It could not even come into being unless a school district and the school itself and the parents wanted this option.

Due largely to the fear that many schools throughout our country believe the Education Department's Office for Civil Rights will not allow single-sex education efforts, most schools and school districts are reluctant to use even their own money on same-gender education programs, much less Federal funds. Ask almost any student or graduate of a same-gender school, most of whom are from private or parochial schools, and they will almost always tell you they have been enriched and strengthened by their experience.

Surveys and studies of students show that both boys and girls enrolled in same-gender programs tend to be more confident and more focused on their studies and ultimately more successful in school as well as later in their careers, particularly if they have something to overcome in the way of either rowdiness, shyness, or something of that sort. Girls report being more willing to participate in class and to take difficult math and science classes they otherwise would not have attempted. Boys report less fear of being put down by their classmates for wanting to participate in class and excel in their studies. Teachers, too, report fewer control and discipline problems, something almost any teacher will tell you can consume a good part of class time.

Study after study has demonstrated that girls and boys in same-gender schools, where they have chosen this route, are academically more successful and ambitious than their coeducation counterparts.

Single-sex education has benefited students such as Cyndee Couch, an eighth-grader at Young Women's Leadership School in East Harlem, NY. Cyndee and the other students at their school, located in a low-income, predominantly African American and Hispanic section of New York City, have an attendance rate of 91.8 percent, significantly above the city average. They also score higher on math and science exams than the city average. In fact, 90 percent of the school's students recently scored at or above grade level on the standardized public school math problem-solving tests. The citywide average was 50 percent.

Last year, Cyndee bravely appeared on the television show ''60 Minutes'' to talk about why she likes this all-girls public school, one of the very few in the nation. She told host Morley Safer ''. . . as long as I'm in this school and I'm learning, and no boys are allowed in the school, I think everything's going to be OK.''

Unfortunately for Cyndee and for the other students in fledgling same-gender public school programs across the country, everything is not OK. Opponents of same-gender education have sued to shut down the Young Women's Leadership School and other schools like it around the country. I cannot imagine why they would do this when the success has been proven. We want to give the options to public schools that private and parochial schools now have.

It is not a mandate. It is an option. We want to pursue this so public schools will succeed in giving every child his or her full educational opportunity.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I want to begin my remarks by commending my friend and colleague from Texas for her leadership on this issue and for bringing it to the Senate's attention.

I wish to share with my colleagues a wonderful example of the accomplishments that can be realized by a same-gender class. A gifted math teacher, Donna Lisnik, at Presque High School, pioneered an all-girls math class some years ago. She believed it would result in greater achievement by the young girls who were studying math at Presque High School. She began to offer the same-sex class in math and she proved to be absolutely right. The class was offered for over 5 years and the results were outstanding. Both the achievement of these girls and the number of them participating in advanced math and science classes increased.

I had the privilege of visiting Mrs. Lisnik's classroom. I cannot overstate the excitement of the girls in her class studying advanced math. They were learning so much and they were so excited by this opportunity to learn together.

Incredibly, the Federal Department of Education concluded that this math class violated title IX of the Education Act. Consequently, Presque High

School was required to open the class to both boys and girls. It is interesting to note, however, that it is girls who continue to enroll in this class even though it is open to both boys and girls.

It is unfortunate that schools are prevented by the Federal regulations from developing single-gender classes in which both young women—and in other classes, young men—can flourish and reach their full potential. Senator HUTCHISON's proposal assures that other schools with innovative education programs designed to meet gender-specific needs will not face such obstacles.

This proposal does not weaken or undercut in any way the protections for women and girls in title IX. It does not allow a school to offer an education benefit for only one sex, to the exclusion of the other. Schools must have comparable programs for both boys and girls. However, it does give schools the flexibility to design and offer single-gender classes when the school determines that such classes will provide their students with a better opportunity to achieve high standards, the kind of high standards and achievement that I witnessed firsthand in Mrs. Lisnik's exciting math class in northern Maine.

Although Senator HUTCHISON has decided to withdraw her amendment, I am going to work with her to ensure that it is incorporated in the rewrite of the Elementary and Secondary Education Act that will be undertaken by the health committee later this year. This is a proposal that is designed to help young girls and young boys excel by using the device of single-sex classrooms. It deserves support.

I am very pleased to join with the Senator from Texas in supporting this effort.

I yield back any remaining time.

Mrs. HUTCHISON. Mr. President, I thank the Senator from Maine for cosponsoring this amendment with me and for being willing in the committee to work on getting it included in the reauthorization.

This is an option, not a mandate. Coed education is better for a number of students. However, when students have a problem with not being willing to speak up in class or have a particular problem in math and science where it is indicated that they would do better in a single-sex atmosphere, let's have this option open for public school students, students who may not be able to afford the option of private school or parochial school, so that our public schools will be the very best they can be, offering every option they can offer to the public school students so every child in this country will have the same opportunity to excel.

I hope we can approve this amendment. The last time it was offered we adopted it in the Senate by a vote of 69–29. It was very bipartisan and very strong. I know Members on both sides of the aisle who have attended single-sex schools and who believe this is an option that should be allowed will fight for this amendment for every public school child to have this option without the hassle and threat of being sued that might deter the opportunity for them to have what would meet their needs.

AMENDMENT NO. 1837

(Purpose: To decrease certain education funding, and to increase certain education funding)

Mr. COVERDELL. Mr. President, I ask that Senate amendment 1837 be called up.

The PRESIDING OFFICER. The clerk will report.

The legislative assistant read as follows:

The Senator from Georgia [Mr. COVERDELL] proposes an amendment numbered 1837.

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

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

The amendment is as follows:

On page 54, line 19, strike ''$1,151,550,000'' and insert ''$1,126,550,000''.

On page 55, line 8, strike ''$65,000,000'' and insert ''$90,000,000''.

At the end, insert the following:

SEC. . FUNDING

Notwithstanding any other provision of law—

(1) the total amount made available under this Act to carry out part A of title X of the Elementary and Secondary Education Act of 1965 shall be $39,500,000;

(2) the total amount made available under this Act to carry out part C of title X of the Elementary and Secondary Education Act of 1965 shall be $150,000,000; and

(3) the total amount made available under this Act to carry out subpart 1 of part A of title IV of the Elementary and Secondary Education Act of 1965 shall be $451,000,000, of which $111,275,000 shall be available on July 1, 2000.

Mrs. HUTCHISON. Mr. President, I offer a second-degree amendment to the Coverdell amendment, and I ask for its immediate consideration.

The PRESIDING OFFICER. Under the precedent of the Senate, the second-degree amendment would not be in order until the time for debate has been utilized or yielded back.

Mrs. HUTCHISON. I will reoffer at the appropriate time.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. COVERDELL. Mr. President, amendment No. 1837 increases funding for Reading Excellence by $25 million; it would increase charter school funding by $50 million, and increase Safe and Drug Free Schools by $25 million. The amendment is paid for by an offset of $100 million from the fund for the improvement of education which is currently funded at $139.5 million. I repeat, the amendment increases funding for Reading Excellence by $25 million, increases charter school funding by $50 million, and increases Safe and Drug Free Schools by $25 million.

Charter schools are offering some of the most promising educational reform today. Since 1991, 34 States and the District of Columbia have enacted charter school programs. This year, more than 1,700 charter schools will be serving 350,000 of our Nation's students. As most Members know, charter schools are public schools which have been set free from burdensome Federal, State, and local regulations. In place of the intrusive regulations, charter schools are held accountable for academic results by the consumers, parents, and students.

In the last 2 years, exciting studies have been released that provide data on the success of charter schools around the country. In May of 1997, the Department of Education released its first formal report on the study of charter schools. The findings include the two most common reasons for starting public charter schools: flexibility from bureaucratic laws and regulations, and the chance to realize an educational vision.

About 60 percent of public charter schools are new startups rather than public or private school conversions to charter status.

In most States, charter schools have a racial composition similar to statewide averages, or have a higher proportion of minority students. Charter schools enroll roughly the same proportion of low-income students, on average, as other public schools.

The Hudson Institute also undertook a study of charter schools entitled ''Charter Schools in Action.'' Their research team traveled to 14 States, visited 60 schools, and surveyed thousands of parents, teachers, and students.

Some of the study's key findings: Three-fifths of charter school students report that their charter school teachers are better than their previous school's teachers; over two-thirds of the parents say their charter schools are better than that child's previous school with respect to class size, school size, and individual attention; 90 percent of the teachers are satisfied with their charter school educational philosophy, size, fellow teachers, and students.

Among students who said they were failing at their previous school, more than half are now doing excellent or good work. These gains were dramatic for minority and low-income youngsters and were confirmed by their parents.

The Hudson Institute study found that charter schools are successfully serving students, parents, and teachers. Currently, there are national and State studies that demonstrate a positive ripple effect. The study on the impact of Michigan charter schools found that charter school competition has put pressure on traditional public schools to become more accountable. A similar study done on Massachusetts charter schools found that district schools have been adopting innovative practices that mirror charter school efforts. A study on Los Angeles charter schools shows that charter schools

have influenced district reform by heightening awareness and initiating dialog.

The implication of the success of charter schools is that successful public schools should be consumer oriented, diverse, results oriented, and professional places that also function as mediating institutions in their communities. Charter schools offer greater accountability, broader flexibility for classroom innovation, and ultimately more choice in public education.

Many in this Chamber are aware of my strong support of the opportunity for low-income parents to choose the best educational setting for their child, whether public or private. I believe this ability to choose the best educational environment for our children is something all parents should have, not just those parents who can afford the choice.

Another provision of this amendment deals with reading excellence. To get an idea of our children's future, one has only to look in the Sunday paper at all the high-tech firms looking for applicants. There is no more clear indicator of where our economy is headed. Without basic skills, many of our children will be shut out of the workforce—left behind. We have a literacy crisis in the Nation. More than 40 million Americans cannot read. Those who cannot learn to read are not only less likely to get a good job but they are also disproportionately represented in the ranks of the unemployed and homeless. Consider that 75 percent of unemployed adults, 33 percent of mothers on welfare, 85 percent of juveniles appearing in court, and 60 percent of prison inmates are illiterate.

The Federal Government spends more than $8 billion on programs to promote literacy, with little result. More than 40 million Americans cannot read a phone book, a menu, or the directions on a medicine bottle, and only 4 out of 10 third graders can read at grade level or above. That is why last fall we passed an important piece of legislation to address the serious problem of illiteracy in our country. This legislation, the Reading Excellence Act, seeks to turn around our Nation's alarmingly high illiteracy rates by focusing on training teachers to teach reading, increasing parental involvement, and sending more dollars to the classroom.

Mr. President, how much time is remaining?

The PRESIDING OFFICER. The Senator has 8 minutes 3 seconds.

Mr. COVERDELL. The legislation provide $210 million for research, teacher training, and individual grants for K–12 reading instruction and requires that funds for teacher training be spent on programs that are demonstrated by scientific research to be effective. It also authorizes grants to parents for tutorial assistance for their children. Most important, Reading Excellence ensures that 95 percent of the funds go to teaching children to read, not to administrative overhead. The Reading Excellence Act provides today's children with the tools they need to be successful in tomorrow's workforce. Helping to ensure every child can read is one of the best bills Congress can pass.

We also deal in this amendment with safety in schools. In 1996, students ages 12 through 18 were victims of about 225,000 incidents of nonfatal, serious, violent crimes at school and 671,000 incidents away from school. These numbers indicate that when students were away from school, they were more likely to be victims of nonfatal serious crimes including rape, sexual assault, robbery, and aggravated assault.

In 1996, 5 percent of all 12th graders reported they had been injured with a weapon such as a knife, gun, or club during the past 12 months while they were at school; that is, inside or outside the school building or on a school bus; and 12 percent reported they had been injured on purpose without a weapon while at school.

So I come back to the basic tenet of this legislation; that is, we are reinforcing, through the amendment, in a significant way, Federal assistance to charter schools, the Reading Excellence Act, and Safe and Drug Free Schools—$50 million more to charter schools, $25 million more to the Reading Excellence Act, and $25 million into Safe and Drug Free Schools.

Mr. President, I yield the floor and retain the remainder of my time.

The PRESIDING OFFICER. Who yields time?

The Senator from Rhode Island.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative assistant proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. SESSIONS). Without objection, it is so ordered.

Mr. REID. The minority yields back its time on this amendment.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. COVERDELL. The majority yields back its time on this amendment. I believe we have an agreement to accept it. I suggest this be dealt with by voice vote.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the amendment.

The amendment (No. 1837) was agreed to.

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

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

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative assistant proceeded to call the roll.

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

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

AMENDMENT NO. 1819

(Purpose: To increase funding for title II of the Higher Education Act of 1965)

Mr. KENNEDY. Mr. President, I welcome the opportunity to have the attention of the Senate on a measure which I think has compelling support of families across this country. I know we have a 45-minute time limitation. So we have 22½ minutes on our side.

I yield myself 5 minutes at the present time.

The PRESIDING OFFICER. The Senator would need to call up his amendment.

Mr. KENNEDY. I call up amendment No. 1819.

The PRESIDING OFFICER. The clerk will report.

The legislative assistant read as follows:

The Senator from Massachusetts [Mr. KENNEDY], for himself, Mr. REED, Mr. BINGAMAN, Mrs. MURRAY, Ms. MIKULSKI, Mr. DURBIN, Mr. LAUTENBERG, and Mr. KERRY, proposes an amendment numbered 1819.

Mr. KENNEDY. I ask unanimous consent reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 60, line 10, before the period, insert the following ": *Provided further*, That in addition to any other amounts appropriated under this heading an additional $223,000,000 is appropriated to carry out title II of the Higher Education Act of 1965, and a total of $300,000,000 shall be available to carry out such title, of which $300,000,000 shall become available in October 1, 2000".

Mr. KENNEDY. I yield myself 5 minutes.

Mr. President, if this amendment is accepted, it will provide some $300 million nationwide to improve the quality of teaching in the public schools of America. If we have had some important testimony over these past several years, it has been along these lines. Let's get along with having smaller class sizes in the various early years. Senator MURRAY, from the State of Washington, has made that case very clear. And the STAR report, that has focused in on the work of Tennessee, has also demonstrated that in a very compelling way.

The second area is afterschool programs. Our good friends, Senator BOXER from California, Senator DODD, and others, have spoken about the importance of afterschool programs for children in reducing violence and enhancing academic achievement and offering opportunities for business communities to work with children in these afterschool programs to offer career improvements.

There have been important needs which have been demonstrated for building additional kinds of facilities and improving the facilities that exist.

The General Accounting Office says that is in excess of over $100 billion. That amendment will follow on tomorrow. It is very important to make sure when every child goes to class in a public school system that the school is going to be in the kind of condition to which all of us want our children to go. If we do not do that, we send a very poor message to children. We say, effectively, it does not matter what that classroom looks like or what that classroom is really all about. That sends a powerful message to a child that perhaps education is not so important.

But when you consider that, and consider also the steps that have been taken in terms of improving technology in the classroom, improving the work that is being done in the areas of literacy, there is one important, outstanding additional issue which demands and cries out for attention in the Senate; and it is this: The American families want to have a well-qualified teacher in every classroom in America, period.

I think if you ask parents all across this country, at the end of the afternoon, where the greatest priority is—if you said, look, if we could have a well-qualified teacher in your child's classroom, I bet every family in America would put that just about at the top of their various lists.

Over the last 3 years, our Committee on Education has had extensive hearings on this issue. We made some recommendations in the last Congress on this issue. It had very strong bipartisan support on the issue of quality teaching. The approach that was taken in that legislation says: All right. We want to provide teacher enrichment for individuals who are already teachers.

We had ideas about mentoring with older teachers and working with professional teachers, but what we have not addressed in an adequate way is how we are going to recruit the kinds of teachers who would be the best teachers for our children and how we are going to train them in the most effective ways so they will be the very best.

This amendment, if it is accepted, amounts to $300 million. We have some $77 million in there now. The President had asked for $115 million to do it. But certainly the applications for this kind of training has far exceeded even the amounts we are talking about today.

This offers an opportunity to say to the young people of this country, and to those kinds of local partnerships—the effective State programs, the universities across this country in the States—that we are going to help and assist you in, as a top priority, recruiting the best teachers for the students in this country.

Finally, we have pointed out, in the education debate over the period of the past days, the need for new teachers. Some 2 million teachers over the next 10 years—200,000 a year—is what we need. We are only getting 100,000 at the present time. The Senate has rejected the excellent proposal of the Senator from Washington to increase the number of teachers in the early grades.

I yield myself 3 more minutes.

In fact, with the rejection of the Murray amendment, we are going to find in excess of 30,000 well-qualified, well-trained teachers who are working in grades K through 3 actually getting pink slips. It makes no sense at all. It makes no sense at all.

So it does seem to me that in an overall budget of $1.7 trillion—do we understand? $1.7 trillion—we ought to be able to have $300 million in the tried and tested way of recruiting teachers, additional teachers, who we know we are in short supply of; well-trained teachers, who we know we are in short supply of; and make them available to an expanding, growing population in our K through 12th grade system. We are increasing the number of students by 477,000 this year. So we are falling further and further behind.

This is a very simple, straightforward amendment. It is saying that of all of the priorities—and there are many—education is certainly among the very highest; and of all the priorities in the areas of education, getting good teachers, recruiting young and old people alike who will be good teachers, giving them the inspirational kind of training so they can go into the classroom, use the latest in technologies, adapt that to the kind of curricula to benefit the children of this country, should receive these additional funds.

Mr. President, I know there are others who want to speak on this issue. How much time remains on our side?

The PRESIDING OFFICER. Fifteen and one-half minutes.

Mr. KENNEDY. I yield 5 minutes to the Senator from Rhode Island, Mr. REED. I think all of us understand that he has made the issue of quality and highly trained teachers his issue in this body, as well his interest in providing pediatric specialists for all children. These are among the many other areas of public policy in which he has been actively engaged both on the Education Committee in the House of Representatives and here in the Senate. I certainly think all of us on the Health, Education, Labor and Pensions Committee in the Senate are very fortunate to have his insights about the importance of this amendment.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. I thank Senator KENNEDY for those kind words, and also for offering this very important amendment. I am a very proud cosponsor of this amendment with Senator KENNEDY.

Last Congress, on an overwhelming bipartisan vote the Senate passed the Teacher Quality Enhancement Grants program as part of the Higher Education Act Amendments of 1998. This was the first time we looked seriously at reforming the way our teachers are trained by enhancing the linkage between teacher colleges and elementary and secondary schools.

What we tried to emphasize is the connection between the teacher colleges and the real-life experiences of teachers in the classroom. The best way to enhance the quality of teaching in America is at the level of the entry teacher.

This is something the Kennedy-Reed amendment will provide more resources for. What we want to do is form a strong, vibrant, and vital link between the teacher colleges and the elementary and secondary schools. We want to ensure that teachers who leave teacher colleges are not just experts in theoretical and pedagogical subjects. We want them to be, first and foremost, experts on the subject matter that they teach, be it mathematics or science or any other subject. In addition, we want to ensure that they have extensive clinical experience.

The model to follow is our medical education system. No one would dream of certifying and licensing a physician after simply going to school and hearing lectures and then maybe having 2 or 3 weeks in a hospital. It is a long-term, extensive clinical education. That model is applicable also, I believe, to education.

In fact, what we have found from our hearings is a disconnect between what teaching students are learning in college and the reality of the teaching experience in the classroom. We want to eliminate that disconnect.

The Higher Education Act Amendments of 1998 sought to do just that by authorizing partnerships between teacher colleges and elementary and secondary schools. There are examples of partnerships that already existed and inspired us; examples such as Salve Regina University in my home State of Rhode Island, which has a partnership with the Sullivan School in Newport. It is exciting and challenging, not only to the young students in that school, but also to the prospective teachers who learn a great deal. In fact, at the heart of these partnerships is the attempt not only to change the culture of elementary and secondary schools but also to change the culture of teacher colleges.

Too often the teacher college in a great university is a poor cousin without a great endowment, neglected by other parts of the university. What we want to do is get the university involved in this great effort so that professors in the math, English, and history departments are also part of this great reawakening of teacher preparation at the university level. This cultural change at the college level, together with extensive clinical involvement with local elementary and secondary schools, I believe, is a fundamental way to enhance the quality of teachers.

The Kennedy-Reed amendment will provide more resources to do this very important and critical job that lies before us. We have gone through the first

round of grants with respect to the partnership grants. The Department of Education funded $33 million in the first round to 25 institutions of higher education and their elementary and secondary school partners. This is a first and important step, but we need to do more. That is precisely what this amendment proposes to do. It will appropriate additional resources so we can broaden dramatically these partnerships, as well as increase our investment in the state and recruitment grants also included in the Teacher Quality Enhancement Grants program.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. REED. I ask unanimous consent for an additional minute.

Mr. KENNEDY. One additional minute.

Mr. REED. I thank the Senator.

If we, in fact, pass this amendment, we will be able to fund up to 100 additional partnership, state, and recruitment grant proposals, thereby enabling this important innovation in teacher preparation to be accessible throughout our nation.

I am strongly supportive of this amendment. I think it is something that will allow us to make great progress. Once again, emphasizing a point made so well by Senator KENNEDY, if you look at public education, and if you search for the most powerful lever that we have to improve it, to reform it, and to continue it as an excellent system, teacher training is that lever.

This amendment will give us the power to move forward, dramatically and decisively to improve the quality of teaching in the United States. I strongly support it and commend the Senator from Massachusetts for his efforts.

I yield back to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, how much time remains?

The PRESIDING OFFICER. Nine and a half minutes.

Mr. KENNEDY. I yield 5 minutes to my colleague from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized for 5 minutes.

Mr. KERRY. I thank the Chair, and I particularly thank my senior colleague for this amendment, as well as for his extraordinary leadership on the subject of education. I think everyone here will agree there simply is no stronger voice for the quality of our schools and the opportunities for our children than my senior colleague.

The great battle in the Senate over the past years has been to establish standards by which we would raise the education level of our schools. The fact is, a few years ago we basically won that battle because now 49 States in the country have agreed to put standards in place or have them in place. Those standards vary. In some States they are stronger than they are in other States, but the great challenge now is fourfold.

One is to stay the course in putting the standards in place and raising the standards. The second is to guarantee that teachers can teach to the standards. The third is to guarantee that students have the opportunity to learn to the standards. That is not being dealt with specifically, though partly, in this amendment. The final one is accountability. All of this has to be accountable. We have learned that. You have to know that what you are trying to teach and what kids are learning are, in fact, being taught and learned.

What the Senator from Massachusetts, my senior colleague, and Senator REED and I and others are joining in is a recognition that we have an extraordinary challenge before us. I was going to use the word ''crisis,'' but I don't want to use it because it is overused. We have all heard the quotes about the number of teachers we need to hire in the next few years. We know maybe as many as 2 million teachers are needed, perhaps half of them in the next 5 years. We also know we are losing 30 to 40 percent of new teachers within the first 3 to 4 years. We know there are ways to make a difference in teachers staying at what is increasingly becoming one of the toughest jobs in America.

It is interesting that a survey, released about 4 months ago, showed what teachers have been telling us for some time. Our own teachers in this country acknowledge that they don't feel fully prepared for the modern classroom. By modern classroom, we mean a lot of different things. We mean the technology needed to teach. We mean some of the modern teaching methodologies, pedagogies. We also mean the nature of the student who comes to school today. That student comes burdened with a whole set of problems, unlike the students of the past. We also know that because of the multicultural, racial diversity of our Nation, we have teachers coping with different cultures, with a diversity that is absolutely extraordinary but also challenging.

The fact is that fully 80 percent of our teachers tell us they don't feel equipped to be able to do the job. They are crying out for help. That is what the Kennedy amendment delivers. It makes education programs accountable for preparing high-quality teachers, for improving prospective teachers' knowledge of academic content, through increased collaboration between the faculty and schools of education and the departments of arts and sciences, so we will ensure that teachers are well prepared for the realities of the classroom by providing very strong, hands-on classroom experience and by strengthening the links between the university and the K-through-12 school faculties.

We also need to prepare prospective teachers to use technology as a tool for teaching and learning. We need to prepare prospective teachers to work effectively with diverse students.

The truth is that we as Senators talk about the difficulties of teaching today in America. The fact is that it is one of the most difficult jobs in our Nation. It is extraordinary to me that the Senate, at this time of urgent need in the country, might not be prepared to make the most important investment in the country. It is extraordinary to me that kids just 2 or 3 years out of college can earn in a Christmas bonus more than teachers will earn in an entire year. It is impossible to attract some of the best kids out of our best colleges and universities because we are not willing to provide the mentoring, the ongoing education, the support systems, and the capacity to really fulfill the promise of teaching in the public school system.

So I hope our colleagues will support the notion that all we are trying to do is raise to the original requested level the spending for the teacher enhancement grants, with the knowledge that this is the most important investment we can make in America. Teachers need and deserve respect from the Senate and from those who create the structure within which they try to teach our kids so that they can, in fact, learn and we can do better as a country.

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

Mr. KENNEDY. Mr. President, I think I have 3 and a half minutes left. I yield myself 3 minutes.

On this chart behind me, we see that communities need more well-qualified teachers. Out of 366 total applications—and this is 1999—only 77 applications were funded. With this particular amendment accepted, we would still be below half of what was actually in the pipeline for this last year, let alone what would be in there for next year. There is enormous need.

Finally, I will quote from the chairman of our Education Committee, Senator JEFFORDS, who, in his representation to the Senate on the education bill, had this to say about this particular provision that is in the law—not about this amendment but about this provision:

> At its foundation, Title II embraces the notion that investing in the preparation of our Nation's teachers is a good one. Well-prepared teachers play a key role in making it possible for our students to achieve the standards required to assure both their own well-being and the ability of our country to compete internationally.
>
> . . .Title II demands excellence from our teacher preparation programs; encourages coordination; focuses on the need for academic content, knowledge, and strong teaching skills.
>
> . . .These efforts recognize the fundamental connection that exists among States, institutions of higher education, and efforts to improve education for our Nation's elementary and secondary school teachers.

This provision had the strongest bipartisan support in that education bill. We know what the need is. We know this is a very modest amendment. We know what a difference it will make in terms of the high school students of this country. I hope this amendment will be accepted.

Mr. President, I understand I have a minute left.

The PRESIDING OFFICER. The Senator has a minute and a half.

Mr. KENNEDY. I yield that time to the Senator from Rhode Island, Mr. REED, with whom I have enjoyed working, along with my colleague from Massachusetts, Senator KERRY.

Mr. REED. I thank Senator KENNEDY.

Let me emphasize one additional point that bears repeating. The classroom today is very different from those in the 1950s or 1960s—different because of technology; different because families are in much more distressed conditions in many parts of the country; different because of the various cultural factors that go into the makeup of many classes, particularly in urban America. In fact, we are still teaching in too many colleges as if it were the class of 1950, as if it were the time of ''My Three Sons'' and ''Leave It To Beaver.''

That is not what American education is today. What we have to do today—and this amendment will help immensely—is refocus our teacher training to confront the issues of today, such as multiculturalism, children with disabilities in the classroom, and technology. This is absolutely critical. Unless we enhance our commitment to this type of education—partnerships between schools of education and elementary and secondary schools, drawing on the resources of the whole university, focusing these resources on new technology and the challenges that are particular to this time in our history—we are not going to succeed in educating all of our children to the world-class standards that we all know have to be met.

I urge passage of this very important amendment.

Mr. SPECTER. Mr. President, there is no doubt about the importance of teacher quality enhancement. Teachers are the backbone of the educational system. There is no doubt about the importance of education. It is a truism that education is a priority second to none. The bill that has been presented on the floor by the distinguished ranking member, Senator HARKIN, and myself through subcommittee and full committee has recognized the importance of education in that we have increased education funding by $2.3 billion this year over last year's appropriation. It is now in excess of $35 billion on the Federal allocation. Bear in mind that the Federal Government funds only about 7 percent of education nationwide.

When we talk about teacher quality enhancement, this is a program which is a very new program. It was not on the books in fiscal year 1998. For the current year, fiscal year 1999, we have an appropriation in excess of $77 million. When we took a look at it this year, we provided a $3 million increase. This is a matter of trying to recognize what the priorities are.

The President had asked for $115 million, and we thought that in allocating funds on a great many lines—title I, Head Start, and many other very important education programs—the proper allocation was $80 million. Now, when the Senator from Massachusetts comes in and asks for an increase of some $220 million, he is requesting $185 million more than the President's request. It would be an ideal world if our funding were unlimited. But what we are looking at here—and we have had very extensive debate today on whether the budget is going to invade the Social Security trust fund. I think this Senator, like others, has determined that we do not invade the Social Security trust fund.

We had debated whether or not there ought to be a pro rata increase or a decrease, if we ran into the Social Security trust fund, to make sure we didn't use any of the Social Security moneys, or whether, as the Senator from New Jersey, Mr. LAUTENBERG, offered in an amendment, to have other targeted cuts. My view is that we have to structure this budget so we don't cut into the Social Security trust fund.

Senator STEVENS was in the well of the Senate earlier today, and I discussed the matter with him. We are trying to structure these 13 appropriations bills so we don't move into the Social Security trust fund. But if we make extensive additions, as this amendment would do, adding $220 million, as I say, which is $185 million more than the President's request, it is not going to be possible to avoid going into the Social Security trust fund.

We have already had very substantial increases in funding on this bill. We have a bill of $91.7 billion, which is as much as we thought the traffic would bear on the Republican side of the aisle, realizing that we have to go to conference with the House which has a lower figure, and realizing beyond that, that we have to get the President's signature. We have already had $1.3 billion added to the $91.7 billion for block grants. We have had $900 million added for day care. Now, if we look at another amendment for $220 million, it is going to inevitably at one point or another break the caps.

These are not straws that break the camel's back. These are heavy logs which will break the back, and it is not even a camel.

Much as I dislike opposing the amendment by the Senator from Massachusetts, I am constrained to do so in my capacity as manager of this bill.

In the course of the past week, I have voted against more amendments on funding for programs that I think are very important than I have in the preceding 19 years in the Senate. But that is the responsibility I have when I manage the bill—to take a look at the priorities, get the allocation from the Budget Committee, have a total allocation budget of $91.7 billion, and simply have to stay within that budget.

Mr. President, I inquire as to how much time is remaining on the 45 minute time agreement.

The PRESIDING OFFICER. Seven minutes.

Mr. SPECTER. How much does the Senator from Massachusetts have?

The PRESIDING OFFICER. His time has expired.

Mrs. MURRAY. Mr. President, teacher quality is one of the most critical factors influencing student achievement and success. I urge my colleagues to support the Kennedy amendment, which would increase Teacher Quality Enhancement grants from $80 million to the fully authorized level of $300 million.

I am a cosponsor of this amendment, along with Senator REED of Rhode Island and others, because I firmly believe that an investment in teacher quality is an investment in our children's future. We know all learners have the capacity for high achievement. We must increase our investment in teacher quality enhancement so every child in America is taught by the most qualified teacher available. We must invest in our teachers. We must help them reach the highest levels of competency, so they in turn can help their students reach the highest summits of achievement. As we work to bolster teacher quality, we must also focus our attention on reducing class size. Smaller classes have led to dramatic gains in student achievement. We must continue to reduce class size so highly qualified teachers can provide students more individualized attention. Reducing class size and increasing investment in teacher quality enhancement are key to ensuring academic success for all students.

Mr. SPECTER. Mr. President, we are prepared to move ahead with another amendment. We are going to evaluate our schedule. I suggest, just a moment or two, the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative assistant proceeded to call the roll.

Mr. SPECTER. 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. SPECTER. Mr. President, it is my understanding that the Senator from Rhode Island, Mr. REED, is prepared to offer an amendment, to speak to it for 10 minutes, and then withdraw it.

Mr. REED. That is correct.

Mr. SPECTER. I ask unanimous consent that the pending amendment be set aside.

Mr. KENNEDY. Mr. President, reserving the right to object, and I will not, is it appropriate to ask for the yeas and nays until the time has been yielded? I ask for the yeas and nays on my amendment. I ask for the yeas and nays on the previous amendment as well.

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

It is in order to ask for the yeas and nays. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. REID. Mr. President, reserving the right to object on the request for the amendment, I would happy to do that. I say to my friend from Pennsylvania that we want to use this fill time. Senator BINGAMAN will go next, may I inquire, on the next amendment offered?

Mr. SPECTER. I believe the next amendment would be on this side of the aisle.

Mr. REID. The next Democratic amendment would be Bingaman.

I thank the manager.

Mr. SPECTER. That is satisfactory.

I yield the remainder of my time on the Kennedy amendment.

I now ask unanimous consent to proceed with Senator REED under the stipulated terms of 10 minutes to offer an amendment and withdraw it.

I thank the Chair.

I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized for 10 minutes.

Mr. REED. Thank you, Mr. President.

AMENDMENT NO. 1866

(Purpose: To permit the expenditure of funds to complete certain reports concerning accidents that result in the death of minor employees engaged in farming operations)

Mr. REED. Mr. President, I ask that amendment No. 1866 be called up.

The PRESIDING OFFICER. The clerk will report.

The legislative assistant read as follows:

The Senator from Rhode Island [Mr. REED] proposes an amendment numbered 1866.

Mr. REED. 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:

In title I, under the heading ''OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION—SALARIES AND EXPENSES'', insert before the colon at the end of the second proviso the following: '', except that amounts appropriated to the Occupational Safety and Health Administration for fiscal year 2000 may be obligated or expended to conduct an investigation in response to an accident causing the death of an employee (who is under 18 years of age and who is employed by a person engaged in a farming operation that does not maintain a temporary labor camp and that employs 10 or fewer employees) and to issue a report concerning the causes of such an accident, so long as the Occupational and Safety and Health Administration does not impose a fine or take any other enforcement action as a result of such investigation or report''.

Mr. REED. Mr. President, this amendment is a result of a tragic accident in my home State of Rhode Island where a young worker on a farm was killed accidentally.

The police came immediately and determined that there was no foul play and concluded their investigation. But the parents were deeply concerned because no one could explain to them what happened.

As we looked into the matter for them, we discovered that for many years, because of a rider on this appropriations bill, OSHA has been prohibited from investigating deaths on farms that employ 10 or fewer workers.

If this terrible, tragic accident had taken place in a McDonald's, OSHA would be there. There would be an investigation. They would discover the cause. They would suggest remedies. They would do what most Americans expect should be done when an accident takes place in the workplace. But because of this small farm rider, OSHA is powerless to investigate.

I think it is wrong. I think it is wrong not only because these parents don't know what circumstances took the life of their child, but they also regret that it might happen again because there might be some type of systematic flaw or some type of problematic process on the farm that could also claim the life of another youngster.

Mr. SPECTER. Mr. President, will the Senator from Rhode Island yield for a moment on a managers' matter?

Mr. REED. I am happy to yield.

Mr. SPECTER. We are ready to proceed on the votes on the two amendments pending by the Senator from Massachusetts when Senator REED concludes. I thought perhaps we should notify the Members that the first vote will start at approximately 4:55.

I thank my colleague from Rhode Island for yielding.

I thank the Chair.

Mr. REED. Mr. President, let me continue.

My amendment would simply state that OSHA has the authority to conduct an inspection when a minor, someone under 18 years of age, is killed on a farm regardless of the size of the farm, but they would also be prevented from levying any type of fine or enforcement action. Their role would be very simple and very direct: Find the cause of the action; then, not with respect to that particular farm, not with respect to any particular sanction of penalty, generally, if they can learn something that would help protect the lives of others, they would incorporate that, of course, in their overall directions and regulations for farming and other activities.

These goals are very simple and straightforward: Identify the cause of the accident so that the employer knows what steps are needed to prevent similar deaths, and make that information available so that other farmers can take steps to avert similar tragedies.

This is not an academic or arcane issue because there are numerous youngsters working on farms. There are also in the United States about 500 work-related deaths reported each year. Moreover, although only 8 percent of all workers under the age of 18 are employed in agriculture, more than 40 percent of the work-related deaths among young people occur in the agricultural industry.

So this is an issue of importance.

Let me stress something else. This particular amendment would only apply if the individual youngster was, in fact, an employee of the farm. This would not affect a situation where a son or daughter are doing chores around the farm. This is a situation when someone is hired to work on the farm, and that person is involved in a fatal accident. I think it is only fair because I believe the parents in America, when they send their children into the workplace—be it a supermarket or McDonald's or a farm, large or small—expect their children will at least have the coverage of many of the safety laws we have in place; but failing that, at least we will have the power, the authority, the ability to determine what happened in the case of a fatal accident.

This proposal is not unique to the situation I found in Rhode Island. The National Research Council, an arm of the National Academy of Science, issued a report entitled ''Protecting Youth at Work,'' and among the recommendations:

To ensure the equal protection of children and adolescents from health and safety hazards in agriculture, Congress should take an examination of the effects and feasibility of extending all relevant Occupational Safety and Health Administration regulations to agricultural workers, including subjecting small farms to the same level of OSHA enforcement as that apply to other small businesses.

My proposal goes not to that great length, not to that extreme. It is much more constrained and limited. It simply says when there is a fatality involving an employee under 18 years of age on a farm—small or large—OSHA can conduct an inspection to determine the cause and perhaps propose remedial actions but cannot invoke any type of sanction or fine.

That is the height of reasonableness, given the experiences we have seen, given the report of the National Academy of Science, given all of these factors.

I believe this should be done. In fact, it is long overdue. It is simple justice, not only for the families of those youngsters who are fatally injured on these small farms, but also it will give us the impetus to save lives in the future.

Some have criticized this amendment as potentially imposing an undue burden on small farms. This is erroneous criticism. There is no burden here other than facing up to the facts and finding out what happened. Indeed, I believe knowledge is power; if we know what caused these accidents, we can prevent them and, even, I hope, make the operators of these farms more conscious of what they are doing, particularly as they employ youngsters.

This is an amendment I believe is important; it is critical. I offered a variation on this amendment in the Committee on Health, Education, Labor, and Pensions when we were considering

the SAFE Act. We had a vigorous debate but, I will admit, it met resistance.

I believe passionately we can do something and we must do something. I also recognize this process will not end today, that in the last few hours or moments of this debate it is unlikely this amendment will pass. I will, as I indicated to the Senator from Pennsylvania, withdraw the amendment. Such withdrawal does not signify retreat by me on this issue. I will continue to look for ways in which we can have investigations of fatalities on small farms, not because of any animus toward large or small farms but because when someone loses a child, I believe they deserve an answer. What happened? How did it happen? How can other children be spared from such a fatality?

In that spirit, I will continue to advance this issue and look for additional ways we can get an investigation. Again, the emphasis is not on being punitive; the emphasis is on being, first of all, fair to the family; and second, of being remedial so we can address problems that may be systematic and prevalent not just on the site of the particular fatality but endemic and systematic throughout the farming community.

AMENDMENT NO. 1866, WITHDRAWN

With that, I yield back my time, and I ask unanimous consent the amendment be withdrawn.

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

The amendment (No. 1866) was withdrawn.

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

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

VOTE ON AMENDMENT NO. 1819

Mr. SPECTER. Mr. President, a few minutes ago we gave notice to Members we would have a vote at 4:55 and it is now 4:57.

I move to table the Kennedy amendment on teacher enhancement, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to table amendment No. 1819. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Arizona (Mr. MCCAIN) is necessarily absent.

The result was announced—yeas 56, nays 43, as follows:

[Rollcall Vote No. 315 Leg.]

YEAS—56

Abraham	Feingold	McConnell
Allard	Fitzgerald	Murkowski
Ashcroft	Frist	Nickles
Bennett	Gorton	Roberts
Bond	Gramm	Roth
Brownback	Grams	Santorum
Bunning	Grassley	Sessions
Burns	Gregg	Shelby
Campbell	Hagel	Smith (NH)
Chafee	Hatch	Smith (OR)
Cochran	Helms	Snowe
Collins	Hutchinson	Specter
Conrad	Hutchison	Stevens
Coverdell	Inhofe	Thomas
Craig	Jeffords	Thompson
Crapo	Kyl	Thurmond
DeWine	Lott	Voinovich
Domenici	Lugar	Warner
Enzi	Mack	

NAYS—43

Akaka	Feinstein	Lincoln
Baucus	Graham	Mikulski
Bayh	Harkin	Moynihan
Biden	Hollings	Murray
Bingaman	Inouye	Reed
Boxer	Johnson	Reid
Breaux	Kennedy	Robb
Bryan	Kerrey	Rockefeller
Byrd	Kerry	Sarbanes
Cleland	Kohl	Schumer
Daschle	Landrieu	Torricelli
Dodd	Lautenberg	Wellstone
Dorgan	Leahy	Wyden
Durbin	Levin	
Edwards	Lieberman	

NOT VOTING—1

McCain

The motion was agreed to.

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

The motion to lay on the table was agreed to.

VOTE ON AMENDMENT NO. 2268

The PRESIDING OFFICER (Mr. CRAPO). The question is on agreeing to the Kennedy amendment No. 2268. The yeas and nays have been ordered. The clerk will call the roll.

Mr. NICKLES. I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the Kennedy Amendment No. 2268. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Arizona (Mr. MCCAIN) is necessarily absent.

The result was announced—yeas 50, nays 49, as follows:

YEAS—50

Abraham	Enzi	Kyl
Allard	Fitzgerald	Lott
Ashcroft	Frist	Lugar
Bennett	Gorton	Mack
Bond	Gramm	McConnell
Brownback	Grams	Murkowski
Bunning	Grassley	Nickles
Burns	Gregg	Roberts
Campbell	Hagel	Roth
Chafee	Hatch	Santorum
Cochran	Helms	Sessions
Coverdell	Hutchinson	Shelby
Craig	Hutchison	Smith (NH)
Crapo	Inhofe	Smith (OR)
Domenici	Jeffords	Stevens
Thomas	Thompson	Voinovich
	Thurmond	Warner

NAYS—49

Akaka	Edwards	Lincoln
Baucus	Feingold	Mikulski
Bayh	Feinstein	Moynihan
Biden	Graham	Murray
Bingaman	Harkin	Reed
Boxer	Hollings	Reid
Breaux	Inouye	Robb
Bryan	Johnson	Rockefeller
Byrd	Kennedy	Sarbanes
Cleland	Kerrey	Schumer
Collins	Kerry	Snowe
Conrad	Kohl	Specter
Daschle	Landrieu	Torricelli
DeWine	Lautenberg	Wellstone
Dodd	Leahy	Wyden
Dorgan	Levin	
Durbin	Lieberman	

NOT VOTING—1

McCain

The motion was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. LOTT. Mr. President, 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. SPECTER. 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. MCCAIN. Mr. President, I would have voted against the Nickles amendment because I could not endorse a plan to bust the budget caps, spend every dime of the non-Social Security surplus, and then use budget gimmicks to keep ourselves from dipping into the Social Security surplus.

The Congress has the power of the purse, and that power carries with it the obligation to spend the taxpayer dollars responsibly. Just because we have a surplus of tax dollars in the Treasury, that doesn't mean we should spend it.

In fact, when we passed a tax relief bill this summer, we made it clear that the surplus—the portion that does not come from Social Security payroll taxes—should be given back to the taxpayers, not spent on big government. That bill was vetoed, as expected, and the Congressional leadership and the Administration have given up on providing meaningful tax relief to American families this year. But now we are apparently planning to use this year's surplus—the surplus that we were going to give back to the people—for more government spending.

The Nickles amendment does seek to protect the Social Security surplus, and I applaud him for that effort. I have consistently supported a lockbox to keep Congress' hands off these retirement funds.

However, I oppose the Nickles amendment because it contemplates spending the $572 billion allowed under the budget caps, as well as the $14 billion in non-Social Security surplus

funds, and even billions of dollars more—and then indiscriminately cut every program across-the-board by whatever percentage amount is needed to keep us from dipping into Social Security.

This ludicrous plan demonstrates just how badly the Congress is addicted to pork-barrel spending. Why not just cut out the pork?

I have identified over $10 billion in wasteful, unnecessary, and low-priority spending in the appropriations bills that have passed the Senate this year. Last year, when all was said and done, Congress spent over $30 billion on pork, some of it disguised as emergency spending, but most of it everyday, garden-variety pork.

If we cut out every one of these pork-barrel spending projects—projects added by Members of Congress for their special interest supporters and parochial concerns—we wouldn't have to resort to budget gimmicks like creating a thirteenth month in the next fiscal year, or delaying payments to our neediest families, or resorting to a Congressional sequester.

I have published on my Senate website voluminous lists that include every earmark and set-aside added by Congress this year and for the previous two years. I urge my colleagues to look over these lists. Surely, these pork-barrel projects aren't as deserving of taxpayer funding as, say, funding for our children's education, veterans health care programs, getting our military personnel and their families off food stamps, and the many other national priorities that would be cut in an across-the-board sequester gimmick.

Mr. President, I also want to make the point that voluntarily returning to the indiscriminate sequestration process of Gramm–Rudman-Hollings—a process that was instituted as a last-ditch effort to rein in enormous annual deficits—is not responsible budgetary stewardship. It is an admission of defeat, an admission that the Congress cannot control its appetite for pork-barrel spending.

Regarding the Lautenberg amendment, I voted to table that amendment for two reasons. First, by its silence on the issue, the amendment implicitly endorses spending the $14 billion non-Social Security surplus in the appropriations process. Second, the amendment contemplates closing special interest tax loopholes, which I fully endorse, but for the purposes of raising more money to spend on more government. I believe any revenues raised by making our tax code fairer and less skewed toward special interests should be used to provide tax relief for American families.

I agree that we must not dip into the Social Security Trust Funds; that would merely exacerbate the impending insolvency of the system. But I cannot support a plan to use the non-Social Security surplus for anything other than shoring up Social Security and saving Medicare, paying down the $5.6 trillion national debt, and providing tax relief to lower- and middle-income Americans. Neither the Nickles or Lautenberg amendments protect the entire surplus from the greedy hands of government.

Mr. President, we have a budget process and we have spending caps to make sure we keep the budget balanced. We should ensure that appropriations stay within the caps. We should cut out the wasteful and unnecessary spending. And we should make sure that America's priorities are funded, not the priorities of the special interests.

ORDER OF BUSINESS

Mr. SPECTER. Mr. President, I ask unanimous consent that Senator ABRAHAM be recognized to offer his amendment, that immediately following the reporting by the clerk the bill be laid aside until 9:30 a.m. on Thursday, and at that time Senator ABRAHAM be recognized to make his opening statement on the amendment.

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

Mr. SPECTER. Mr. President, I have been authorized by the leader to say that in light of this last agreement there will be no further rollcall votes this evening.

The PRESIDING OFFICER. The Senator from Michigan.

AMENDMENT NO. 1828

(Purpose: To prohibit the use of funds for any program for the distribution of sterile needles or syringes for the hypodermic injection of any illegal drug)

Mr. ABRAHAM. Mr. President, I call up amendment No. 1828.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Michigan (Mr. ABRAHAM), for himself, Mr. COVERDELL, Mr. GRASSLEY, and Mr. ASHCROFT, proposes an amendment numbered 1828.

Mr. ABRAHAM. 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:

On page 80, strike lines 1 through 8, and insert the following:

SEC. . Notwithstanding any other provision of this Act, no funds appropriated under this Act shall be used to carry out any program of distributing sterile needles or syringes for the hypodermic injection of any illegal drug.

Mr. ABRAHAM. Mr. President, if I could, based on the prior agreement that was entered into, we will begin a fuller discussion of this issue tomorrow morning, and I will be here along with other Members who wish to speak on it.

In a nutshell, this amendment to the appropriations bill before us would prohibit the use of our Federal dollars for the purpose of engaging in needle exchange programs.

I simply wish to indicate that when we discuss this in the morning, I will lay out arguments in support of the amendment. I believe the arguments would strongly buttress the case that we should not use the taxpayer dollars for purposes of needle exchange programs.

I am sure there will be a spirited discussion of this in the morning. I look forward to it.

At this point, I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, is the parliamentary situation such that the Senator from Virginia can make a unanimous consent request on a matter not related to the bill?

The PRESIDING OFFICER. Yes.

COMPREHENSIVE TEST BAN TREATY

Mr. WARNER. Mr. President, I rise to address the issue of the Comprehensive Nuclear Test Ban Treaty and to apprise the Senate of information presented at hearings of the Armed Services Committee over the last two days. The committee today conducted the second of its series of three hearings this week on the CTBT.

Yesterday morning, the Armed Services Committee heard classified testimony from career professionals, technical experts with decades of experience, from the Department of Energy laboratories and the CIA. At that hearing, the committee received new information having to do with the Russian nuclear stockpile, our ability to verify compliance with the CTBT, as well as DOE lab assessments of the U.S. nuclear stockpile. Much of what the committee heard during that hearing was new information—information developed over the past 18 months—and therefore was not available to the Congress and the President when the CTBT was signed in 1996. Since 1997, when the intelligence community released its last estimate on our ability to monitor the CTBT, new information has led the intelligence community—on its own initiative—to conclude that a new, updated estimate is needed. I have been informed that this new estimate will be completed late this year or early next year.

This morning, the Armed Services Committee heard from the Secretary of Defense, William Cohen, and the Chairman of the Joint Chiefs of Staff, General Shelton. This afternoon, we heard from Dr. James Schlesinger, former Secretary of Defense and Energy and former Director of Central Intelligence, and General Shalikashvili, former Chairman of the JCS. Their testimony is available on the Committee's web page.

In today's hearing, I highlighted my serious concerns with the CTBT in three areas:

1. We will not be able to adequately and confidently verify compliance with the treaty.

2. CTBT will preclude the United States from taking needed measures to ensure the safety and reliability of our stockpile.

3. The administration has overstated the effectiveness of the CTBT in lessening proliferation.

Regarding the safety of the U.S. nuclear stockpile, today's witnesses highlighted the fact that only half of the nuclear weapons in the U.S. stockpile today have all the modern safety features that have been developed and should be included on these weapon systems. We will not be able to retrofit these safety features in our weapons in the absence of nuclear testing. These are weapons that are stored at various locations around the world; weapons that rest in missile tubes literally feet away from the bunks of our submarine crews; weapons that are regularly moved across roads and through airfields around the world.

Regarding the reliability of the U.S. nuclear stockpile, Secretary Cohen and General Shelton acknowledged that it could be ten years or more before we will know whether the Stockpile Stewardship Program—computer simulation tools—needed to replace nuclear testing will work. Secretary Schlesinger clarified that, if we substitute computer simulation for actual nuclear testing, the most we can hope for is that these computer tools will slow the decline—due to aging—in our confidence in the stockpile. Will we ever be able to replace nuclear testing?

Regarding proliferation, Secretary Schlesinger highlighted the fact that the diminishing confidence in our stockpile, which is inevitable if we were to ratify CTBT, may actually drive some non-nuclear countries to reconsider their need to develop nuclear weapons to compensate for the diminished credibility of the U.S. deterrent force. This declining confidence in the U.S. stockpile is a fact of science that has been progressing since the United States stopped nuclear testing in 1992. Our nuclear weapons are experiencing the natural consequences of aging. Dr. Schlesinger stated it clearly when he asked: ''Do we want a world that lacks confidence in the U.S. deterrent or not?''

Regarding verification, this morning Secretary Cohen confirmed that the United States will not be able to detect low yield nuclear testing which can be carried out in violation of the treaty. In addition, we exposed the fallacy of the administration's claim that CTBT will provide us with important on-site inspection rights. We would need to get the approval of 30 nations before we could conduct any on-site inspections. That will be very difficult, to say the least.

Although I believe all of our witnesses have conducted themselves very professionally, I heard nothing at either of our hearings that changes my view of the CTBT. I am deeply concerned that the administration is overselling the benefits of this treaty while downplaying its many adverse long-term consequences.

My bottom line is this: reasonable people can disagree on the impact of the CTBT for U.S. national security. As long as there is a reasonable doubt about whether the CTBT is in the U.S. national interest, then we should not ratify it.

Mr. President, tomorrow morning the Armed Services Committee will conduct the third of its CTBT hearings. We will hear from the DOE lab directors and others responsible for overseeing the stockpile. We will also hear from former officials and other technical experts with years of experience in developing, testing and maintaining our nuclear weapons.

I ask unanimous consent to have printed in the RECORD material presented at today's hearing, including a letter to me dated October 5, 1999, from former Chairman of the JCS, John W. Vessey, USA-Ret; a letter to the Senate leaders from six former Secretaries of Defense and a letter from other former Government officials.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

GARRISON, MN, *October 5, 1999.*

Hon. JOHN W. WARNER,
Chairman, Armed Services Committee,
United States Senate,
Washington, DC.

DEAR SENATOR WARNER: If the news reports are correct, the Armed Services Committee will be addressing the proposed Comprehensive Test Ban Treaty (CTBT) in the next few days. Although I will not be able to be in Washington during the hearings, I want you to have at least a synopsis of my views on the matter.

I believe that ratifying the treaty requiring a permanent zero-yield ban on all underground nuclear tests is not in the security interest of the United States.

From 1945 through the end of the Cold War, the United States was clearly the preeminent nuclear power in the world. During much of that time, the nuclear arsenal of the Soviet Union surpassed ours in numbers, but friends and allies, as well as potential enemies and other nations not necessarily friendly to the United States, all understood that we were the nation with the very modern, safe, secure, reliable, usable, nuclear deterrent force which provided the foundation for the security of our nation and for the security of our friends and allies, and much of the world. Periodic underground nuclear tests were an essential part of insuring that our nuclear deterrent force remained modern, safe, secure, reliable and usable. The general knowledge that the United States would do whatever was necessary to maintain that condition certainly reduced the proliferation of nuclear weapons during the period and added immeasurably to the security cooperation with our friends and allies.

Times have changed; the Soviet Union no longer exists; however, much of its nuclear arsenal remains in the hands of Russia. We have seen enormous political, economic, social and technological changes in the world since the end of the Cold War, and the these changes have altered the security situation and future security requirements for the United States. One thing has not changed. Nuclear weapons continue to be with us. I do not believe that God will permit us to ''uninvent'' nuclear weapons. Some nation, or power, will be the preeminent nuclear power in the world, and I, for one, believe that at least under present and foreseeable conditions, the world will be safer if that power is the United States of America. We jeopardize maintaining that condition by eschewing the development of new nuclear weapons and by ruling out testing if and when it is needed.

Supporters of the CTBT argue that it reduces the chances for nuclear proliferation. I applaud efforts to reduce the proliferation of nuclear weapons, but I do not believe that the test ban will reduce the ability of rogue states to acquire nuclear weapons in sufficient quantities to upset regional security in various parts of the world. ''Gun type'' nuclear weapons can be built with assurance they'll work without testing. The Indian and Pakistani ''tests'' apparently show that there is adequate knowledge available to build implosion type weapons with reasonable assurance that they will work. The Indian/Pakistan explosions have been called ''tests'', but I believe it be more accurate to call them ''demonstrations'', more for political purposes than for scientific testing.

Technological advances of recent years, particularly the great increase in computing power coupled with improvements in modeling and simulation have undoubtedly reduced greatly the need for active nuclear testing and probably the size of any needed tests. Some would argue that this should be support for the United States agreeing to ban testing. The new technological advantages are available to everyone, and they probably help the ''proliferator'' more than the United States.

We have embarked on a ''stockpile stewardship program'' designed to use science, other than nuclear testing, to ensure that the present weapons in our nuclear deterrent remain safe, secure, and reliable. The estimates I've seen are that we will spend about $5 billion each year on that program. Over twenty years, if the program is completely successful, we will have spent about $100 billion, and we will have replaced nearly every single part in each of those complex weapons. At the end of that period, about the best that we will be able to say is that we have a stockpile of ''restored'' weapons of at least thirty-year-old design that are probably safe and secure and whose reliability is the best we can make without testing. We will not be able to say that the stockpile is modern, nor will we be assured that it is usable in the sense of fitting the security situation we will face twenty years hence. To me that seems to foretell a situation of increasing vulnerability for use and our friends and allies to threats from those who will not be deterred by the Nonproliferation Treaty or the CTBT, and there will surely be such states.

If the United States is to remain the preeminent nuclear power, and maintain a modern safe secure, reliable, and usable nuclear deterrent force, I believe we need to continue to develop new nuclear weapons designed to incorporate the latest in technology and to meet the changing security situation in the world. Changes in the threat, changes in intelligence and targeting, and great improvements in delivery precision and accuracy make the weapons we designed thirty years ago less and less applicable to our current and projected security situation. The United States, the one nation most of the world looks to for securing peace in the world, should not deny itself the opportunity to test the bedrock building block of its security, its nuclear deterrent force, if conditions require testing.

To those who would see in my words advocacy for a nuclear buildup or advocacy for large numbers of high-yield nuclear tests, let me say that I believe we can have a modern, safe, secure, reliable and usable nuclear deterrent force at much lower numbers than we now maintain. I believe we can keep it modern and reliable with very few actual nuclear tests and that those tests can in all

likelihood be relatively low-yield tests. I also believe that the more demonstrably modern and usable is our nuclear deterrent force, the less likely are we to need to use it, but we must have modern weapons, and we ought not deny ourselves the opportunity to test if we deem it necessary.

Very respectfully yours,

JOHN W. VESSEY,
General, USA (Ret.), Former Chairman, Joint Chiefs of Staff.

Hon. TRENT LOTT,
Majority Leader,
U.S. Senate, Washington, DC.

Hon. TOM DASCHLE,
Democratic Leader,
U.S. Senate, Washington, DC.

DEAR SENATORS LOTT AND DASCHLE: As the Senate weighs whether to approve the Comprehensive Test Ban Treaty (CTBT), we believe Senators will be obliged to focus on one dominant, inescapable result were it to be ratified: over the decades ahead, confidence in the reliability of our nuclear weapons stockpile would inevitably decline, thereby reducing the credibility of America's nuclear deterrent. Unlike previous efforts at a CTBT, this Treaty is intended to be of unlimited duration, and though ''nuclear weapon test explosion'' is undefined in the Treaty, by America's unilateral declaration the accord is ''zero-yield,'' meaning that all nuclear tests, even of the lowest yield, are permanently prohibited.

The nuclear weapons in our nation's arsenal are sophisticated devices, whose thousands of components must function together with split-second timing and scant margin for error. A nuclear weapon contains radioactive material, which in itself decays, and also changes the properties of other materials within the weapon. Over time, the components of our weapons corrode and deteriorate, and we lack experience predicting the effects of such aging on the safety and reliability of the weapons. The shelf life of U.S. nuclear weapons was expected to be some 20 years. In the past, the constant process of replacement and testing of new designs gave some assurance that weapons in the arsenal would be both new and reliable. But under the CTBT, we would be vulnerable to the effects of aging because we could not test ''fixes'' of problems with existing warheads.

Remanufacturing components of existing weapons that have deteriorated also poses significant problems. Manufacturers go out of business, materials and production processes change, certain chemicals previously used in production are now forbidden under new environmental regulations, and so on. It is a certainty that new processes and materials—untested—will be used. Even more important, ultimately the nuclear ''pits'' will need to be replaced—and we will not be able to test those replacements. The upshot is that new defects may be introduced into the stockpile through remanufacture, and without testing we can never be certain that these replacement components will work as their predecessors did.

Another implication of a CTBT of unlimited duration is that over time we would gradually lose our pool of knowledgeable people with experience in nuclear weapons design and testing. Consider what would occur if the United States halted nuclear testing for 30 years. We would then be dependent on the judgment of personnel with no personal experience either in designing or testing nuclear weapons. In place of a learning curve, we would experience an extended unlearning curve.

Furthermore, major gaps exist in our scientific understanding of nuclear explosives. As President Bush noted in a report to Congress in January 1993, ''Of all U.S. nuclear weapons designs fielded since 1958, approximately one-third have required nuclear testing to resolve problems arising after deployment.'' We were discovering defects in our arsenal up until the moment when the current moratorium on U.S. testing was imposed in 1992. While we have uncovered similar defects since 1992, which in the past would have led to testing, in the absence of testing, we are not able to test whether the ''fixes'' indeed work.

Indeed, the history of maintaining complex military hardware without testing demonstrates the pitfalls of such an approach. Prior to World War II, the Navy's torpedoes had not been adequately tested because of insufficient funds. It took nearly two years of war before we fully solved the problems that caused our torpedoes to routinely pass harmlessly under the target or to fail to explode on contact. For example, at the Battle of Midway, the U.S. launched 47 torpedo aircraft, without damaging a single Japanese ship. If not for our dive bombers, the U.S. would have lost the crucial naval battle of the Pacific war.

The Department of Energy has structured a program of experiments and computer simulations called the Stockpile Stewardship Program, that it hopes will allow our weapons to be maintained without testing. This program, which will not be mature for at least 10 years, will improve our scientific understanding of nuclear weapons and would likely mitigate the decline in our confidence in the safety and reliability of our arsenal. We will never know whether we should trust Stockpile Stewardship if we cannot conduct nuclear tests to calibrate the unproven new techniques. Mitigation is, of course, not the same as prevention. Over the decades, the erosion of confidence inevitably would be substantial.

The decline in confidence in our nuclear deterrent is particularly troublesome in light of the unique geopolitical role of the United States. The U.S. has a far-reaching foreign policy agenda and our forces are stationed around the globe. In addition, we have pledged to hold a nuclear umbrella over our NATO allies and Japan Though we have abandoned chemical and biological weapons, we have threatened to retaliate with nuclear weapons to such an attack. In the Gulf War, such a threat was apparently sufficient to deter Iraq from using chemical weapons against American troops.

We also do not believe the CTBT will do much to prevent the spread of nuclear weapons. The motivation of rogue nations like North Korea and Iraq to acquire nuclear weapons will not be affected by whether the U.S. tests. Similarly, the possession of nuclear weapons by nations like India, Pakistan, and Israel depends on the security environment in their region, not by whether or not the U.S. tests. IF confidence in the U.S. nuclear deterrent were to decline, countries that have relied on our protection could well feel compelled to seek nuclear capabilities of their own. Thus, ironically, the CTBT might cause additional nations to seek nuclear weapons.

Finally, it is impossible to verify a ban that extends to very low yields. The likelihood of cheating is high. ''Trust but verify'' should remain our guide. Tests with yields below 1 kiloton can both go undetected and be military useful to the testing state. Furthermore, a significantly larger explosion can go undetected—or be mistaken for a conventional explosion used for mining or an earthquake—if the test is ''decoupled.'' Decoupling involves conducting the test in a large underground cavity and has been shown to dampen an explosion's seismic signature by a factor of up to 70. The U.S. demonstrated this capability in 1966 in two tests conducted in salt domes at Chilton, Mississippi.

We believe that these considerations render a permanent, zero-yield Comprehensive Test Ban Treaty incompatible with the Nation's international commitments and vital security interests and believe it does not deserve the Senate's advice and consent. Accordingly, we respectfully urge you and your colleagues to preserve the right of this nation to conduct nuclear tests necessary to the future viability of our nuclear deterrent by rejecting approval of the present CTBT.

Respectfully,

JAMES R. SCHLESINGER.
FRANK C. CARLUCCI.
DONALD H. RUMSFELD.
RICHARD B. CHENEY.
CASPAR W. WEINBERGER.
MELVIN R. LAIRD.

WASHINGTON, DC,
October 5, 1999.

Hon. TRENT LOTT,
Majority Leader,
U.S. Senate, Washington, DC.

Hon. THOMAS A. DASCHLE,
Minority Leader,
U.S. Senate, Washington, DC.

DEAR SENATORS LOTT AND DASCHLE: The Senate is beginning hearings on the Comprehensive Test Ban Treaty (''CTBT''), looking to an October 12 vote on whether or not to ratify. We believe, however, that it is not in the national interest to vote on the Treaty, at least during the life of the present Congress.

The simple fact is that the Treaty will not enter into force any time soon, whether or not the United States ratifies it during the 106th Congress. This means that few, if any, of the benefits envisaged by the Treaty's advocates could be realized by Senate ratification now. At the same time, there could be real costs and risks to a broad range of national security interests—including our nonproliferation objectives—if Senate acts prematurely.

Ratification of the CTBT by the U.S. now will not result in the Treaty coming into force this fall, as anticipated at its signing. Given its objectives, the Treaty wisely requires that each of 44 specific countries must sign and ratify the document before it enters into force. Only 23 of those countries have done so thus far. So the Treaty is not coming into force any time soon, whether or not the U.S. ratifies. The U.S. should take advantage of this situation to delay consideration of ratification, without prejudice to eventual action on the Treaty. This would provide the opportunity to learn more about such issues as movement on the ratification process, technical progress in the Department of Energy's Stockpile Stewardship Program, the political consequences of the India/Pakistan detonations, changing Russian doctrine toward greater reliance on nuclear weapons, and continued Chinese development of a nuclear arsenal.

Supporters of the CTBT claim that it will make a major contribution to limiting the spread of nuclear weapons. This cannot be true if key countries of proliferation concern do not agree to accede to the Treaty. To date, several of these countries, including India, Pakistan, North Korea, Iran, Iraq, and Syria, have not signed and ratified the Treaty. Many of these countries may never join the CTBT regime, and ratification by the United States, early or late, is unlikely to have any impact on their decisions in this regard. For example, no serious person should believe that rogue nations like Iran

or Iraq will give up their efforts to acquire nuclear weapons if only the United States signs the CTBT.

Our efforts to combat proliferation of weapons of mass destruction not only deserve but are receiving the highest national security priority. It is clear to any fair-minded observer that the United States has substantially reduced its reliance on nuclear weapons. The U.S. also has made or committed to dramatic reductions in the level of deployed nuclear forces. Nevertheless, for the foreseeable future, the United States must continue to rely on nuclear weapons to contribute to the deterrence of certain kinds of attacks on the United States, its friends, and allies. In addition, several countries depend on the U.S. nuclear deterrent for their security. A lack of confidence in that deterrent might itself result in the spread of nuclear weapons.

As a consequence, the United States must continue to ensure that its nuclear weapons remain safe, secure, and reliable. But the fact is that the scientific case simply has not been made that, over the long term, the United States can ensure the nuclear stockpile without nuclear testing. The United States is seeking to ensure the integrity of its nuclear deterrent through an ambitious effort called the Stockpile Stewardship Program. This program attempts to maintain adequate knowledge of nuclear weapons physics indirectly by computer modeling, simulation, and other experiments. We support this kind of scientific and analytic effort. But even with adequate funding—which is far from assured—the Stockpile Stewardship Program is not sufficiently mature to evaluate the extent to which it can be a suitable alternative to testing.

Given the absence of any pressing reason for early ratification, it is unwise to take actions now that constrain this or future Presidents' choices about how best to pursue our non-proliferation and other national security goals while maintaining the effectiveness and credibility of our nuclear deterrent. Accordingly, we urge you to reach an understanding with the President to suspend action on the CTBT, at least for the duration of the 106th Congress.

Sincerely,

BRENT SCOWCROFT.
HENRY A. KISSINGER.
JOHN DEUTCH.

MORNING BUSINESS

Mr. SPECTER. Mr. President, on behalf of the leader, I ask unanimous consent the Senate now proceed to a period of morning business with Senators permitted to speak for up to 5 minutes.

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

THE COMPREHENSIVE NUCLEAR TEST BAN TREATY

Mr. DORGAN. Mr. President, today I attended an event in the White House at which 31 nobel laureates, the Chairman of the Joint Chiefs of Staff, four previous chairmen of the Joint Chiefs of Staff, the Secretary of Defense, and the President, among many others, supported the ratification by the Senate of the Comprehensive Nuclear Test Ban Treaty.

The point was made in those presentations that this treaty is not about politics. It is not about political parties. It is about the issue of the proliferation or spread of nuclear weapons and whether the United States of America should ratify a treaty signed by the President and sent to the Senate over 700 days ago that calls for a ban on all further testing of nuclear weapons all around the world.

For some months, I have been coming to the floor of the Senate suggesting that after nearly 2 years we ought to be debating the question of whether this country should ratify the Comprehensive Nuclear Test Ban Treaty.

I have exhibited charts that have shown the Senate what has happened with respect to other treaties that have been sent to the Senate by various Presidents, how long it has taken for them to be considered, the conditions under which they were considered, and I have made the point that this treaty alone has languished for over 2 years without hearings and without discussion. Why? Because there are some in the Senate who oppose it and don't want it to be debated or voted upon.

There are small issues and big issues in the course of events in the Senate. We spent many hours over a period of days debating whether to change the name of Washington's National Airport. What a debate that was—whether to change the name of Washington National Airport. That was a small issue. It was proposed that former President Reagan's name be put on that airport. Some agreed, some disagreed. We had a vote, after a debate over a number of days. The naming of an airport, in my judgment, is a small issue.

An example of a big issue is whether we are going to do something as a country to stop the spread of nuclear weapons. Now a big issue comes to the floor of the Senate in the form of a request for ratification of a treaty called the Comprehensive Test Ban Treaty. It is not a new idea, not a new issue. It started with President Dwight Eisenhower believing we ought to exhibit the leadership to see if we could stop all the testing of nuclear weapons around the rest of the world. It has taken over 40 years. Actually, 7 years ago this country took unilateral action and said: We are going to stop testing. We, the United States, will no longer test nuclear weapons. So we took the lead, and we decided 7 years ago we would not any longer test nuclear weapons.

The treaty that is now before the Senate, that was negotiated with many other countries around the world in the last 5 years and sent to the Senate over 2 years ago, is a treaty that answers the question: Will other countries do what we have done? Will we be able to persuade other countries to decide not to test nuclear weapons?

Why is that important? Because no country that has nuclear weapons can acquire more advanced weaponry without testing. And no country that does not now have nuclear weapons can acquire nuclear weapons with any assurance they have nuclear weapons that work without testing. Prohibit testing, stop the testing of nuclear weapons, and you take a step in the direction of stopping the spread of nuclear weapons around this world.

We have some 30,000 nuclear weapons in the arsenals of Russia and the United States. We have other countries that possess nuclear weapons. We have still other countries that want to possess nuclear weapons. We have a world that is a dangerous world with respect to the potential spread of nuclear weapons. The question is, what shall we do about that? What kind of behavior, what kind of response in this country, is appropriate to deal with that question?

Some say the response is to ratify the Comprehensive Test Ban Treaty. I believe that. I believe that very strongly. Others say this treaty will weaken our country, that this treaty is not good for our country, this treaty will sacrifice our security. Nothing could be further from the truth. Nothing. Some say that—not all—have never supported any arms control agreements, never liked them. I understand that, despite the fact those people have been wrong.

Arms control agreements have worked. Actually, agreements that we have reached through the ratification of treaties have resulted in the reduction of nuclear warheads, the reduction of delivery vehicles. Some arms control treaties have worked. However, there are some who have not supported any of those treaties. I guess they are content to believe it is their job to oppose treaties. There are others who have supported previous treaties who somehow believe this treaty is inappropriate. Perhaps they read a newspaper article last week that said there are new appraisals or new assessments by the CIA that suggest it would be difficult for us to monitor low-level nuclear tests. That article was wrong. The article in the newspaper that said the CIA has a new assessment or a new report is wrong. The CIA has no new assessment. The CIA has no new reports. I have talked to the Director of the CIA. No such report and no such assessment exists.

Do we have difficulty detecting low-level nuclear explosions, very low-level nuclear explosions? The answer is yes. But then, the answer is also: Yes; so what? Will the ability to detect those kinds of small explosions—explosions which, by the way, don't give anyone any enhanced capability in nuclear power or nuclear weaponry—will we be able to better detect those and better monitor those if we pass this Comprehensive Test Ban Treaty? The answer to that is an unqualified yes.

I have a chart to demonstrate what I mean. This chart shows the current monitoring network by which we attempt to monitor where nuclear tests may have occurred in the world. This bottom chart shows current monitoring. The top chart shows monitoring

that will occur after we have a Comprehensive Test Ban Treaty in place. Is there anyone who can argue that having this enhanced monitoring in place will not enhance our capability of detecting nuclear weapons tests? Of course it will. That is why every senior military officer in this country who has been involved in this—from the Joint Chiefs to the Chairman of the Joint Chiefs to the other senior officers—have said passage of the Comprehensive Test Ban Treaty is good for this country and will not jeopardize this country's security. They know and we know it will enhance this country's ability to detect nuclear tests anywhere around the world.

It baffles me that on an issue this big and this important, we have people who seem to not want to understand and debate the facts. I mentioned I have been on the floor for some months pushing for consideration of this treaty. Probably partly as a result of that, probably partly as a result of a letter that all 45 Members of the Democratic caucus sent to the majority leader saying we think the Senate ought to consider this treaty, we ought to have hearings, about a week ago the majority leader abruptly decided, all right, we will consider this Comprehensive Test Ban Treaty; we will consider it by having a vote in a matter of 10 days or so.

We had held no hearings. This has not been a thoughtful process of consideration. We have not held comprehensive hearings; we have sparked no national debate. We will just go to a vote—as far as I am concerned, that is not a very responsible thing to do, but I won't object to that—go to a vote if that is what you want to do.

It is very interesting how those in this Chamber treat the light seriously and treat the serious lightly. If ever there was a case of treating serious issues lightly, it is this. We have a treaty dealing with the banning of nuclear testing in this world, negotiated and signed by 145 countries, languishing here for 2 years, and now in 10 days let's have a vote—and, by the way, we don't intend on having significant hearings.

The Senator from Virginia indicated he will have hearings. I applaud him for that. He is a thoughtful Senator, in my judgment; I respect him deeply. He disagrees with me on this issue. I have deep respect for him. I think it is appropriate there are hearings being held this week. I think they probably thought—some thought—you can't call this up for a vote without at least showing you will have some hearings. I am told the requests to have people testify at the hearings who support the Comprehensive Test Ban Treaty was not met with great success. Who knows; we will see the record of that, I suppose, toward the end of the week.

Let me show what our allies have done with respect to this treaty. We spent a lot of time on the floor of the Senate talking about NATO. We have been involved with NATO, in Kosovo and elsewhere. In fact, the Senate voted to expand NATO. NATO is an important security alliance. What have our NATO allies done with respect to this Comprehensive Test Ban Treaty? Most of them have already ratified it. Two of the NATO nuclear powers have ratified the treaty, England and France. NATO itself endorsed the treaty at the April 1999 conference. The United States has yet to ratify it. Some would say: Neither have China and Russia. Of course they are not NATO members. Neither have China nor Russia. That is true, they have not. They will, in my judgment, when this country ratifies it. They did when this country ratified the chemical weapons treaty.

My point is this: I think this country has a responsibility to provide leadership, moral leadership, on an issue this important. Are there questions that can be raised about this treaty? Yes. And every single one of them can be answered easily and decisively, every one. There is not a question that has been raised that casts a shred of doubt on what the outcome ought to be on the vote in this Senate on this treaty. If you believe this country has a responsibility to provide leadership to stop the spread of nuclear weapons and reduce the threat of nuclear war, then this Senate ought to ratify this treaty.

Perhaps it would be useful to quote President Kennedy who succeeded President Eisenhower. President Eisenhower, 40 years ago, said:

> One of greatest regrets of any administration of any time would be the failure to achieve a nuclear test ban treaty.

President Kennedy, following President Eisenhower's lead, said the following:

> A comprehensive test ban would place the nuclear powers in a position to deal more effectively with one of the greatest hazards man faces. It would increase our security. It would decrease the prospects of war. Surely this goal is sufficiently important to require steady pursuit, yielding neither to the temptation to give up the whole effort nor the temptation to give up our insistence on responsible safeguards.

President Johnson said:

> We shall demonstrate that, despite all his problems, quarrels and distractions, man still retains a capacity to design his fate rather than be engulfed by it. Failure to complete our work will be interpreted by our children and grandchildren as a betrayal of conscience in a world that needs all of its resources and talents to serve life, not death.

When Nikita Khrushchev, in discussions and dialog with President Kennedy, described nuclear war as ''a circumstance in which the living would envy the dead,'' that was almost 40 years ago, long, long ago, before we had arsenals of 30,000 nuclear weapons, some in airplanes, some on submarines, some on missiles, some in storage facilities, with many countries around the world wanting to achieve the opportunity to possess nuclear weapons.

We have very few opportunities to do work as important as will be done if the Senate ratifies this treaty. My expectation is that when we debate this treaty in the coming couple of days—the schedule is for a debate Friday and a debate the following Tuesday—at the culmination of 14 hours, we would discuss the advisability of the Senate ratifying this treaty. There will be a lot of discussion by those who believe it is ill advised and by those who believe it is imperative the Senate ratify this treaty.

Let me make a couple of other comments that might describe some of this debate. The debate will not be about the American people's interests. According to surveys, 82 percent of the American people support a comprehensive nuclear test ban—82 percent of the American people. The debate, in my judgment, will not be about espionage by the Chinese. Some have said the Chinese espionage allegations at National Laboratories actually weaken the case for a Comprehensive Nuclear Test Ban Treaty. In fact the Cox report, which was published earlier this year, pointed out that if China were a signatory to and were to adhere to the CTBT, its ability to modernize its nuclear arsenal would be significantly curtailed.

Let me put up the chart of the monitoring stations. After we ratify the treaty, let me ask if anyone in this Chamber could make the argument that we have less capability to monitor than we do now? No one can make that case. We will have more capability. And no one can make the case there is some new assessment or new report by the CIA that poses a danger, saying we can't detect tests of nuclear explosions. That is not accurate either. Despite the story in the newspaper, the CIA says there is no new assessment. The CIA says there is no new report.

Can we detect low-level explosions that have no consequence in the development of advanced weapons or the acquisition of nuclear weapons? The answer is no; we cannot detect those low-level explosions. And the response is, so what? So what? We could not 4 years ago; we cannot now. Have our abilities to detect been enhanced in the last few years? The answer is yes. But we will hear those charges nonetheless. I think it is important for people to understand the charges are without merit.

Today at the White House, 31 Nobel laureates were in attendance. These are those honored physicists and chemists who have won the highest awards, who have powerful intellects, the scientists who understand and evaluate these issues. One of those scientists who spoke today is Dr. Charles Townes. He is the man who invented radar during the Second World War for our airplanes, and the laser—a towering intellect. He spoke with passion about the need for this country to ratify the Comprehensive Nuclear Test Ban Treaty.

These scientists almost uniformly indicate they have no questions about our ability to detect explosions of consequence. They have no questions

about our ability to require compliance with this treaty and detect cheating. In the front row of that meeting at the White House today were the Joint Chiefs of Staff, General Shalikashvili, the former Chairman of the Joint Chiefs; General Shelton, the current Chairman of the Joint Chiefs; Gen. David Jones, a former Chairman of the Joint Chiefs; Admiral Crowe, former Chairman of the Joint Chiefs—all of them were there to support this treaty.

Why? Because it weakens this country? No; of course that's absurd. It does not weaken this country. They were there because they know it strengthens this country. They know, from a security standpoint and from a military standpoint, the ratification of this treaty strengthens this country.

I know I have heard about briefings that are held which suggest that there is information that is not available to the American people that suggests something different. It is not the case. It is just not the case. I am sorry. I respect those who disagree with me. They are welcome to come to the floor of the Senate, and will, and they will debate. I am sure they will be persuasive, in their own way. But I am telling you in my judgment, there is nothing, there is nothing that would persuade the last four Chairmen of the Joint Chiefs of Staff, including Gen. Colin Powell, to support the ratification of this test ban treaty if they felt this treaty would injure this country.

Does anyone in this Chamber believe that Gen. Colin Powell is advocating ratification of a treaty that will weaken this country? If so, come and tell us that. Or perhaps we will have people come and say Gen. Colin Powell doesn't understand. Or, if he understands, he is misinformed. I don't think so. Not General Powell, not General Shalikashvili, not General Jones, not Admiral Crowe, and not General Shelton. All of them come to the same conclusion: This treaty will strengthen our country. The ratification of this treaty will strengthen the security of this country. The ratification of this treaty will allow us to better monitor whether anyone cheats on a treaty that is designed to ban nuclear testing.

Again, there is room for disagreement, but in my judgment there is not room for the Senate to say to the world: We quit testing in 1992 unilaterally, and our position is we quit testing, but anyone else out there, our message is: You go ahead; we do not want to impose the same limitation on you; we have quit testing nuclear weapons, but we do not want to impose the limitation on you.

We have two countries that have nuclear capability: India and Pakistan. They do not like each other much, and they are neighbors. They share a contentious border. Earlier this year, they each exploded a nuclear weapon literally under each other's chin. That should provide a sober warning to the rest of this world that we need to stop nuclear testing and need a ban on nuclear testing, especially to the Senate, a senate in a country that possesses the best capability of leadership in the entire world on this issue. The proliferation of nuclear weapons and the willingness to use them, the willingness to test them, is a very serious issue. It is a big issue, and this Senate has a responsibility to address it.

It would be unthinkable for me to see this Senate proceed in the manner it now appears to be proceeding, and that is to take an issue this important and to blithely say: All right, it's been here 2 years; we have not cared much about it, and a week from Tuesday, we will bring it up and kill it because we do not believe in arms control; if you don't like that, that's tough luck.

That is not a responsible way to legislate. I did not object to bringing it up on Tuesday. There was a unanimous consent request. I did not object to it. If that is the only way to get a vote, as far as I am concerned, so be it. But it is not a responsible way to legislate. All of us know better than that. We know better on issues this important that the way to legislate is to take a treaty that has been signed by 154 countries, and have a series of hearings. We should have men and women across this country weigh in on this issue, have a robust, aggressive, thoughtful, interesting, exciting debate, and then the Senate should vote. That is not what has happened here. We know that.

Two years have passed, and this treaty has been in prison. This treaty has not seen the light of day. I know we had a Senator saying that is not true, there have been hearings. Senator BIDEN came to the floor to refute that. There have been no hearings. This week, there have been a couple of hearings. The Senator from Virginia just talked about hearings. He is a man for whom I have great respect. I only regret he is on the other side of this issue.

Everyone in this Chamber knows better than to proceed with this issue in this manner. This has great consequences all around the world. This country has a responsibility all around the world. Everybody in this Chamber knows better. That is not the way you handle a treaty of this importance, by standing up and saying: If you want a treaty, then let's do it in 10 days, and if you don't like it, tough luck.

If that is the only opportunity presented to the Senate to decide we are going to lead the world in arms control and say to the rest of the world we have quit testing nuclear weapons and we want you to as well, we are going to ratify the treaty, that is fine.

If there are those who stand up and say: We do not support a ban on nuclear testing; in fact, we ought to test more; we do not want to send a signal to India and Pakistan not to test; we do not want to send a message to Russia and China to ratify the pact, they can say that. That is the democratic way. But they will not say it with my vote. It is the wrong direction for this country. It is not leadership. It is an abdication of leadership, in my judgment. I hope in the coming days we will find a way to see if we cannot have a more thoughtful approach to this country doing what it ought to do.

I want to conclude with one additional chart that has some quotes which I think are important. This is the Joint Chiefs of Staff Annual Posture Statement 1999, responding to the question raised by those in the Senate who say the Comprehensive Test Ban Treaty will injure this country's preparedness and security. Nonsense. It says:

> In a very real sense, one of the best ways to protect our troops and our interests is to promote arms control. . . . In both the conventional and nuclear realms, arms control can reduce the chances of conflict. . . . Our efforts to reduce the numbers of nuclear weapons coincide with efforts to control testing of nuclear weapons . . . and the Joint Chiefs support ratification of this treaty.

I want to hear in this debate from those who believe that the Joint Chiefs of Staff, heading the military services in our country, have somehow concluded they want to support something that injures this country's defense. It is preposterous. The Joint Chiefs of Staff support this because they understand it will enhance this country's defense; it will make this country and this world more secure.

Gen. Colin Powell, General Shalikashvili, Adm. William Crowe, and Gen. David Jones said the following:

> We support Senate approval of the Comprehensive Test Ban Treaty together with six safeguards under which the President will be prepared to conduct necessary testing if the safety and reliability of our nuclear deterrent could no longer be verified.

This treaty has safeguards. Gen. Colin Powell says he supports this treaty. It will not injure this country's security or preparedness. I do not think we have to go further on the floor of the Senate. We can have folks come over here and raise their fists, get red in the face, the veins in their necks can bulge, they can hyperventilate, and they can speak loudly about their vision of what this might or might not do with respect to this country's military preparedness. But when they are done, I will ask them to go visit with Colin Powell, I will ask them to visit with General Shelton or the Joint Chiefs of Staff and try to reconcile the position the military leaders in this country have taken with respect to this treaty to the allegations made without a good basis on the floor of the Senate about this treaty.

We are given 14 hours, starting Friday and continuing Tuesday, to debate the Comprehensive Test Ban Treaty. If that is the procedure for debate that exists at the end of this week, then I will be here, and I intend to speak at some length, as will my colleagues, Senator BIDEN and many others, who feel strongly about this.

I look forward to engaging in this debate. I know there are some who are concerned, upset, and nervous about heading toward a vote that looks as if we probably will lose. But I say this: At least we are on the right subject for a change. At least we are talking about the right issue for a change. If talking about the Comprehensive Test Ban Treaty takes goading the majority into saying to us: We are going to give you 10 days with no hearings, essentially, and then we are going to force you to vote and defeat this treaty because that is what we want to tell the world about our position on nuclear weapons and arms control, that is fine with me because we are talking about the right subject.

If we do not ratify this treaty now, we will ratify it next year, and if we do not ratify it next year, then we will ratify it the year after. Because at some point, when 82 percent of the American people want arms control to reduce the spread of nuclear weapons through the ratification of this treaty, and when the Joint Chiefs of Staff say it will not injure the security of this country, at some point the American people will say: We want to have our way on this issue, and we will impress our way on this issue by having the Senate come to this Chamber and vote for ratification. If not now, later. But at some point, the American people will demand this country provide leadership in reducing the threat of nuclear war and reducing the spread of nuclear weapons.

The Senator from Virginia, Mr. WARNER, is on the floor. I mentioned a couple of times—I did not mention his name—but I referred to him as ''the Senator from Virginia.''

I say to Senator WARNER, I mentioned—when I think you were not on the floor—one of my great regrets is that you are not with us on this issue because I have great respect for you and your abilities. I also appreciate the fact that some hearings are being held this week.

But I confess, as I have said, I think this is not a good, thoughtful way to deal with something this important. I am not talking about the Senator's hearings. I am talking about, after 2 years of virtually no activity, saying: All right. Ten days from now we're going to have a vote. In the meantime, we'll cobble together a couple hearings and then figure how we get there, and vote the treaty down, and tell the world that is our judgment.

I do not think that is a good way to do it. I think that is treating the serious too lightly. I do not think it is the best we can do. The better way for us to have done this, in my judgment, is to have decided we would hold a comprehensive set of hearings over a rather lengthy period of time, develop a national discussion about the import and consequence of a treaty of this type, and then have the Senate consider it. That is not what is being done.

If we vote next Tuesday, I am here and I am ready. I am ready Friday and Tuesday to debate it. But I very much wish this had been dealt with in a much more responsible way. By that comment, I do not mean to suggest the Senator from Virginia is in any way involved in that. I, again, appreciate the fact that he is holding some hearings this week, hearing from people who are weighing in on both sides of this issue.

Mr. President, I yield the floor.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. I simply say to my good friend and colleague that I addressed many of the issues he has addressed in the last few minutes in a press conference today that I think covers the work of the Armed Services Committee.

We are trying to do a very thorough job. We have had 10 hours of hearings in the last 48 hours. We will go into lengthy hearings again tomorrow morning.

I thank my friend for his views.

HIGH DENSITY RULE

Mr. MCCAIN. Mr. President, although I have serious reservations with respect to one or two provisions, I rise in support of the amendment by Senators GORTON and ROCKEFELLER to replace the slot-related provisions in the bill.

It won't surprise anyone to hear that my reservations primarily concern Reagan National. It is deeply regrettable that the amendment takes a step backward in terms of competitive access to Reagan National. The Commerce Committee overwhelmingly approved providing 48 slot exemptions for more service. This amendment will cut that number in half. I understand that this bill may not have come to the floor if this compromise had not been made, but I certainly am not happy about it. Nevertheless, some additional access is better than none at all.

The most frustrating aspect of this compromise is that the continued existence of slot and perimeter restrictions at Reagan National flies in the face of every independent analysis of the situation. To support my position, I can quote at length from reports by the General Accounting Office (GAO), the National Research Council, and others, all of which conclude that slots and perimeter rules are anticompetitive, unfair, unneeded, and harmful to consumers. Despite the voluminous support for the fact that these restrictions are bad public policy, we allow them to continue.

Reagan National should not receive special treatment just because it is located inside the Beltway. This amendment will already lead to the eventual elimination of the high density rule at O'Hare, Kennedy, and LaGuardia. If we believe it is good policy at those airports, why is it not the same for Reagan National? Arguments that opening up the airport to more service and competition will harm safety, exceed capacity, or adversely affect other airports in the region are without merit. The GAO recently concluded that the proposals in the committee-reported bill are well within capacity limits and would not significantly impact nearby airports. In addition, the DOT believes that increased flights would not be a safety risk.

With any luck, the wisdom and benefits of increasing airline competition will eventually win out over narrow parochial interests. It saddens me to say that it will not happen today. Another opportunity to do the right thing by the traveling public is being missed.

But my concerns about the Reagan National provisions do not in any way diminish my enthusiastic support for the other competition enhancing provisions in the bill. Eliminating the slot controls at the other restricted airports is a remarkable win for the principle of competition and for consumers. As GAO and others have repeatedly found, more competition leads to lower fares and better service. And in the interim, new entrants and small communities will benefit from enhanced access, which is more good news.

I want to make our intent clear with respect to the provisions that govern the time period before the slot restrictions are lifted. We are providing additional access for new service to small communities and for new entrants and limited incumbent airlines. Because these airports are already dominated by the major airlines, which jealously hold on to slots to keep competitors out, we intentionally limited their ability to take advantage of the new opportunities.

The amendment directs that Secretary of Transportation to treat commuter affiliates of the major airlines the same, for purposes of applying for slot exemptions and for gaining interim access to O'Hare. Let me be perfectly clear about what this provision means. It means the Secretary should consider commuter affiliates as new entrants or limited incumbents for purposes of applying for slot exemptions and interim access to O'Hare. A major airline should not be allowed to game the system and add to its hundreds of daily slots through its commuter affiliates and codeshare partners. Genuine new entrants and limited incumbents are startup airlines that cannot get competitive access to the high density markets.

Many provisions in this amendment are just as that Senate approved them in last year's bill, so I will forgo a discussion of the various studies and other requirements that ensure people residing around these airports have their concerns addressed. Suffice it to say that the FAA and DOT will be very busy monitoring conditions in and around the four affected airports over the next few years. If these provisions begin having seriously adverse impacts, which I do not anticipate, we will certainly know about them.

The benefits of airline deregulation have been proven time and again in

study after study. But the job that Congress started 20 years ago is incomplete. We still retain outdated controls over the market. Even worse, these controls work to the benefit of entrenched interests and to the detriment of consumers and competition. The sooner the Federal Government stops playing favorites in the industry the better off air travelers will be. The majority of provisions in this bill will get us closer to the goal of completing deregulation.

I urge my colleagues to support the Gorton amendment and vote against any second degree amendment that might weaken its move toward a truly deregulated aviation system.

GORTON-ROCKEFELLER AMENDMENT TO S. 82, THE AIR TRANSPORTATION IMPROVEMENT ACT

Mr. HATCH. Mr. President, I appreciate that the Senate has finally acted on S. 82 to reauthorize the FAA and to deal with some of our Nation's air transportation issues.

In particular, I am pleased that the amendment offered by the Senator from Washington and the Senator from West Virginia was adopted to allow exemptions to the current perimeter rule at Ronald Reagan Washington National Airport. I recognize that this is a serious matter affecting a number of cities and high-profile airports, and I commend my colleagues who worked long and hard to develop this amendment.

While I would have preferred that the final bill include the 48 exemptions contained in S. 82 as it was reported by the Commerce Committee, I recognize that reducing this number to 24 reflects a reasonable compromise. I believe the amendment proposed by Senators GORTON and ROCKEFELLER achieves the central objective, which was to maintain the current level of safety while improving air service for the flying public—which is now almost everyone at one time or another. The compromise also assiduously avoids adversely affecting the quality of life for those living within the perimeter.

Today, my constituents in Utah and in other western communities must double or even triple connect to fly into Washington, DC. The Gorton/Rockefeller amendment goes a long way to addressing this inconvenient and time-consuming process and to ensuring that passengers in Utah and the Intermountain West have expanded options.

I believe that use of this limited exemption should be to improve access throughout the west and not limit the benefits to cities which already enjoy a number of options.

Therefore, when considering applications for these slots, I think it is important for the U.S. Department of Transportation to consider carefully these factors and award opportunities to western hubs, such as the one in Salt Lake City, which connects the largest number of cities to the national transportation network. I want U.S. DOT officials to know that I will be carefully monitoring the implementation of the perimeter slot exemption.

I look forward to working with Transportation Department officials as well as my colleagues in the Senate to ensure that the traveling public has the greatest number of options available to them. I thank the chair.

CABIN AIR QUALITY

Mrs. FEINSTEIN. Mr. President, I rise to draw attention to a problem my colleagues on both sides of the aisle have no doubt encountered—poor air quality on commercial airline flights.

Cabin environmental issues have been a part of air travel since the inception of commercial aircraft almost 70 years ago. However, with the exception of the ban on smoking on domestic flights in 1990, no major changes have occurred to improve the quality of air on commercial flights.

Commercial airplanes operate in an environment hostile to human life. According to Boeing, the conditions existing outside an airplane cabin at modern cruise altitudes off 35,000 feet, are no more survivable by humans than those conditions that would be encountered outside a submarine at extreme ocean depths.

To make air travel more conducive to passengers and flight crews, airplanes are equipped with advanced Environmental Control Systems. While these systems are designed to control cabin pressurization, ventilation and temperature control, they have not diminished the number of health complaints reported by travelers.

It should come as no surprise to my colleagues that the most common complaints from passengers and flight crew are headaches, dizziness, irritable eyes and noses, and exposure to cold and flu. With the amount we travel, I would not be surprised to learn some of my friends in the Senate have suffered some of these symptoms themselves. But complaints of illness do not stop there. Some passengers complaints are as serious as chest pains or nervous system disorders. This is a serious consideration and should be addressed.

Airlines say the most common complaints are a result of the reduction in humidity at high altitudes, or of individuals sitting in close proximity to one another. Airlines even say the air on a plane is better than the air in the terminal. But the airplane cabin is a unique, highly stressful environment. It's low in humidity, pressurized up to a cabin altitude of 8,000 feet above sea level and subject to continuous noise, vibration and accelerations in multiple directions. Air in the airplane cabin is not comparable with air in the airport terminal. It's apples and oranges.

The American Society of Heating, Refrigerating and Air-Conditioning Engineers—or ASHRAE—recently released standards it found suitable for human comfort in a residential or office building. ASHRAE determined that environmental parameters such as air temperature and relative humidity—and nonenvironmental parameters such as clothing insulation and metabolism—all factored in to create a comfortable environment. Airlines immediately chimed in, saying average cabin temperatures and air factors fell within the ASHRAE guidelines for comfort.

But once again, the air in an airplane cabin is not comparable to air in an office building. The volume, air distribution system, air density, relative humidity, occupant density, and unique installations such as lavatories, galleys all make for a unique condition. The ASHRAE guidelines simply do not translate to the airplane cabin.

It is high time we make a concerted effort to study the air quality on our commercial flights and make some changes. Studies done by the airlines are simply not thorough enough. My amendment directs the Secretary of Transportation—in conjunction with the National Academy of Sciences—to conduct a study of the air on our flights. After completion of the 1-year study, the results will be reported to Congress. It is my sincere hope this will be a step toward more comfortable travel conditions for everyone.

I thank the Chair.

JUDICIAL NOMINATIONS

Mr. BUNNING. Mr. President, I voted yesterday to oppose the nominations of Ronnie White to serve as District Court Judge for the Eastern District of Missouri, and Raymond C. Fisher to sit on the Ninth U.S. Circuit Court of Appeals.

As a newly elected member of the Senate, I am acutely aware of our obligation to confirm judges to sit on the Federal courts who will enforce the law without fear or favor.

But, after carefully considering Judge White's record, I am compelled to vote ''no.'' I believe that he has evidenced bias against the death penalty from his seat on the Missouri Supreme Court, even though it is the law in that State. He has voted against the death penalty more than any other judge on that panel, and I am afraid that he would use a lifetime appointment to the Federal bench to push the law in a procriminal direction rather than deferring interpreting the law as written and adhering to the legislative will of the people.

Although Judge Fisher has been recognized as ''thoughtful liberal,'' I cannot in good conscience vote to appoint him to serve a lifetime appointment to the Ninth Circuit Court. Over the last decade, the Ninth Circuit has been a fertile breeding ground for liberal judges to advance their activist agenda—a fact evidenced by the Supreme Court's consistent reversal of cases referred to them from the Ninth Circuit—and I am afraid that Judge Fisher would continue this disturbing

trend. Probably more than any other circuit in the America, the views of the Ninth Circuit are unquestionably out of alignment with mainstream America, and I believe the panel badly needs a sense of judicial balance. I do not believe that Judge Fisher would have helped to provide that balance.

AMERICA'S HEALTH CARE

Mr. GRAMM. Mr. President, I wish to bring to the attention of my colleagues one of the most insightful articles that I have read in regard to the most effective way to promote health care and patient's rights.

Written by Mr. M. Anthony Burns of Ryder System Inc., the comments appear on the op-ed page of yesterday's Washington Post. Mr. Burns speaks as the CEO of a company which provides health care benefits for 80,000 employees and family members. At a time when courage appears to be in short supply, it is refreshing to find a person who is able and willing to publicly examine a complex issue in such a lucid, thoughtful manner.

I encourage all my colleagues to read and consider carefully the analysis offered by Mr. Burns. I ask unanimous consent that the article be printed in the RECORD.

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

[From the Washington Post, Oct. 5, 1999]

AN ASSAULT ON AMERICA'S HEALTH CARE

(By M. Anthony Burns)

As the CEO of a $5 billion transportation company, when I need legal advice, I listen to the experts. Congress should do the same when it considers the Dingell-Norwood ''Patients' Bill of Rights,'' which would allow patients to sue their HMOs but would also make employers liable in state court for the health care benefits they provide.

The sponsors claim their legislation includes an exemption to shield employers from liability, but Reps. John Dingell and Charlie Norwood are just dead wrong on that. A new study prepared by independent legal experts shows this so-called employers' ''shield'' is nothing more than a legal mirage that provides only the illusion of protection. In reality, very few companies could withstand the lawsuit exposure this bill would impose on every business in America.

David Kenty and Frank Sabatino, experts in employee benefits law and co-authors of the publication ''ERISA: A Comprehensive Guide,'' found that under the Dingell-Norwood bill ''employers would be subject to state law causes of action replete with jury trials, extra-contractual damages, and punitive damages.'' This would ''dramatically change the way that group health benefits claims are litigated in the United States,'' conclude the authors. ''Anyone who claims the contrary is simply failing to comprehend the thrust of the legislation.''

Trial lawyers could initiate lawsuits against employers based on a number of legal arguments, according to Kenty and Sabatino.

First, plaintiffs could argue that insurance companies or third-party administrators are merely the agents of the employer and therefore—shield language notwithstanding—the employer is also responsible.

Second, a lawyer could argue that by selecting one health care provider over another, the employer's discretionary decisions played an integral part in a particular employee/patient outcome.

Third, most employers commonly retain the right to override the decisions of their health care provider or fiduciary to enable them to serve as patient advocates for their employees. The Dingell-Norwood bill would turn that relationship on its ear, forcing most companies to abandon their advocacy role altogether.

Supporters of the lawsuit provisions scoff at the notion that trial attorneys would abuse the health care system or employers who provide insurance. Tell that to the West Virginia convenience store that got hit with a $3 million judgment when one of its workers injured her back opening a pickle jar.

The likely epidemic of litigation this kind of legislation would generate creates an impossible choice for employers. They can continue to provide health care coverage and risk financial disaster if they find themselves on the losing end of a health care lawsuit, whether they had anything to do with treatment decisions or not. Or they can stop providing health care altogether.

In fact, according to a recent survey of small business owners, six out of 10 reported they would be forced to end employee coverage rather than face this risk. Today my company, Ryder, provides top quality health care benefits to 22,000 employees covering more than 80,000 people. We monitor employee satisfaction with our health care providers, and we act as a strong advocate for employees in disputes with these providers.

But if Dingell-Norwood passes, we will be forced to seriously reevaluate whether and how we can continue to offer health benefits to our employees. As with most businesses today, the exposure could simply be too severe for us. It would put our traditional employer-provided system of health care at extreme risk.

Add rising health care costs to this new threat of expensive litigation and it's clear that this legislation is a prescription for disaster. Last year healath care costs went up 6 percent and the average employer spent $4,000 per employee on health care. This year, health care costs are expected to go up an average 9 percent, and potentially much higher for small businesses.

As a result, it will be harder for employers to offer health insurance and, as some costs are passed on, harder for workers to afford it. Research shows that every one percent increase in costs forces 300,000 more people to lose their health care coverage.

A lot of people agree that ''right-to-sue'' provisions don't make sense for either employers or employees. The U.S. Senate, 25 state legislatures and President Clinton's own hand-picked Health Care Quality Commission all refused to support similar provisions to expand liability.

Congress says it wants to make managed care more accountable, but Dingell-Norwood would only raise health care costs, increase the number of uninsured and punish the nation's employers who voluntarily provide health care to millions of American workers and their families.

This legislation isn't a ''Patients' Bill of Rights.'' It's a devastating assault on America's health care system, and Congress should reject it.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Tuesday, October 5, 1999, the Federal debt stood at $5,657,493,668,389.71 (Five trillion, six hundred fifty-seven billion, four hundred ninety-three million, six hundred sixty-eight thousand, three hundred eighty-nine dollars and seventy-one cents).

One year ago, October 5, 1998, the Federal debt stood at $5,527,218,000,000 (Five trillion, five hundred twenty-seven billion, two hundred eighteen million).

Five years ago, October 5, 1994, the Federal debt stood at $4,692,973,000,000 (Four trillion, six hundred ninety-two billion, nine hundred seventy-three million).

Ten years ago, October 5, 1989, the Federal debt stood at $2,878,570,000,000 (Two trillion, eight hundred seventy-eight billion, five hundred seventy million).

Fifteen years ago, October 5, 1984, the Federal debt stood at $1,572,268,000,000 (One trillion, five hundred seventy-two billion, two hundred sixty-eight million) which reflects a debt increase of more than $4 trillion—$4,085,225,668,389.71 (Four trillion, eighty-five billion, two hundred twenty-five million, six hundred sixty-eight thousand, three hundred eighty-nine dollars and seventy-one cents) during the past 15 years.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 10:17 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 559. An act to designate the Federal building located at 300 East 8th Street in Austin, Texas, as the ''J.J. 'Jake' Pickle Federal Building.''

The message also announced that the House has agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill, H.R. 2606, making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2000, and for other purposes

At 11:36 a.m., a message from the House of Representative, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills and joint resolution in which it requests the concurrence of the Senate:

H.R. 1663. An act to recognize National Medal of Honor sites in California, Indiana, and South Carolina.

H.R. 764. An act to reduce the incidence of child abuse and neglect, and for other purposes.

H.R. Res. 65. Joint resolution commending the World War II veterans who fought in the Battle of the Bulge, and for other purposes.

ENROLLED BILLS SIGNED

At 5:29 p.m. a message from the House of Representatives, delivered by Mr. Niland, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

H.R. 2606. An act making appropriations for foreign operations, export financing, and belted programs for the fiscal year ending September 30, 2000, and for other purposes.

S. 559. An act to designate the Federal building located at 33 East 8th Street in Austin, Texas, as the ''J.J. ''Jake'' Pickle Federal Building.''

The enrolled bills were subsequently signed by the President pro tempore (Mr. THURMOND).

MEASURES REFERRED

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

H.R. 1663. An act to recognize National Medal of Honors sites in California, Indiana, and South Carolina; to the Committee on Armed Services.

H.R. 764. An act to reduce the incidence of child abuse and neglect, and for other purposes, to the Committee on the Judiciary.

H.J. Res. 65. Joint resolution commending the World War II veterans who fought in the Battle of the Bulge, and for other purposes; to the Committee on Judiciary.

MEASURE PLACE ON THE CALENDAR

The following bill was read the second time and placed on the calendar.

S. 1692. A bill to amend title 18, Untied States Code, to ban partial-birth abortions.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–5502. A communication from the Secretary of Defense, transmitting, the report of a retirement; to the Committee on Armed Services.

EC–5503. A communication from the Secretary of Defense, transmitting, the report of a retirement; to the Committee on Armed Services.

EC–5504. A communication from the Chairman, the J. William Fulbright Foreign Scholarship Board, transmitting, pursuant to law, the 1998 annual report; to the Committee on Foreign Relations.

EC–5505. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, the report of the texts and background statements of international agreements, other than treaties; to the Committee on Foreign Relations.

EC–5506. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Foreign Assistance Act of 1961, a report relative to Indonesia; to the Committee on Foreign Relations.

EC–5507. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, a report relative to the International Fund for Ireland; to the Committee on Foreign Relations.

EC–5508. A communication from the Auditor of the District of Columbia, transmitting, pursuant to law, a report entitled ''Audit of the People's Counsel Agency Fund for Fiscal Year 1997''; to the Committee on Governmental Affairs.

EC–5509. A communication from the Auditor of the District of Columbia, transmitting, pursuant to law, a report entitled ''Audit of the Public Service Commission Agency Fund for Fiscal Year 1997''; to the Committee on Governmental Affairs.

EC–5510. A communication from the Auditor of the District of Columbia, transmitting, pursuant to law, a report entitled ''Audit of the People's Counsel Agency Fund for Fiscal Year 1998''; to the Committee on Governmental Affairs.

EC–5511. A communication from the Auditor of the District of Columbia, transmitting, pursuant to law, a report entitled ''Audit of the Public Service Commission Agency Fund for Fiscal Year 1998''; to the Committee on Governmental Affairs.

EC–5512. A communication from the Auditor of the District of Columbia, transmitting, pursuant to law, a report entitled ''Observed Weaknesses in the District's Early Out Retirement Incentive Program''; to the Committee on Governmental Affairs.

EC–5513. A communication from the Auditor of the District of Columbia, transmitting, pursuant to law, a report entitled ''Chronology of the Steps Through Which the Tentative Agreement Between the Washington Teachers Union AFT Local #6, AFL–CIO and the District of Columbia Public Schools Passed''; to the Committee on Governmental Affairs.

EC–5514. A communication from the Auditor of the District of Columbia, transmitting, pursuant to law, a report entitled ''Auditors Review of Unauthorized Transactions Pertaining to ANC 1A''; to the Committee on Governmental Affairs.

EC–5515. A communication from the Auditor of the District of Columbia, transmitting, pursuant to law, a report entitled ''Auditors Review of Unauthorized and Improper Transactions of ANC 7C's Chairperson''; to the Committee on Governmental Affairs.

EC–5516. A communication from the Director, Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled ''Prevailing Rate Systems; Change in Survey Cycle for the Southwest Michigan Appropriated Fund Wage Area'' (RIN3206–AI68), received October 4, 1999; to the Committee on Governmental Affairs.

EC–5517. A communication from the Director, Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled ''Prevailing Rate Systems; Redefinition of the Eastern South Dakota and Wyoming Appropriated Fund Wage Areas'' (RIN3206–AI74), received October 4, 1999; to the Committee on Governmental Affairs.

EC–5518. A communication from the Executive Director, Committee for Purchase from People who are Blind or Severely Disabled, transmitting, pursuant to law, the report of a rule relative to additions to and deletions from the Procurement List, received September 30, 1999; to the Committee on Governmental Affairs.

EC–5519. A communication from the Chairman and CEO, Chemical Safety and Hazard Investigation Board, transmitting, pursuant to law, a report relative to the annual inventory of agency activities which could be considered for performance by the private sector; to the Committee on Governmental Affairs.

EC–5520. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report relative to its commercial activities inventory of the Department; to the Committee on Governmental Affairs.

EC–5521. A communication from the Archivist of the United States, transmitting, pursuant to law, a report relative to its commercial activities inventory; to the Committee on Governmental Affairs.

EC–5522. A communication from the Director, Federal Mediation and Conciliation Service, transmitting, pursuant to law, a report relative to its commercial activities inventory; to the Committee on Governmental Affairs.

EC–5523. A communication from the Chairman, U.S. Commission for the Preservation of America's Heritage Abroad, transmitting, pursuant to law, a report relative to its commercial activities inventory; to the Committee on Governmental Affairs.

EC–5524. A communication from the Acting Director, Office of Federal Housing Enterprise Oversight, transmitting, pursuant to law, a report relative to its commercial activities inventory; to the Committee on Governmental Affairs.

EC–5525. A communication from the Director, Office of Government Ethics, transmitting, pursuant to law, a report relative to its commercial activities inventory; to the Committee on Governmental Affairs.

EC–5526. A communication from the President, James Madison Memorial Fellowship Foundation, transmitting, pursuant to law, a report relative to its commercial activities inventory; to the Committee on Governmental Affairs.

EC–5527. A communication from the Chairman, National Labor Relations Board, transmitting, pursuant to law, a report relative to its commercial activities inventory; to the Committee on Governmental Affairs.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM—361. A resolution adopted by the City Council of the City of Fond du Lac, Wisconsin relative to the United Nations Convention on the Elimination of All Forms of Discrimination Against Women; to the Committee on Foreign Relations.

POM—362. A joint resolution adopted by the Legislature of State of California relative to war crimes committed by the Japanese military during World War II; to the Committee on Foreign Relations.

ASSEMBLY JOINT RESOLUTION NO. 27

Whereas, Our nation is founded on democratic principles that recognize the vigilance with which fundamental individual human rights must be safeguarded in order to preserve freedom; and

Whereas, This resolution condemns all violations of the international law designed to safeguard fundamental human rights as embodied in the Geneva and Hague Conventions; and

Whereas, This resolution vociferously condemns all crimes against humanity and at the same time condemns the actions of those who would use this resolution to further an agenda that fosters anti-Asian sentiment and racism, or Japan ''bashing,'' or otherwise fails to distinguish between Japan's war

criminals and Americans of Japanese ancestry; and

Whereas, Since the end of World War II, Japan has earned its place as an equal in the society of nations, yet the Government of Japan has failed to fully acknowledge the crimes committed during World War II and to provide reparations to the victims of those crimes; and

Whereas, While high ranking Japanese government officials have expressed personal apologies, supported the payment of privately funded reparations to some victims, and modified some textbooks, these efforts are not adequate substitutes for an apology and reparations approved by the Government of Japan; and

Whereas, The need for an apology sanctioned by the Government of Japan is underscored by the contradictory statements and actions of Japanese government officials and leaders of a ''revisionist'' movement who openly deny that war crimes took place, defend the actions of the Japanese military, seek to remove the modest language included in textbooks, and refuse to cooperate with United States Department of Justice efforts to identify Japanese war criminals; and

Whereas, During World Was II, 33,587 United States military and 13,966 civilian prisoners of the Japanese military were confined in inhumane prison camps where they were subjected to forced labor and died unmentionable deaths; and

Whereas, The Japanese military invaded Nanking, China, from December 1937 until February 1938, during the period known as the ''Rape of Nanking,'' and brutally slaughtered, in ways that defy description, by some accounts as many as 300,000 Chinese men, women, and children and raped more than 20,000 women, adding to a death toll that may have exceeded millions of Chinese; and

Whereas, The people of Guam and the Marshall Islands, during the Japanese occupation from 1941–1944, were subjected to unmentionable acts of violence, including forced labor and marches, and imprisonment by the Japanese military during its occupation of these islands; and

Whereas, Three-fourths of the population in Port Blair on Andaman Islands, India, were exterminated by Japanese troops between March 1942 and the end of World War II; many were tortured to death or forced into sexual slavery at ''comfort stations,'' and crimes beyond description were committed on families and young children; and

Whereas, at the February 1945 ''Battle of Manila,'' 100,000 men, women, and children were killed by Japanese armed forces in inhumane ways, adding to a total death toll that may have exceeded one million Filipinos during the Japanese occupation of the Philippines, which began in December 1941 and ended in August 1945; and

Whereas, At least 260 of the 1,500 United States prisoners, including many Californians, believed to have been held at Mukden, Manchuria, died during the first winter of their imprisonment and many of the 300 living survivors of Mukden claim to suffer from physical ailments resulting from their subjection to Japanese military chemical and biological experiments; and

Whereas, The Japanese military enslaved millions of Koreans, Chinese, Filipinos, and citizens from other occupied or colonized territories during World War II, and forced hundreds of thousands of women into sexual slavery for Japanese troops; and

Whaeras, The International Commission of Jurists, a nongovernmental organization (NGO) in Geneva, Switzerland, ruled in 1993 that the Government of Japan should pay reparations of at least $40,000 for the ''extreme pain and suffering'' caused to each woman who was forced into sexual slavery by the Japanese military (referred by the Japanese military as ''comfort women''), yet none of these women have been paid any compensation by the Government of Japan: Now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California urges the Government of Japan to finally bring closure to concerns relating to World War II by doing both of the following:

(1) Formally issuing a clear and unambiguous apology for the atrocious war crimes committed by the Japanese military during World War II.

(2) Immediately paying reparations to the victims of those crimes, including, but not limited to, United States military and civilian prisoners of war, the people of Guam and the Marshall Islands, who were subjected to violence and imprisonment, the survivors of the ''Rape of Nanking'' from December 1937 until February 1938, and the women who were forced into sexual slavery and known by the Japanese military as ''comfort women''; and be it further

Resolved, That the Legislature of the State of California calls upon the United States Congress to adopt a similar resolution that follows the spirit and letter of this resolution calling on the Government of Japan to issue a formal apology and pay reparations to the victims of its war crimes during World War II; and be it further

Resolved, That the Legislature of the State of California requests that the President of the United States take all appropriate action to further bring about a formal apology and reparations by the Government of Japan to the victims of its war crimes during World War II; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Japanese Ambassador to the United States, the President of the United States, the President of the Senate, the Speaker of the House of Representatives, and each California Member of the Senate and the United States House of Representatives.

POM–363. A resolution adopted by the Council of the City of Cincinnati, Ohio relative to the proposed Medicaid primary care safety net preservation legislation; to the Committee on Finance.

POM–364. A joint resolution adopted by the Legislature of the State of California relative to the California film industry; to the Committee on Finance.

ASSEMBLY JOINT RESOLUTION NO. 23

Whereas, The film industry is a major contributor to the California economy. It was one of the main drivers of the California comeback as the state recovered from the protracted recession of 1991, however, other countries aggressively promote incentives for filming outside of California. This competition translates into a significant share of tax revenue that is not directed to California. According to published estimates by the Motion Picture Association of America (MPAA), every one percent of entertainment jobs in California represents about $9 million in state tax revenue; and

Whereas, The MPAA also notes that most forecasts predict that the demand for motion picture, television, and commercial products will increase. The issue is whether the future economic activity that this growth may generate will occur in California or elsewhere; and

Whereas, The film industry has a significant effect on other industries, including the multimedia industry, tourism, toys, games, and industries that perpetuate the ''California look'' in apparel and furniture manufacturing. This is part of the residual effect of the film industry; and

Whereas, The enormity of the film industry makes it an important contributor of tax revenue to this state; and

Whereas, While there is an abundance of available labor in the film industry in the Los Angeles region, many below-the-line union workers are currently unemployed; and

Whereas, Canada is enticing entertainment industry jobs out of this country by offering significant tax credits to United States production companies. This practice is resulting in less work for American film crews as more and more movies, TV series, sitcoms, miniseries, etc. are being relocated there; and

Whereas, A continued exodus of motion picture and television production to foreign countries such as Canada will not only eliminate thousands of well-paying jobs, it will mean the United States will lose a growing and very lucrative industry that it created: Now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature respectfully memorializes the President and the Congress of the United States to evaluate the problems caused by relocating film industry business to Canada and other foreign nations, to evaluate the current state and federal tax incentives provided to the film industry, and to promote trade-related legislation that will persuade the film industry to remain in California; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the Majority Leader of the Senate of the United States, and to each Senator and Representative from California in the Congress of the United States.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CHAFEE, from the Committee on Environment and Public Works, with an amendment in the nature of a substitute:

S. 1398. A bill to clarify certain boundaries on maps relating to the Coastal Barrier Resources System (Rept. No. 106–171).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with an amendment:

S. 769. A bill to provide a final settlement on certain debt owed by the city of Dickinson, North Dakota, for the construction of the bascule gates on the Dickinson Dam (Rept. No. 106–172).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 986. A bill to direct the Secretary of the Interior to convey the Griffith Project to the Southern Nevada Water Authority (Rept. No. 106–173).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with an amendment:

S. 1030. A bill to provide that the conveyance by the Bureau of Land Management of the surface estate to certain land in the State of Wyoming in exchange for certain private land will not result in the removal of the land from operation of the mining laws (Rept. No. 106–174).

S. 1211. A bill to amend the Colorado River Basin Salinity Control Act to authorize additional measures to carry out the control of salinity upstream of Imperial Dam in a cost-effective manner (Rept. No. 106–175).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 1288. A bill to provide incentives for collaborative forest restoration projects on National Forest System and other public lands

in New Mexico, and for other purposes (Rept. No. 106–176).

S. 1377. A bill to amend the Central Utah Project Completion Act regarding the use of funds for water development for the Bonneville Unit, and for other purposes (Rept. No. 106–177).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Mr. AKAKA (for himself and Mr. INOUYE):

S. 1694. A bill to direct the Secretary of the Interior to conduct a study on the reclamation and reuse of water and wastewater in the State of Hawaii; to the Committee on Energy and Natural Resources.

By Mr. BUNNING:

S. 1695. A bill to amend the Internal Revenue Code of 1986 to provide that beer or wine which may not be sold may be transferred to a distilled spirits plant, and for other purposes; to the Committee on Finance.

By Mr. MOYNIHAN (for himself, Mr. ROTH, and Mr. SCHUMER):

S. 1696. A bill to amend the Convention on Cultural Property Implementation Act to improve the procedures for restricting imports of archaeological and ethnological material; to the Committee on Finance.

By Mr. SMITH of Oregon (by request):

S. 1697. A bill to authorize the Secretary of the Interior to refund certain collections received pursuant to the Reclamation Reform Act of 1982; to the Committee on Energy and Natural Resources.

By Mr. GRAMS:

S. 1698. A bill for the relief of D.W. Jacobson, Ronald Karkala, and Paul Bjorgen of Grand Rapids, Minnesota, and for other purposes; to the Committee on the Judiciary.

By Mr. VOINOVICH:

S. 1699. A bill to amend the Federal Water Pollution Control Act to authorize appropriations for State water pollution control revolving funds, and for other purposes; to the Committee on Environment and Public Works.

By Mr. DURBIN:

S. 1700. A bill to amend the Federal Rules of Criminal Procedure to allow a defendant to make a motion for forensic testing not available at trial regarding actual innocence; to the Committee on the Judiciary.

By Mr. SESSIONS (for himself, Mr. SCHUMER, Mr. THURMOND, Mr. BIDEN, Mrs. FEINSTEIN, Mr. HELMS, and Mr. CLELAND):

S. 1701. A bill to reform civil asset forfeiture, and for other purposes; to the Committee on the Judiciary.

By Mr. MURKOWSKI:

S. 1702. A bill to amend the Alaska Native Claims Settlement Act to allow shareholder common stock to be transferred to adopted Alaska Native children and their descendants, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BINGAMAN:

S. 1703. A bill to establish America's education goals; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BINGAMAN (for himself and Mrs. HUTCHISON):

S. 1704. A bill to provide for college affordability and high standards.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. GRAMS:

S. Res. 197. A resolution referring S. 1698 entitled ''A bill for the relief of D.W. Jacobson, Ronald Karkala, and Paul Bjorgen of Grand Rapids, Minnesota'' to the chief judge of the United States Court of Federal Claims for a report thereon; to the Committee on the Judiciary.

STATEMENTS OF INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. AKAKA (for himself and Mr. INOUYE):

S. 1694. A bill to direct the Secretary of the Interior to conduct a study on the reclamation and reuse of water and wastewater in the State of Hawaii; to the Committee on Energy and Natural Resources.

Mr. AKAKA. Mr. President, today I introduced S. 1694, the Hawaii Water Resources Reclamation Act of 1999. Senator INOUYE joins me in sponsoring this legislation.

My colleagues, rural Hawaii faces difficult economic times. The past decade has been especially challenging for agriculture in our state. Sugar has declined dramatically, from 180,000 acres of cane in 1989 to 60,000 acres today, and with this decline has come tremendous economic disruption.

120,000 acres may not seem like much to Senators from large states of the continental U.S., but in Hawaii the loss has huge implications. 120,000 acres represents more than 45 percent of our cultivated farm land. Hawaii County, where the greatest impact of these losses is felt, faces double digit unemployment.

As Carol Wilcox, author of the definitive history of irrigation in Hawaii noted in her recent book ''Sugar Water,'' the cultivation of sugarcane dominated Hawaii's agricultural landscape for the last 25 years of the 19th century and for most of this century as well. ''Sugar was the greatest single force at work in Hawaii,'' she wrote, and water was essential to this development.

The face of Hawaii agriculture is changing. During the past decade, 95 sugar farms and plantations closed their doors. Today, many rural communities in Hawaii are struggling to define new roles in an era when sugar is no longer the king of crops. We have entered a period of rebirth. A new foundation for agriculture is being established.

Diversified agriculture has become a bright spot in our economy. Farm receipts from diversified crops rose an average of 5.5 percent annually for the past three years, surpassing the $300 million mark for the first time. Hawaii still grows sugarcane, but diversified farming represents the future of Hawaii agriculture.

The restructuring of agriculture has prompted new and shifting demands for agricultural water and a broad reevaluation of the use of Hawaii's fresh water resources. The outcome of these events will help define the economic future of rural Hawaii.

While the Bureau of Reclamation played a modest role in Hawaii water resource development, sugar plantations and private irrigation companies were responsible for constructing, operating, and maintaining nearly all of Hawaii's agricultural irrigation systems. Over a period of 90 years, beginning in 1856, more than 75 ditches, reservoirs, and groundwater systems were constructed.

Although Hawaii's irrigation systems are called ditches, the use of this term misrepresents their magnitude. Hawaii's largest ditch system, the East Maui Irrigation Company, operates a network of six ditches on the north flank of Haleakala Crater. The broad scope of East Maui irrigation is extensively chronicled in ''Sugar Water'':

> Among the water entities, none compares to EMI. It is the largest privately owned water company in the United States, perhaps in the world. The total delivery capacity is 445 mgd. The average daily water delivery under median weather conditions is 160 mgd . . . Its largest ditch, the Wailoa Canal, has a greater median flow (170 mgd) than any river in Hawaii . . . The [EMI] replacement cost is estimated to be at $200 million.

Most of Hawaii's irrigation systems—ditches as we know them—are in disrepair. Some have been abandoned. Those that no longer irrigate cane lands may not effectively serve the new generation of Hawaii farmers, either because little or no water reaches new farms or because the ditches have not been repaired or maintained. Thus, the wheel has turned full circle: the challenge that confronted six generations of cane farmers, access to water, has become the challenge for a new generation that farms diversified agriculture.

In response to these changing events, the Hawaii Water Resources Reclamation Act authorizes the Bureau of Reclamation to survey irrigation and water delivery systems in Hawaii, identify the cost of rehabilitating the systems, and evaluate demand for their future use. The bill also instructs the Bureau to identify new opportunities for reclamation and reuse of water and wastewater for agriculture and non-agricultural purposes. Finally, the bill authorizes the Bureau to conduct emergency drought relief in Hawaii. This is especially important for struggling farmers on the Big Island.

While I hesitate to predict the findings of the Bureau's study, I expect we will learn that some of the ditch systems should be repaired or improved, while others should be abandoned. We may also learn that the changing face of Hawaii agriculture justifies entirely new systems or new components being added to existing ditches. Because the bill emphasizes water recycling and reuse, the report will identify opportunities to improve water conservation, enhance stream flows, improve fish and

wildlife habitat, and rebuilding groundwater supplies. These important objectives will help ensure that any legislative response to the Bureau's report is ecologically appropriate.

The process outlined in S. 1694 cannot advance unless sound environmental principles are observed. Those who are for Hawaii's rivers and streams, as I do, believe that water resource development should not adversely affect fresh water resources and the ecosystems that depend upon them. Hawaii's rivers support a number of rare native species that rely on undisturbed habitat. Perhaps the most remarkable of these is the goby, which actually climbs waterfalls, reaching habitat that is inaccessible to other fish. As a young boy, my friends and I caught and ate o'opu, as the goby are known to Hawaiians, at Oahu's streams. I am determined to preserve this, and the other forms of rich biological heritage that inhabit our streams and watersheds.

My remarks would not be complete without a review of the history of Federal reclamation initiatives in Hawaii. Hawaii's relationship with the Bureau of Reclamation dates from 1939, when the agency proposed developing an aqueduct on Molokai to serve 16,000 acres of federally managed Hawaiian Home Lands. While this project did not proceed, in 1954 Congress directed the Bureau to investigate irrigation and reclamation needs for three of our islands: Oahu, Hawaii, and Molokai. A Federal reclamation project on the Island of Molokai was eventually constructed in response to this investigation. The project continues in operation today.

In the first session of Congress following Hawaii's statehood, legislation authorizing the Secretary of the Interior to develop reclamation projects in Hawaii under the Small Reclamation Projects Act was signed into law. The most recent interaction with the Bureau occurred in 1995 when Congress authorized the Secretary to allow Native Hawaiians the same favorable cost recovery for reclamation projects as Indians or Indian tribes.

I will work closely with my colleagues on the Senate Energy and Natural Resources Committee to pass the Hawaii Water Resources Reclamation Act. I ask that a copy of S. 1694 be printed in the RECORD.

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

S. 1694

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Hawaii Water Resources Reclamation Act of 1999''.

SEC. 2. FINDINGS.

Congress finds that—

(1) the Act of August 23, 1954 (68 Stat. 773, chapter 838) authorized the Secretary of the Interior to investigate the use of irrigation and reclamation resource needs for areas of the islands of Oahu, Hawaii, and Molokai in the State of Hawaii;

(2) section 31 of the Hawaii Omnibus Act (43 U.S.C. 422*l*) authorizes the Secretary to develop reclamation projects in the State under the Act of August 6, 1956 (70 Stat. 1044, chapter 972; 42 U.S.C. 422a et seq.) (commonly known as the ''Small Reclamation Projects Act'');

(3) the amendment made by section 207 of the Hawaiian Home Lands Recovery Act (109 Stat. 364; 25 U.S.C. 386a) authorizes the Secretary to assess charges against Native Hawaiians for reclamation cost recovery in the same manner as charges are assessed against Indians or Indian tribes;

(4) there is a continuing need to manage, develop, and protect water and water-related resources in the State; and

(5) the Secretary should undertake studies to assess needs for the reclamation of water resources in the State.

SEC. 3. DEFINITIONS.

In this Act:

(1) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(2) STATE.—The term ''State'' means the State of Hawaii.

SEC. 4. WATER RESOURCES RECLAMATION STUDY.

(a) IN GENERAL.—The Secretary, acting through the Commissioner of Reclamation, shall conduct a study that includes—

(1) a survey of irrigation and water delivery systems in the State;

(2) an estimation of the cost of repair and rehabilitation of the irrigation and water delivery systems;

(3) an evaluation of options for future use of the irrigation and water delivery systems (including alternatives that would improve the use and conservation of water resources); and

(4) the identification and investigation of other opportunities for reclamation and reuse of water and wastewater for agricultural and nonagricultural purposes.

(b) REPORTS.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit a report that describes the findings and recommendations of the study described in subsection (a) to—

(A) the Committee on Energy and Natural Resources of the Senate; and

(B) the Committee on Resources of the House of Representatives.

(2) ADDITIONAL REPORTS.—The Secretary shall submit to the Committees described in paragraph (1) any additional reports concerning the study described in subsection (a) that the Secretary considers to be necessary.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

SEC. 5. WATER RECLAMATION AND REUSE.

Section 1602(b) of the Reclamation Wastewater and Groundwater Study and Facilities Act (43 U.S.C. 390h(b)) is amended by inserting before the period at the end the following: '', and the State of Hawaii''.

SEC. 6. DROUGHT RELIEF.

Section 104 of the Reclamation States Emergency Drought Relief Act of 1991 (43 U.S.C. 2214) is amended—

(1) in subsection (a), by inserting after ''Reclamation State'' the following: ''and in the State of Hawaii''; and

(2) in subsection (c), by striking ''ten years after the date of enactment of this Act'' and inserting ''on September 30, 2005''.

By Mr. MOYNIHAN (for himself, Mr. ROTH and Mr. SCHUMER):

S. 1696. A bill to amend the Convention on Cultural Property Implementation Act to improve the procedures for restricting imports of archaeological and ethnological material; to the Committee on Finance.

THE CULTURAL PROPERTY PROCEDURAL REFORM ACT

Mr. MOYNIHAN. Mr. President, I rise today to introduce legislation to amend the Convention on Cultural Property Implementation Act (CCPIA). This legislation improves the procedures for restricting imports of archaeological and ethnological materials. I am pleased that the distinguished chairman of the Finance Committee, Senator ROTH, joins me, as well as my distinguished colleague from New York, Senator SCHUMER.

This legislation provides a necessary clarification of the Convention on Cultural Property Implementation Act. The CCPIA was reported by the Senate Finance Committee and passed in the waning days of the 97th Congress. The CCPIA implements the 1970 UNESCO Convention on the Means of Prohibiting the Illicit Import, Export and Transfer of Ownership of Cultural Property. It sets forth our national policy concerning the importation of cultural property. As the last of the authors of the CCPIA remaining in the Senate, it falls to me to keep a close eye on its implementation.

Central to our intention in drafting the CCPIA was the principle that the United States will act to bar the importation of particular antiquities, but only as part of a concerted international response to a specific, severe problem of pillage. The CCPIA established an elaborate process to ensure that the views of experts—archaeologists, ethnologists, art dealers, museums—and the public, are taken fully into account when foreign governments ask us to bar imports of antiquities. The Congress put these safeguards in place with the specific intent to provide due process.

The need for this bill arises from the recent proliferation of import restrictions imposed on archaeological and ethnological artifacts from a number of countries, including Canada and Peru. Restrictions may soon be imposed on imports from Cambodia, and I am told that the Government of Italy has now requested that the United States impose a sweeping embargo on archaeological material dating from the 8th century B.C. to the 5th century A.D.

My understanding is that the standards and procedures the Congress meant to introduce in the CCPIA are not being followed. The chief concerns are two-fold: (1) the Cultural Property Advisory Committee, which reviews all requests for import restrictions, remains essentially closed to non-members despite the provisions of the 1983 Cultural Property Act—which I co-authored with Senators Dole and Matsunaga—that call for open meetings and transparent procedures; and (2) the Committee lacks a knowledgeable art

dealer—in large part because the Executive Branch has interpreted the statute—incorrectly, in my view—to require that Committee members serve as ''special government employees'' rather than—as was intended—''representatives''—of dealers. Candidates have thus been subjected to insurmountable conflict-of-interest rules that have effectively prevented experts from serving on the Committee—the very individuals whose advice ought to be sought.

The amendments I offer today would open up the proceedings of the Cultural Property Advisory Committee and the administering agency (formerly USIA, now an agency under the Department of State) to allow for meaningful public participation in the fact-finding phase of an investigation, i.e., the stage at which the Committee and the agency review the factual basis for a country's request for import restrictions. The bill would require that notice of such a request be published in the Federal Register, that interested parties be provided an opportunity to comment, and that the Committee issue a public report of its findings in each case. Once the evidence is gathered, the Committee would, as under current law, be permitted to conduct its deliberations behind closed doors so as not to jeopardize the government's negotiating objectives or disclose its bargaining position.

The amendments would also clarify that Cultural Property Advisory Committee members are to serve only in a ''representative'' capacity—as is the case with members of the President's trade advisory committees—and not as ''special government employees.'' It was my clear understanding, as one of the chief drafters of the law, that members of the Advisory Committee would be acting in a representative capacity. The CCPIA sought to ensure that there would be a ''fair representation of the various interests of the public sectors and the private sectors in the international exchange of archaeological and ethnological materials,'' by designating members to represent those various perspectives. The CCPIA reserves specific slots on the Advisory Committee for representatives of the affected interest groups, including as I mentioned earlier, art dealers. The special conflict-of-interest provisions applicable to ''special government employees'' would probably prevent any active art dealer knowledgeable in the affected areas of trade from serving on the Committee, depriving the Committee of invaluable expertise.

This bill, clarifying Congressional intent, is essential to successful implementation of the CCPIA. If I may ask the Senate's indulgence, I would like to summarize the key provisions of the bill:

Procedural requirements.—The bill amends Section 303(f)(2) of the CCPIA to provide that a foreign nation's request for relief shall include a detailed description of the archaeological or ethnological material that a party to the 1970 Cultural Property Convention seeks to protect and a comprehensive description of the evidence submitted in support of the request. This information is to be included in the Federal Register notice required to initiate proceedings under the CCPIA.

The purpose of this amendment is to provide interested parties with adequate notice of the nature of a foreign nation's request and the evidence in support of an allegedly serious condition of pillage, which is evidence essential to any response under CCPIA. In the past, proceedings before the CPAC and the administering agency (formerly USIA, now an agency under the Department of State) have been conducted almost in total secrecy, thus denying interested parties the opportunity to prepare rebuttal and response to the evidence presented by a foreign nation on alleged pillage and with respect to the other statutory requirements that must be satisfied. The result is that the Committee is denied a full, unbiased record upon which to make its decisions.

The bill also amends Section 303(f)(1)(C) of the CCPIA to provide that interested parties shall have an opportunity to provide comments to Executive Branch decision-makers on the findings and recommendations of the CPAC, which are to be made public under a separate provision of the bill. To date, interested parties have not had an effective opportunity to bring their perspectives to the attention of the statutory decision-maker.

Proceedings before the committee.—The bill amends Section 306(f)(1) of the CCPIA to provide that the procedures before the Advisory Committee shall be conducted to afford full participation by interested parties in the fact-finding phase of the CPAC review.

This provision draws a clear line between the fact-finding investigation and the deliberative review phases of the Committee's proceedings and provide for full public participation in the fact-finding phase. It also responds to concerns that, under current procedures, the Committee is denied full information from interested parties relating to the foreign nation's request because there is no public information about the specific nature of a request nor of the data supporting it.

Also, in an amendment to Section 306(f)(1) of the CCPIA, the Committee is directed to prepare, and then publish in the Federal Register, a report which includes, inter alia, its findings with respect to each of the criteria described in Section 301(a)(1) of the Act, which sets forth the requirements that must be met before import restrictions may be imposed. This amendment is essential to ensure that the Committee faithfully responds to each of the statutory criteria.

Import restrictions.—Our bill amends Section 303(a)(1)(A) of the CCPIA, dealing with the authority to impose restrictions, to make clear that there must be evidence of pillage which supports the full range of any import restrictions under the CCPIA and that such evidence must reflect contemporary pillage. Evidence of contemporary pillage is essential to the working of the Act, which is based on the concept that a U.S. import restriction will have a meaningful effect on an ongoing situation of pillage.

There is striking evidence that the Committee and the administering agency are now promulgating broad-scale import restrictions where there is no evidence of contemporary pillage that would justify the scope of those restrictions. Recent examples include omnibus import restrictions involving cultural property from Canada and Peru, extending over thousands of years. Vast portions of the Canadian restrictions were supported by no evidence whatsoever of contemporary pillage. Likewise, the Peruvian restrictions extend far beyond any evidence of current pillage contained in the administrative record. I am told that the Government of Italy has now requested that the United States impose a sweeping embargo on Italian archaeological materials dating from the 8th century B.C. to the 5th century A.D.

This provision also makes clear that an import embargo cannot be based on historical evidence of pillage; rather, there must be contemporary pillage. This amendment responds to recent instances where the committee has made recommendations, which the agency has accepted, based upon evidence of pillage that is many years old, and indeed, evidence of pillage that occurred hundreds of years previously. It is quite obvious that an import restriction in 1999 cannot deter pillage that took place decades or even centuries ago. This provision is imperative to ensure that the administrative process under the act is faithful to the statutory goals of CCPIA.

Continuing review.—Our bill amends section 306(g) of the act to make more specific the obligation of the committee to conduct reviews, on an annual basis, of existing agreements providing for import restrictions; to publish in the Federal Register the conclusions of such reviews; and to report on those agreements not reviewed during the preceding year and the reasons why such agreements were not reviewed. The amendment provides for full public participation in the fact-finding phase of the annual reviews. It is prompted by the committee's failure to undertake, with full public participation, a prompt review of existing import restrictions, particularly those relating to Canada, for which serious questions have been raised as to the claims of pillage made in support of the omnibus U.S. import restrictions.

Multinational response.—These provisions deal with the action required by other art-importing nations in connection with non-emergency import restrictions imposed under the act. The

act requires that any import restriction under Section 303 of the act be accomplished by corresponding import restrictions by other nations having a significant trade in the cultural properties barred by the U.S. import restriction. The rationale for this requirement is that one cannot effectively deter a serious situation of pillage of cultural properties if the U.S. unilaterally closes its borders to the import of those properties, and they find their way, in an undiminished stream of commerce, to markets in London, Paris, Munich, Tokyo, or other air-importing centers.

Congress imposed a specific requirement of an actual multinational response. There is a concern that the committee is simply disregarding these requirements in its recent actions imposing far-reaching restrictions on cultural properties. Therefore, this subsection amends section 303(g)(2) of the act to require the administering agency to set forth in detail the reasons for its determination under this provision.

Consultation by committee members.—These provisions relate to the appropriate activities of committee members. In order to provide that maximum information and insight be brought to bear upon the committee's fact-finding and deliberations, all members of the Committee will be free to consult with others in connection with non-confidential information in an effort to secure expert advice and information on the justification for a particular request, and to share non-confidential information received from a requesting country in support of its request. Any such consultation must be reported in the committee's records. In the past, committee members have been advised that they would face severe sanctions if they were to consult with experts on the extent of pillage or other pertinent facts in connection with a foreign nation's request.

Cultural Property Advisory Committee membership.—Our bill clarifies that members of the CPAC serve in a representative capacity and not as officers or employees of the government or as special government employees (''SGEs''). This additional language is necessary because officials at the administering agency and elsewhere in the executive branch appear to have misconstrued congressional intent in this regard.

Because CPAC members are expected to bring their particular institutional perspectives to CPAC deliberations, the CCPIA seeks to ensure a ''fair representation of the various interests of the public sectors and the private sectors in the international exchange of archaeological and ethnological material,'' by designating members to represent various perspectives. To accomplish this purpose, Congress reserved specific slots on the CPAC for representatives of the affected interest groups.

Despite this language, the administering agency has asserted that CPAC members serve as SGE rather than in a representative capacity. As a result, certain experts have been prevented from serving on the CPAC. The proposed amendment would restate and clarify that all members of the CPAC serve in a representative capacity.

Federal Advisory Committee Act.—Finally, the bill makes clear that the transparency provisions of the Federal Advisory Committee Act (e.g., open meetings, public notice, public participation, and public availability of documents) apply to the fact-finding phase of the committee's actions. Those provisions shall not apply to the deliberative phase of the committee's action if there is an appropriate determination that open procedures would compromise the Government's negotiating objectives or bargaining position.

This provision would open to the public the fact-gathering phase of the CPAC's work, while retaining discretion, consistent with section 206(h) of the CCPIA, to close the deliberative phase where the government's negotiating objectives or bargaining positions may be compromised.

Mr. President, I urge the speedy passage of this legislation and ask unanimous consent that the full text of the bill appear in the RECORD along with a brief section-by-section description of the bill.

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

S. 1696

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Cultural Property Procedural Reform Act''.

SEC. 2. PROCEDURAL REQUIREMENTS.

(a) IN GENERAL.—Section 303(f) of the Convention on Cultural Property Implementation Act (19 U.S.C. 2602(f)) is amended to read as follows:

''(f) PROCEDURES.—

''(1) IN GENERAL.—In the case of any request described in subsection (a) made by a State Party or in the case of a proposal by the President to extend any agreement under subsection (e), the President shall—

''(A) publish notification of the request or proposal in the Federal Register;

''(B) submit to the Committee such information regarding the request or proposal (including, if applicable, information from the State Party with respect to the implementation of emergency action under section 304) as is appropriate to enable the Committee to carry out its duties under section 306;

''(C) provide interested parties an opportunity to comment on the findings and recommendations of the Committee; and

''(D) consider, in taking action on the request or proposal, the views and recommendations contained in any Committee report—

''(i) required under section 306(f) (1) or (2); and

''(ii) submitted to the President before the close of the 150-day period beginning on the day on which the President submitted information on the request or proposal to the Committee under subparagraph (B).

''(2) CONTENT OF NOTICE.—Each notice required by paragraph (1)(A) shall include a statement of the relief sought by the State Party, a detailed description of the archaeological or ethnological material that the State Party seeks to protect, and a comprehensive description of the evidence submitted in support of the request.''.

(b) PROCEEDINGS BEFORE COMMITTEE.—Section 306(f)(1) of the Convention on Cultural Property Implementation Act (19 U.S.C. 2605(f)(1)) is amended to read as follows:

''(1) The Committee shall, with respect to each request by a State Party referred to in section 303(a), undertake a fact-finding investigation and a deliberative review with respect to matters referred to in section 303(a)(1) as the matters relate to the State Party or the request. The Committee shall provide notice and opportunity for comment to all interested parties in the fact-finding phase of the Committee's actions. The Committee shall prepare and publish in the Federal Register a report setting forth—

''(A) the results of the investigation and review and its findings with respect to each of the criteria described in section 303(a)(1);

''(B) the Committee's findings as to the nations individually having a significant import trade in the relevant material; and

''(C) the Committee's recommendation, together with the reasons therefore, as to whether an agreement should be entered into under section 303(a) with respect to the State Party.''.

(c) IMPORT RESTRICTIONS.—Section 303(a)(1) of such Act (19 U.S.C. 2602(a)(1)) is amended—

(1) by amending subparagraph (A) to read as follows:

''(A) that particular objects of the cultural patrimony of the State Party are in jeopardy from pillaging of archaeological or ethnological materials of the State Party;''; and

(2) by adding at the end the following: ''Historical evidence of pillaging shall not be sufficient to make a determination under subparagraph (A).''.

(d) CONTINUING REVIEW.—Section 306(g) of such Act (19 U.S.C. 2605(g)) is amended—

(1) in paragraph (1), by striking ''a continuing'' and inserting ''an annual'';

(2) by amending paragraph (2) to read as follows:

''(2) ACTION BY COMMITTEE.—

''(A) IN GENERAL.—If the Committee finds, as a result of such review, that—

''(i) cause exists under section 303(d) for suspending the import restrictions imposed under an agreement,

''(ii) any agreement or emergency action is not achieving the purposes for which the agreement or action was entered into or implemented, or

''(iii) changes are required to this title in order to implement fully the obligations of the United States under the Convention,

the Committee shall submit to Congress and the President and publish in the Federal Register a report setting forth the Committee's recommendations for suspending such import restrictions or for improving the effectiveness of any such agreement or emergency action or this title.

''(B) AGREEMENTS REVIEWED WHERE NO ACTION PROPOSED.—In any case in which the Committee undertakes a review but concludes that the agreement meets the applicable statutory criteria of effectiveness, the Committee shall submit to Congress and the President and publish in the Federal Register a report setting forth the Committee's findings and conclusions as to the effectiveness of the agreement.

''(C) AGREEMENTS NOT REVIEWED.—The report required by subparagraph (A) shall contain a list of any agreement not reviewed during the year preceding the submission of the report and the reasons why such agreement was not reviewed.''; and

(3) by adding at the end the following new paragraph:

''(3) REQUIREMENTS FOR REVIEW.—In each annual review conducted under this subsection, the Committee shall—

''(A) undertake a fact-finding investigation and a deliberative review with respect to the effectiveness of the agreement under review;

''(B) provide notice and opportunity for comment to all interested parties in the fact-finding phase of Committee's action; and

''(C) publish notice of the review in the Federal Register that includes a detailed description of the information submitted to the Committee concerning the effectiveness of the agreement.''.

(e) MULTINATIONAL RESPONSE.—Section 303(g)(2) of such Act (19 U.S.C. 2602(g)(2)) is amended—

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

(2) by striking the period at the end of subparagraph (C) and inserting '', and''; and

(3) by adding at the end the following new subparagraph:

''(D) if the President determines that the application of import restrictions by other nations, as required by subsection (c)(1), is not essential to deter a serious situation of pillage, the reasons for such determination.''.

(f) CONSULTATION BY COMMITTEE MEMBERS.—Section 306(e) of such Act (19 U.S.C. 2605(e)) is amended by adding at the end the following new paragraph:

''(3) Members of the Committee may consult with any person to obtain expert advice and may, in such consultations, share information obtained from a country in support of the request filed under this title to the extent that the information is otherwise publicly available. Any consultations conducted pursuant to this paragraph shall be reported in the record of the Committee's actions.''.

SEC. 3. CULTURAL PROPERTY ADVISORY COMMITTEE.

(a) IN GENERAL.—Section 306(b)(1) (B) and (C) of the Convention on Cultural Property Implementation Act (19 U.S.C. 2605(b)(1) (B) and (C)) are amended to read as follows:

''(B) Three members who shall represent the fields of archaeology, anthropology, ethnology, or related areas.

''(C) Three members who shall represent the international sale of archaeological, ethnological, and other cultural property.''.

(b) CONFLICT OF INTEREST PROVISIONS.—Section 306(b) of the Convention on Cultural Property Implementation Act (19 U.S.C. 2605(b)) is amended by adding at the end the following new paragraph:

''(4) Members of the Committee who are not otherwise officers or employees of the Federal Government shall serve in a representative capacity and shall not be considered officers, employees, or special Government employees for any purpose.''.

(c) APPLICATION OF FEDERAL ADVISORY COMMITTEE ACT.—Section 306(h) of the Convention on Cultural Property Implementation Act (19 U.S.C. 2605(h)) is amended to read as follows:

''(h) FEDERAL ADVISORY COMMITTEE ACT.—In order to provide for open meetings and public participation, the provisions of the Federal Advisory Committee Act (Public Law 92–463; 5 U.S.C. App.) shall apply to the fact-finding phase of the Committee's actions including the requirements of subsections (a) and (b) of section 10 and section 11 (relating to open meetings, public notice, public participation, and public availability of documents). The requirements of subsections (a) and (b) of section 10 and section 11 shall not apply to the deliberative phase of the Committee's actions if it is determined by the President or the President's designee that the disclosure of matters involved in the Committee's deliberations would compromise the Government's negotiating objectives or bargaining positions on the negotiation of any agreement authorized by this title.''.

SEC. 4. TECHNICAL AMENDMENTS.

(1) Sections 306(e) (1) and (2), 306(i)(1)(A) and 306(i)(2) of the Convention on Cultural Property Implementation Act (19 U.S.C. 2605(e) (1) and (2), 2605(i)(1)(A), and 2605(i)(2)) are each amended by striking ''Director of the United States Information Agency'' each place it appears and inserting ''Secretary of State''.

(2) Section 305 of the Convention on Cultural Property Implementation Act (19 U.S.C. 2604) is amended—

(A) in the first sentence, by inserting '', after consultation with the Secretary of State,'' after ''Secretary''; and

(B) in the second sentence, by striking ''archeological'' and inserting ''archaeological''.

CULTURAL PROPERTY PROCEDURAL REFORM ACT—SECTION-BY-SECTION DESCRIPTION

The purpose of this legislation is to improve the procedures for restricting imports of archaeological and ethnological material under the Convention on Cultural Property Implementation Act (''the CCPIA'' or ''Act''). It also clarifies that members of the Cultural Property Advisory Committee (''CPAC'' or ''Committee'') are appointed to act in a representative capacity and are not special government employees.

SECTION 1. SHORT TITLE

The title of the bill is the ''Cultural Property Procedural Reform Act.''

SEC. 2. PROCEDURAL REQUIREMENTS

(a) In general

First, Section 303(f)(2) of the CCPIA is amended to provide that a foreign nation's request for relief shall include a detailed description of the archaeological or ethnological material that a party to the 1970 Cultural Property Convention seeks to protect and a comprehensive description of the evidence submitted in support of the request. This information is to be included in the Federal Register notice required to initiate proceedings under the CCPIA.

Second, Section 303(f)(1)(C) of the CCPIA is amended to require that interested parties have an opportunity to provide comments to the administering agency (formerly USIA, now an agency under the Department of State) on the findings and recommendations of the CPAC.

(b) Proceedings before committee

Section 306(f)(1) of the CCPIA is amended to draw a clear distinction between the fact-finding phase of the Cultural Property Advisory Committee's investigation and its deliberative review of the evidence. The amendment requires the Committee to provide interested parties both notice and an opportunity to comment during the fact-finding phase of the CPAC review.

Section 2(b) of the bill amends Section 306(f)(1) of the CCPIA to direct the Committee to publish in the Federal Register its report, which is to include, inter alia, its findings with respect to each of the criteria described in Section 301(a)(1) of the Act, which sets forth the requirements that must be met before import restrictions may be imposed.

(c) Import restrictions

Section 303(a)(1)(A) of the CCPIA, dealing with the authority to enter into import restrictions, is amended to make clear that there must be evidence that particular objects of the cultural patrimony of the country requesting an embargo be in jeopardy of pillage. The legislation clarifies that historical evidence of pillaging is not sufficient to support the imposition of import restrictions; rather the evidence must reflect contemporary pillage.

(d) Continuing review

Under current law, the Committee is required to review the effectiveness of existing import restrictions on a continuing basis. The legislation makes more specific the obligation of the Committee to conduct such continuing reviews of outstanding agreements. It clarifies that reviews will be conducted on an annual basis, and requires the Committee to publish in the Federal Register the conclusions of such reviews, and to include in an annual report a description of those agreements not reviewed during the preceding year and the reasons why such agreements were not reviewed. This provision requires that notice of the review be published in the Federal Register and that interested parties be afforded an opportunity to comment in the fact-finding phase of the annual reviews.

(e) Multinational response

This subsection deals with the action required by other art-importing nations in connection with non-emergency import restrictions imposed under the Act. The Act requires that any import restriction under Section 303 of the Act be accompanied by corresponding import restrictions by other nations having a significant trade in the materials barred by the U.S. import restriction. This subsection amends Section 303(g)(2) of the Act to require the President to set forth in detail the reasons for a determination that multilateral action is not required.

(f) Consultation by committee members

This subsection provides that Committee members are free to consult with experts and, in connection with such consultations, to share non-confidential information receive from a country in support of its request for an import embargo. Any such consultations must be reported in the records of the Committee.

SEC. 3. CULTURAL PROPERTY ADVISORY COMMITTEE

(a) In general. (see (b), below)

(b) Conflict of interest provisions

These subsections clarify that members of the CPAC serve in a representative capacity and not as officers or employees of the government or as special government employees.

(c) Application of Federal Advisory Committee Act

Subsection (c) of Section 3 of the bill makes clear that the transparency provisions of the Federal Advisory Committee Act (e.g., open meetings, public notice, public participation, and public availability of documents) apply to the fact-finding phase of the Committee's actions. Those provisions shall not apply to the deliberative phase of the Committee's action if the President or his designee determines that open procedures would compromise the Government's negotiating objectives or bargaining position.

SEC. 4. TECHNICAL AMENDMENTS

This section makes technical changes to the CCPIA in light of the abolition of the United States Information Agency, and consequent transfer of its functions to the Department of State.

• Mr. SCHUMER. Mr. President, I rise to join with my colleagues Senators MOYNIHAN and ROTH in introducing legislation today that I feel is long overdue.

More than 20 years ago, in an attempt to end the looting and pillaging of important archaeological and cultural sites, and to protect the integrity

of a country's cultural patrimony, Senator MOYNIHAN and others labored to develop an international protocol that struck a balance between a country's desire to protect its heritage and the art world's desire to have a healthy trade in and exhibition of cultural artifacts. After years of deliberation, these efforts resulted in the UNESCO Convention on Cultural Property—a delicately balanced set of rules and guidelines to protect countries from looting, but to allow a legitimate trade in historical objects and the showing of those objects in museums around the world.

Congress later established the Cultural Property Advisory Committee (CPAC) to assist the President in making determinations under this convention about whether to restrict or allow the trade of archaeologically significant materials when another country claims harm. Once again, Senator MOYNIHAN was the impetus and intellectual might behind this legislation.

For years, this was a balanced process that weighed the claims of countries against the competing interests of museums, art dealers, and auction houses. The CPAC itself was comprised of individuals representing the interests of the museums, auction houses, dealers, archaeologists, and anthropologists. This committee, with the help of staff, made determinations based on fact (was there sufficient evidence of looting or pillaging?) and effectiveness (if the U.S. unilaterally banned the import of certain items, would it have a reasonable chance of reducing or ending the looting?). The original international protocol as well as the enacting legislation passed by the Congress, specifically discouraged unilateral or bilateral actions. The protocols and the legislation were designed to lead to a cohesive international response, not a country-by-country response to looting.

Somewhere along the line, that delicate balance shifted. CPAC hearings that were once open became closed. Actions that were once multilateral became unilateral. A process that was once inclusive became exclusive. Decisions that in the past were based on a fair hearing on the merits became instead a foregone conclusion against the museums and the dealers. I would go as far as to say that for those representing museums and art dealers, the process became overtly hostile and secretive.

More than a year ago, I convened a meeting with then-USIA director Joe Duffy, members of the art community, and the staff of Senator MOYNIHAN. The meeting was called because of a sweeping action taken by the CPAC regarding Canadian Native American artifacts. Without dwelling on the details of the complaint by the Canadian government or the decision to bar any imports by the U.S. of thousands of artifacts—the meeting was extraordinary. Director Duffy, who as USIA head oversaw the CPAC, admitted that they were way out of line. He admitted that the process had become closed and hostile to dealers and the museums. And he suggested to me and by proxy to Senator MOYNIHAN that we supply him with a name of a person to fill a vacancy on the CPAC to help restore the balance that once was the norm. We gave him the name of Andre Emmerich, a semi-retired dealer in artifacts and probably the most respected voice in the field of cultural property. Director Duffy said to me that Andre Emmerich was the perfect choice.

More than one year later and unfortunately after Director Duffy retired, Andre Emmerich's nomination was rejected because, the CPAC claimed, as a dealer he had a conflict of interest. Let's face facts. The entire CPAC is designed to be a conflict of interest. The balance of the committee membership is supposed to reflect that conflict of interest. That conflict of interest is essential to the inner workings of the committee as the expertise supplied by those in various fields is also intended to edify the rest of the committee to help them make the right decision.

That brings us to today. We are introducing legislation that is intended to clean up the CPAC—to make the process open, fair, transparent, and accountable. Among other provisions, the legislation forces CPAC to open meetings that have been absurdly secretive. The need for cloak and dagger, spy vs. spy, CIA level secrecy over the importation of Peruvian pottery escapes me.

I am proud to be joining both Senator MOYNIHAN and Senator ROTH—two of the most respected leaders in the Senate—in introducing this legislation. I hope we can move this bill quickly, because this is a situation that needs a remedy.●

By Mr. VOINOVICH:

S. 1699. A bill to amend the Federal Water Pollution Control Act to authorize appropriations for State water pollution control revolving funds, and for other purposes; to the Committee on Environment and Public Works.

CLEAN WATER INFRASTRUCTURE FINANCING ACT OF 1999

Mr. VOINOVICH. Mr. President, I rise today to introduce the Clean Water Infrastructure Financing Act of 1999, legislation which will reauthorize the highly successful, but undercapitalized, Clean Water State Revolving Loan Fund (SRF) Program administered by the U.S. Environmental Protection Agency (EPA).

As many of my colleagues know, the Clean Water SRF Program is an effective and immensely popular source of funding for wastewater collection and treatment projects. Congress created the SRF in 1987, to replace the direct grants program that was enacted as part of the landmark 1972 Federal Water Pollution Control Act, or as it is known, the Clean Water Act. State and local governments have used the federal Clean Water SRF to help meet critical environmental infrastructure financing needs. The program operates much like a community bank, where each state determines which projects get built.

The performance of the SRF Program has been spectacular. Total federal capitalization grants have been nearly doubled by non-federal funding sources, including state contributions, leveraged bonds, and principal and interest payments. Communities of all sizes are participating in the program, and approximately 7,000 projects nationwide have been approved to date.

Ohio has needs for public water system improvements which greatly exceed the current SRF appropriations levels. According to the latest state figures, more than $7 billion of improvements have been identified as necessary. In recent years, Ohio cities and villages are spending more on maintaining and operating their systems than in the past, which is an indication their systems are aging and will soon need to be replaced. For example, the City of Columbus recently requested SRF assistance amounting to $725 million over the next five years.

While the SRF program's track record is excellent, the condition of our Nation's environmental infrastructure remains alarming. A 20-year needs survey published by the EPA in 1997 documented $139 billion worth of wastewater capital needs nationwide. This past April, the national assessment was revised upward to nearly $200 billion, in order to more accurately account for expected sanitary sewer needs. Private studies demonstrate that total needs are closer to $300 billion, when anticipated replacement costs are considered.

Authorization for the Clean Water SRF expired at the end of fiscal year 1994, and the failure of Congress to reauthorize the program sends an implicit message that wastewater collection and treatment is not a national priority. The longer we have an absence of authorization of this program, the longer it creates uncertainty about the program's future in the eyes of borrowers, which may delay or in some cases prevent project financing.

The bill that I am introducing today will authorize a total of $15 billion over the next five years for the Clean Water SRF. Not only would this authorization bridge the enormous infrastructure funding gap, the investment would also pay for itself in perpetuity by protecting our environment, enhancing public health, creating jobs and increasing numerous tax bases across the country. Additionally, the bill will provide technical and planning assistance for small systems, expand the types of projects eligible for loan assistance, and offer disadvantaged communities extended loan repayment periods and principal subsidies.

At the local level, there are numerous areas like the town of Glenn Robbins in Jefferson County, Ohio, which cannot afford a zero percent loan to build the cost-effective facilities they

need. Estimates indicate that among towns of less than 3,500 population in Ohio, there are $1.5 billion in needs.

The health and well-being of the American public depends on the condition of our Nation's wastewater collection and treatment systems. Unfortunately, the facilities that comprise these systems are often taken for granted because they are invisible absent a crisis. Let me assure my colleagues that the costs of poor environmental infrastructure are simply intolerable. Recent flood disasters have been a stark reminder of the human costs that stem from the contamination of our Nation's water supply.

The Clean Water SRF Program has helped thousands of communities meet their wastewater treatment needs. My legislation will help ensure that the Clean Water SRF Program remains a viable component in the overall development of our Nation's infrastructure for years to come. I urge my colleagues to join me in cosponsoring this legislation, and I urge it's speedy consideration by the Senate.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1699

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Clean Water Infrastructure Financing Act of 1999''.

SEC. 2. GENERAL AUTHORITY FOR CAPITALIZATION GRANTS.

Section 601(a) of the Federal Water Pollution Control Act (33 U.S.C. 1381(a)) is amended by striking ''(1) for construction'' and all that follows through the period at the end and inserting ''to accomplish the purposes of this Act.''.

SEC. 3. CAPITALIZATION GRANTS AGREEMENTS.

(a) REQUIREMENTS FOR CONSTRUCTION OF TREATMENT WORKS.—Section 602(b)(6) of the Federal Water Pollution Control Act (33 U.S.C. 1382(b)(6)) is amended—

(1) by striking ''before fiscal year 1995''; and

(2) by striking ''201(b)'' and all that follows through ''218,'' and inserting ''211,''.

(b) GUIDANCE FOR SMALL SYSTEMS.—Section 602 of the Federal Water Pollution Control Act (33 U.S.C. 1382) is amended by adding at the end the following:

''(c) GUIDANCE FOR SMALL SYSTEMS.—

''(1) SIMPLIFIED PROCEDURES.—Not later than 1 year after the date of enactment of this subsection, the Administrator shall assist the States in establishing simplified procedures for small systems to obtain assistance under this title.

''(2) PUBLICATION OF MANUAL.—Not later than 1 year after the date of enactment of this subsection, and after providing notice and opportunity for public comment, the Administrator shall publish a manual to assist small systems in obtaining assistance under this title and publish in the Federal Register notice of the availability of the manual.

''(3) DEFINITION OF SMALL SYSTEM.—In this title, the term 'small system' means a system for which a municipality or intermunicipal, interstate, or State agency seeks assistance under this title and that serves a population of 20,000 or fewer inhabitants.''.

SEC. 4. WATER POLLUTION CONTROL REVOLVING FUNDS.

(a) ACTIVITIES ELIGIBLE FOR ASSISTANCE.—Section 603 of the Federal Water Pollution Control Act (33 U.S.C. 1383) is amended by striking subsection (c) and inserting the following:

''(c) ACTIVITIES ELIGIBLE FOR ASSISTANCE.—

''(1) IN GENERAL.—The water pollution control revolving fund of a State shall be used only for providing financial assistance for activities that have, as a principal benefit, the improvement or protection of the water quality of navigable waters to a municipality, intermunicipal, interstate, or State agency, or other person, including activities such as—

''(A) construction of a publicly owned treatment works;

''(B) implementation of lake protection programs and projects under section 314;

''(C) implementation of a nonpoint source management program under section 319;

''(D) implementation of a estuary conservation and management plan under section 320;

''(E) restoration or protection of publicly or privately owned riparian areas, including acquisition of property rights;

''(F) implementation of measures to improve the efficiency of public water use;

''(G) development and implementation of plans by a public recipient to prevent water pollution; and

''(H) acquisition of land necessary to meet any mitigation requirements related to construction of a publicly owned treatment works.

''(2) FUND AMOUNTS.—

''(A) REPAYMENTS.—The water pollution control revolving fund of a State shall be established, maintained, and credited with repayments.

''(B) AVAILABILITY.—The balance in the fund shall be available in perpetuity for providing financial assistance described in paragraph (1).

''(C) FEES.—Fees charged by a State to recipients of the assistance may be deposited in the fund and may be used only to pay the cost of administering this title.''.

(b) EXTENDED REPAYMENT PERIOD FOR DISADVANTAGED COMMUNITIES.—Section 603(d)(1) of the Federal Water Pollution Control Act (33 U.S.C. 1383(d)(1)) is amended—

(1) in subparagraph (A), by inserting after ''20 years'' the following: ''or, in the case of a disadvantaged community, the lesser of 40 years or the expected life of the project to be financed with the proceeds of the loan''; and

(2) in subparagraph (B), by striking ''not later than 20 years after project completion'' and inserting ''on the expiration of the term of the loan''.

(c) LOAN GUARANTEES FOR INNOVATIVE TECHNOLOGY.—Section 603(d) of the Federal Water Pollution Control Act (33 U.S.C. 1383(d)) is amended by striking paragraph (5) and inserting the following:

''(5) to provide loan guarantees for—

''(A) similar revolving funds established by municipalities or intermunicipal agencies; and

''(B) developing and implementing innovative technologies;''.

(d) ADMINISTRATIVE EXPENSES.—Section 603(d)(7) of the Federal Water Pollution Control Act (33 U.S.C. 1383(d)(7)) is amended by inserting before the period at the end the following: ''or the greater of $400,000 per year or an amount equal to ½ percent per year of the current valuation of the fund, plus the amount of any fees collected by the State under subsection (c)(2)(C)''.

(e) TECHNICAL AND PLANNING ASSISTANCE FOR SMALL SYSTEMS.—Section 603(d) of the Federal Water Pollution Control Act (33 U.S.C. 1383(d)) is amended—

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

(2) in paragraph (7), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(8) to provide to small systems technical and planning assistance and assistance in financial management, user fee analysis, budgeting, capital improvement planning, facility operation and maintenance, repair schedules, and other activities to improve wastewater treatment plant operations, except that the amounts used under this paragraph for a fiscal year shall not exceed 2 percent of all grants provided to the fund for the fiscal year under this title.''.

(f) CONSISTENCY WITH PLANNING REQUIREMENTS.—Section 603(f) of the Federal Water Pollution Control Act (33 U.S.C. 1383(f)) is amended by striking ''is consistent'' and inserting ''is not inconsistent''.

(g) CONSTRUCTION ASSISTANCE.—Section 603 of the Federal Water Pollution Control Act (33 U.S.C. 1383) is amended by striking subsection (g) and inserting the following:

''(g) CONSTRUCTION ASSISTANCE.—

''(1) PRIORITY LIST REQUIREMENT.—The State may provide financial assistance from the water pollution control revolving fund of the State for a project for construction of a publicly owned treatment works only if the project is on the priority list of the State under section 216, without regard to the rank of the project on the list.

''(2) ELIGIBILITY OF CERTAIN TREATMENT WORKS.—A treatment works shall be treated as a publicly owned treatment works for purposes of subsection (c) if the treatment works, without regard to ownership, would be considered a publicly owned treatment works and is principally treating municipal waste water or domestic sewage.''.

(h) INTEREST RATES.—Section 603 of the Federal Water Pollution Control Act (33 U.S.C. 1383) is amended by adding at the end the following:

''(i) INTEREST RATES.—

''(1) IN GENERAL.—In any case in which a State makes a loan under subsection (d)(1) to a disadvantaged community, the State may charge a negative interest rate of not to exceed 2 percent to reduce the unpaid principal of the loan.

''(2) LIMITATION.—The aggregate amount of all negative interest rate loans the State makes for a fiscal year under paragraph (1) shall not exceed 20 percent of the aggregate amount of all loans made by the State from the water pollution control revolving fund for the fiscal year.

''(j) DEFINITION OF DISADVANTAGED COMMUNITY.—In this section, the term 'disadvantaged community' means the service area of a publicly owned treatment works with respect to which the average annual residential sewage treatment charges for a user of the treatment works meet affordability criteria established by the State in which the treatment works is located (after providing for public review and comment) in accordance with guidelines established by the Administrator in cooperation with the States.''.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

Section 607 of the Federal Water Pollution Control Act (33 U.S.C. 1387) is amended by striking ''the following sums:'' and all that follows through the period at the end of paragraph (5) and inserting ''$3,000,000,000 for each of fiscal years 2001 through 2005.''.

By Mr. DURBIN:

S. 1700. A bill to amend the Federal Rules of Criminal Procedure to allow a defendant to make a motion for forensic testing not available at trial regarding actual innocence; to the Committee on the Judiciary.

THE RIGHT TO USE TECHNOLOGY IN THE HUNT FOR TRUTH

Mr. DURBIN. Mr. President, the hallmark of our criminal justice system has always been the search for the truth. With this goal in mind, I am introducing legislation to ensure the quality of justice in our criminal courts through the use of DNA testing.

In the last decade, the use of DNA evidence as a tool to assign guilt and acquit the innocent has produced dramatic results. The Innocence Project at the Cardozo School of Law has identified 62 cases in the United States since 1988 in which the use of DNA technology resulted in overturned convictions. In my home State of Illinois, 12 innocent men in the past 12 years have been released from Illinois' Death Row after DNA testing or other evidence proved their innocence.

The bill I am introducing today, The Right to Use Technology in the Hunt for Truth (TRUTH) Act will amend the Federal Rules of Criminal Procedure. Specifically, the bill will allow Federal defendants to file a motion to mandate DNA testing to support claims of actual innocence. Under current law, rule 33 of the Federal Rules of Criminal Procedure imposes a 2-year time limitation for new trial motions based on newly discovered evidence. This time limitation can act as a carrier even in cases where the evidence of actual innocence is available. My bill will allow defendants to bring a motion for forensic DNA testing without regard to the 2-year time limitation. It will not waive the 2-year time limit for all new trial limitations. Only motions for forensic DNA testing under limited circumstances will not subject to the 2-year time limitation.

This Federal rule change allows a defendants to utilize technology that was unavailable at the time of their conviction. The bill requires the defendant to show that identity was an issue in the trial which resulted in his conviction and that the evidence gathered by law enforcement was subject to a chain of custody sufficient to protect its integrity.

DNA technology has undergone rapid change that has increased its ability to obtain meaningful results from old evidence through the use of smaller and smaller samples. In the World Trade Center bombing case, DNA was recovered from saliva on the back of a postage stamp.

In the past, crime laboratories relied primarily on restriction fragment length polymorphism (RFLP) testing, a technique that requires a rather large quantity of DNA (100,000 or more cells). Most laboratories are now shifting to using a test based on the polymerase chain reaction (PCR) method that can generate reliable data from extremely small amounts of DNA in crime scene samples (50 to 100 cells).

Two States in the country, New York and Illinois, have laws mandating post-conviction DNA testing. The Illinois law has led to as many as six overturned sentences, including some murder charges.

When the measure was debated in the Illinois Legislature, some lawmakers raised concerns that allowing DNA-based appeals would lead to an avalanche of prisoners' demands for such tests.

But the response from experts is that such motions have not been excessive because prisoners who were justifiably convicted of crimes would have that DNA tests would only underscore their guilt.

Recently, a high-level study of a commission appointed by Attorney General Janet Reno has encouraged prosecutors to be more amenable to reopening cases where convictions might be overturned because of the use of DNA testing. The Innocence Project in New York estimates that 60 percent of the samples it sends out for testing come back in their clients' favor.

Justice Robert Jackson wrote some 40 years ago, ''[i]t must prejudice the occasional meritorious application to be buried in a flood of worthless ones. He who must search a haystack for a needle is likely to end up with the attitude that the needle is not worth the search.'' This bill will help make the hay stack smaller by separating out motions for new trial based on scientific evidence of actual innocence.

I hope my colleagues will join me in this effort to protect the integrity of the criminal justice system by utilizing all that technology has to offer. I ask unanimous consent that a copy of the legislation be printed in the RECORD.

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

S. 1700

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

SECTION 1. SHORT TITLE.

This Act may be cited as ''The Right to Use Technology in the Hunt for Truth Act'' or ''TRUTH Act''.

SEC. 2. MOTION FOR FORENSIC TESTING NOT AVAILABLE AT TRIAL REGARDING ACTUAL INNOCENCE.

(a) IN GENERAL.—The Federal Rules of Criminal Procedure are amended by inserting after rule 33 the following:

''Rule 33.1. Motion for forensic testing not available at trial regarding actual innocence

''(a) MOTION BY DEFENDANT.—A court on a motion of a defendant may order the performance of forensic DNA testing on evidence that was secured in relation to the trial of that defendant which resulted in the defendant's conviction, but which was not subject to the testing which is now requested because the technology for the testing was not available at the time of trial. Reasonable notice of the motion shall be served upon the Government.

''(b) PRIMA FACIE CASE.—The defendant shall present a prima facie case that—

''(1) identity was an issue in the trial which resulted in the conviction of the defendant; and

''(2) the evidence to be tested has been subject to a chain of custody sufficient to establish that the evidence has not been substituted, tampered with, replaced, or altered in any material aspect.

''(c) DETERMINATION OF THE COURT.—The court shall allow the testing under reasonable conditions designed to protect the interests of the Government in the evidence and the testing process upon a determination that—

''(1) the result of the testing has the scientific potential to produce new, noncumulative evidence materially relevant to the defendant's assertion of actual innocence; and

''(2) the testing requested employs a scientific method generally accepted within the relevant scientific community.''.

(b) TABLE OF CONTENTS.—The table of contents for the Federal Rules of Criminal Procedure are amended by adding after the item for rule 33 the following:

''33.1. Motion for forensic testing not available at trial regarding actual innocence.''.

By Mr. SESSIONS (for himself, Mr. SCHUMER, Mr. THURMOND, Mr. BIDEN, Mrs. FEINSTEIN, Mr. HELMS, and Mr. CLELAND):

S. 1701. A bill to reform civil asset forfeiture, and for other purposes; to the Committee on the Judiciary.

CIVIL ASSET FORFEITURE REFORM

Mr. SESSIONS. Mr. President, today I am proud to introduce the Sessions/Schumer Civil Asset Forfeiture Reform Act of 1999. This bill is the product of many months of work by a bipartisan group of Judiciary Committee Senators. It will make many needed reforms to the law of civil asset forfeiture. At the same time, our measures preserve forfeiture as a crucial tool for law enforcement.

The Sessions/Schumer bill was drafted in close consultation and with the support of the Justice and Treasury Departments. It has the support of the FBI, the DEA, the INS, and the U.S. Marshall's Service.

There are five major reforms in the Sessions/Schumer bill. First, we have raised the burden of proof on the government in forfeiture claims from probable cause to preponderance of the evidence, the same as other civil cases.

Second, Sessions/Schumer requires that real property can only be seized through the court. It will be illegal for federal agents to physically seize real property until the property has been forfeited in court.

For those who cannot afford the cost bond, our bill also adds a property bond alternative for contesting forfeiture. This provides potential claimants with more flexibility in choosing how to proceed with a claim against seized assets. It will no longer be necessary to provide cash up front to file a claim. Instead, a claimant can simply pledge an asset to cover the anticipated costs or, if the claimant cannot afford this, proceed without posting any bond.

Sessions/Schumer also creates a uniform innocent owner defense; an innocent owner's interest in property cannot be forfeited by the government. An innocent owner includes one who had no knowledge that the property may have been used to commit a crime. And

in cases where the property was acquired after the crime, the uniform innocent owner defense includes bona fide purchases who have no reason to know that the asset they have purchased may be tainted.

The fifth major reform provides payment of attorney's fees. If a claimant receives a judgment in his favor, the Government will pay the claimant's reasonable attorney's fees.

I am pleased to note that this bill has the support of a broad coalition of law enforcement groups. It has been endorsed by the Fraternal Order of Police, the Federal Law Enforcement Officer's Association, the International Association of Chiefs of Police, the International Brotherhood of Police Officers, the National Association of Police Organizations, the National District Attorney's Association, the National Sheriff's Association, and the National Troopers' Coalition.

As one who believes in justice and who spent many years as a federal prosecutor, I know how important asset forfeiture is in the war on drugs. We cannot allow exaggerated rhetoric and outdated examples to destroy asset forfeiture as a law enforcement tool. I believe that this bill will strike an appropriate balance between those on the front lines of the war on drugs and advocates for reform.

Mr. THURMOND. Mr. President, I rise today as an original cosponsor of the Civil Asset Forfeiture Reform Act of 1999. This important legislation makes needed reforms to Federal civil asset forfeiture while preserving Federal civil asset forfeiture and its important role in fighting crime.

The government has had the authority to seize property connected to illegal activity since the founding days of the Republic. Forfeiture may involve seizing contraband, like drugs, or the tools of the trade that facilitate the crime.

Further, forfeiture is critical to taking the profits out of the illegal activity. Profit is the motivation for many crimes like drug trafficking and racketeering, and it is from these enormous profits that the criminal activity thrives and sustains. The use of traditional criminal sanctions of fines and imprisonment are inadequate to fight the enormously profitable trade in illegal drugs, organized crime, and other such activity, because even if one offender is imprisoned the criminal activity continues.

Asset forfeiture deters crime. It has been a major weapon in the war on drugs since the mid-1980s, when we expanded civil forfeiture to give it a more meaningful role.

The Judiciary Subcommittee on Criminal Justice Oversight which I chair, held a hearing recently on this important issue. We heard from the Department of Justice, the Department of Treasury, the law enforcement community and others involved in this issue. The Departments and law enforcement expressed support for reform but concerns about going too far.

As I stated at that time, many believe the government should have the burden of proving that it is more likely than not that the property was involved in the criminal activity, rather than the owner having to prove that the property was not involved. There is wide support for developing a more uniform innocent owner defense. Further, some are concerned that under current law the government is not liable when it negligently damages property in its possession, even when the property is later returned to its innocent owner.

I believe we have addressed these concerns in this bill. We have raised the burden on the government to the preponderance of the evidence standard, which is the general burden of proof used in civil cases.

We have developed a uniform innocent owner defense to protect an owner's interest in property when he did not have knowledge of the criminal activity or took reasonable steps to stop or prevent the illegal use of the property. The bill also protects the bonafide purchaser who purchased the property after the fact without knowledge of the criminal activity.

As an additional reform provision, this legislation holds the government liable for the negligent damage to property as the result of unreasonable law enforcement actions while the property is in the government's possession.

This bill requires the government to make seizures pursuant to a warrant, based on probable cause, and requires a timely notice to interested parties of the seizure. When a claim has been filed for the return of property, the government must conduct a judicial hearing within 90 days, and if the court enters a judgment for the claimant, the government must pay reasonable attorney fees to the claimant. This is a reasonable way to award attorney fees to the claimant after the court has determined that the claim was justified. This provision also protects the government from frivolous claims because it maintains the possibility of awarding cost to the government if the claim is determined to be frivolous.

In this legislation, we encourage the government to use criminal forfeiture as an alternative to civil forfeiture. We also allow for the use of forfeited funds to pay restitution to crime victims by expanding the ability of the Attorney General to use property forfeited in a Federal civil case to pay restitution to victims of the underlying crime.

This bill represents a compromise between the many interests involved in this issue. I would like to commend my colleagues Senators SESSIONS, BIDEN, SCHUMER, and FEINSTEIN for their work on this complex issue. After the hearing in my Subcommittee, we worked hard to create comprehensive, bipartisan legislation, and I believe we have succeeded.

This bill has been endorsed by law enforcement organizations including the Fraternal Order of Police, the National Association of Police Organizations, the National District Attorneys Association, the National Troopers Coalition, the National Sheriffs Association, and the International Association of Chiefs of Police.

This is a balanced reform of Federal civil asset forfeiture laws. It does not tie the hands of law enforcement and does not give criminals the upper hand. It makes needed reforms of civil asset forfeiture while preserving civil asset forfeiture as an essential law enforcement tool.

I hope our colleagues will join with us in supporting this important bipartisan legislation.

By Mr. MURKOWSKI:

S. 1702. A bill to amend the Alaska Native Claims Settlement Act to allow shareholder common stock to be transferred to adopted Alaska Native children and their descendants, and for other purposes; to the Committee on Energy and Natural Resources.

ALASKA NATIVE CLAIMS TECHNICAL AMENDMENTS ACT OF 1999

• Mr. MURKOWSKI. Mr. President, today I rise to introduce legislation that would make technical changes to the Alaska Native Claims Settlement Act (ANCSA).

As my colleagues know, ANCSA was enacted in 1971 stimulated by the need to address Native land claims as well as the desire to clear the way for the construction of the Trans-Alaska Pipeline and thereby provide our country with access to the petroleum resources of Alaska's North Slope. This landmark piece of legislation is a breathing, living, document that often needs to be attended for Alaska Natives to receive its full benefits. This body has amended the Act many times including this Congress.

This bill has nine provisions. One provision would allow common stock to be willed to adopted-out descendants. Another provision would clarify the liability for contaminated lands in Alaska. The clarification of contaminated land would declare that no person acquiring interest in land under this Act shall be liable for the costs of removal or remedial action, any damages, or any third party liability arising out or as a result of any contamination on that land at the time the land was acquired.

In 1917, the Norton Bay Reservation was established on 350,000 acres of land located on the north side of Norton Bay southeast of Nome, Alaska, for the benefit of Alaska Natives who now reside in the village of Elim, Alaska. The purpose of the establishment of the reservation included providing a land, economic, subsistence, and resources base for the people of that area.

In 1929, through an Executive Order, 50,000 acres of land were deleted from the reservation with little consultation and certainly without the informed consent of the people who were to be most affected by such a deletion. After passage of ANCSA, only the remaining

300,000 acres of the original reservation were conveyed to the Elim Native Corporation. This loss of land from the original reservation has become over the years a festering wound to the people of Elim. It now needs to be healed through the restoration or replacement of the deleted fifty thousand acres of land to the Native Village Corporation authorized by ANCSA to hold such land.

Section 5 of the bill amends the Act further to allow equal access to Alaska Native veterans who served in the military or other armed services during the Vietnam War. I want to spend a moment speaking about this provision in particular, Mr. President, because I feel a great injustice has occurred and the current Administration has turned its back to these dedicated American veterans.

Under the Native Allotment Act, Alaska Natives were allowed to apply for lands which they traditionally used as fish camps, berry picking camps or hunting camps. However, many of our Alaska Natives answered the call to duty and served in the services during the Vietnam War and were unable to apply for their native allotment. This provision allows them to apply for their native allotments and would expand the dates to include the full years of the Vietnam War. The original dates recommended by the Administration only allowed the dates January 1, 1969 to December 31, 1971. Our Alaska Native veterans should not be penalized for serving during the entire dates of the Vietnam conflict. This provision corrects that inequity by expanding the dates to reflect all the years of the Vietnam War—August 5, 1964 to May 7, 1975.

Mr. President, Alaska Natives have faithfully answered the call of duty when asked to serve in the armed services. In fact, American Indians and Alaska Natives generally have the highest record of answering the call to duty. Where their needs are concerned I believe we should be inclusive, not exclusive. What this Administration has done to deny them their rights is shameful. Unfortunately, their treatment of Alaska Native Veterans is reflective of their treatment of Alaska Natives in general.

As I am sure my colleagues will agree, the history of our Nation reflects many examples of injustices to Native Americans. As hearings will confirm, this issue calls out to be sensibly remedied and can be with relative ease as outlined in this section of the bill.

I plan on holding a hearing on this legislation at the earliest possible opportunity.●

By Mr. BINGAMAN:

S. 1703. A bill to establish America's education goals; to the Committee on Health, Education, Labor, and Pensions.

ESTABLISH AMERICA'S EDUCATION GOALS LEGISLATION

By Mr. BINGAMAN (for himself and Mrs. HUTCHISON):

S. 1704. A bill to provide for college affordability and high standards; to the Committee on Health, Education, Labor, and Pensions.

ACCESS TO HIGH STANDARDS ACT

● Mr. BINGAMAN. Mr. President, today I am pleased to introduce two education bills for consideration in the context of reauthorization of the Elementary and Secondary Education Act (''ESEA''). Two weeks ago, I introduced two education bills related to raising standards and improving accountability for our public school teachers. Last week, I introduced three bills related to raising standards and accountability in our schools. The two bills that I introduce today focus on raising standards and accountability for student performance. One bill continues our commitment to provide support for the standards-based reform movement taking place in virtually every State by reauthorizing the National Education Goals Panel. The other bill, the Access to High Standards Act, which I introduce on behalf of myself and Senator KAY BAILEY HUTCHISON, will provide our high school students with greater access to rigorous, college level courses through advanced placement programs.

I think most people would agree that in order to compete and continue to prosper in our global economy, it is imperative that our students are provided with a world-class educational program. To that end, we owe it to our students to define high academic standards, monitor their progress and provide them with the resources they need to succeed. The National Education Goals Panel has played a crucial role in achieving these objectives by focusing attention on the need to raise standards and effective methods for achieving higher performance on the local level. As a founding and current member of the National Education Goal Panel, I am pleased to introduce a bill that would reauthorize the Panel so that it can continue its efforts to provide leadership and track progress for local efforts to raise standards for student performance.

The Goals Panel is a bipartisan body of federal and state officials made up of eight governors, four members of Congress, four state legislators and two members appointed by the President. The Panel is charged with reporting national and state progress toward goals set initially by the nation's Governors during a National Education Summit meeting with President Bush and expanded during the 1994 ESEA reauthorization Summit meeting with President Bush and expanded during the 1994 ESEA reauthorization process in the Educate America Act. The Panel also identifies promising practices for improving education and helps to build a nationwide, bipartisan consensus to achieve the goals. The eight National Education Goals call for greater levels of: school readiness; student achievement and citizenship; high school completion; teacher education and professional development; parental participation in the schools; literacy and lifelong learning; and safe, disciplined and alcohol- and drug-free schools.

We need to continue the Panel's work, because we are not yet where we need to be with respect to meeting the goals or with respect to supporting state and local efforts to put in place standards-based educational programs. Data collected by the Goals Panel has helped and can continue to help State and local officials to formulate comprehensive school improvement policies. The Goals Panel also has provided and can continue to provide guidance to federal, state and local policy-makers by providing a national picture for student performance. We have made good progress towards developing more competitive, high quality educational systems in our states and localities, but we must not leave the task incomplete. We must continue to focus attention and resources on incorporating high standards into public education. As Secretary Riley stated before the nation's governors and President Bush met in 1989, ''Significant educational improvements do not just happen. They are planned and pursued.'' I hope that my colleagues will support continuation of the Goals Panel so that we can continue to use the Panel as a tool for setting and achieving high standards for student performance.

Building on the successful expansion of the Advanced Placement Incentive Program achieved in the last Congress, the Access to High Standards Act is intended to help foster the continued growth of advanced placement programs throughout the nation and to help ensure equal access to these programs for low income students. Advanced placement programs already provide rigorous academics and valuable college credits at half the high schools in the United States, serving over 1.5 million students last year. Many States that have advanced placement incentive programs have already shown tremendous success in increasing participation rates, raising achievement scores, and increasing the involvement of low-income and underserved students. Nevertheless students—particularly low-income students—continue to be denied or have limited access to this critical program.

Despite recent growth in state initiatives and participation, AP programs are still often distributed unevenly among regions, states, and even high schools within the same districts. Just a few months ago, a group of students filed a complaint in federal court against the State of California seeking equal access to advance placement programs. Over forty percent of our nation's public schools still do not offer any Advanced Placement courses. The

Access to High Standards Act is intended to take additional steps in fostering the continued growth of advanced placement programs throughout the nation and to help ensure equal access to these programs for low-income students. This bill creates a $25 million demonstration grant program to help states build and expand advanced placement incentive programs giving priority to districts with high concentrations of low-income students and to State programs targeting low-income students. In addition, the bill authorizes a pilot grant program for States seeking to provide advanced placement courses through Internet-based on-line curriculum to students in rural areas or areas where the lack of available advanced placement teachers make it impossible to provide traditional courses. The bill also make AP a part of other federal education programs such as the Technology for Education Act programs that I helped author in 1994. In this way, federal initiatives will be encouraged to incorporate the high standards and measurable results of the AP program.

As many of my colleagues know, college costs have risen many times faster than inflation over the last decade, making attendance more difficult for high school graduates and creating tremendous financial burdens. Advanced placement programs address this issue by giving students an opportunity to earn college credit in high school by preparing for and passing AP exams. In fact, a single AP English test score of 3 or better is worth approximately $500 in tuition at the University of New Mexico, and the credits granted to students nationwide are worth billions each year.

By promoting AP courses, we also address the need to raise academic standards. Many states and districts are struggling to develop and implement rigorous academic standards and concrete measures of achievement—an approach that is advocated by many experts, lawmakers, and the public. By implementing high academic standards and providing standardized measures for achievement through AP programs, we can help prepare students for college. This is clearly a necessary goal. Almost 33 percent of all freshmen fail to pass to pass basic entrance exams and are required to take remedial courses. And, at least in part due to academic difficulties, over 25 percent of freshmen drop out before their second year.

In addition, expanding AP programs improve students' academic performance in college. And because the vast majority of AP teachers teach several non-AP classes as well, AP programs also have a tendency of raising schoolwide standards and achievement among the 400 new schools adopting the program each year. As Secretary Riley has said, expanded AP will ''help fight the tyranny of low expectations, which tragically hold back so many of our students.''

Of course, there is no single remedy or federal program that can hope to address all of the issues that public education must face in order to improve the achievement and preparation of our students. However, I believe that high college costs and low academic standards deserve our closest attention, and I am confident that expansion of advanced placement programs will help states address these issues effectively.

I look forward to working with my colleagues to incorporate the two bills I am introducing today, as well as, the education bills introduced in recent weeks into the ESEA. I believe that they will go a long way towards improving education in the United States by focusing on raising standards and ensuring accountability for teacher, school and student performance.●

ADDITIONAL COSPONSORS

S. 185

At the request of Mr. ASHCROFT, the names of the Senator from South Dakota (Mr. JOHNSON), the Senator from Iowa (Mr. HARKIN), and the Senator from Illinois (Mr. FITZGERALD) were added as cosponsors of S. 185, a bill to establish a Chief Agricultural Negotiator in the Office of the United States Trade Representative.

S. 332

At the request of Mr. BROWNBACK, the name of the Senator from South Carolina (Mr. THURMOND) was added as a cosponsor of S. 332, a bill to authorize the extension of nondiscriminatory treatment (normal trade relations treatment) to the products of Kyrgyzstan.

S. 446

At the request of Mrs. BOXER, the name of the Senator from New York (Mr. MOYNIHAN) was added as a cosponsor of S. 446, a bill to provide for the permanent protection of the resources of the United States in the year 2000 and beyond.

S. 469

At the request of Mr. BREAUX, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 469, a bill to encourage the timely development of a more cost effective United States commercial space transportation industry, and for other purposes.

S. 631

At the request of Mr. DEWINE, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. 631, a bill to amend the Social Security Act to eliminate the time limitation on benefits for immunosuppressive drugs under the medicare program, to provide continued entitlement for such drugs for certain individuals after medicare benefits end, and to extend certain medicare secondary payer requirements.

S. 758

At the request of Mr. ASHCROFT, the names of the Senator from New Hampshire (Mr. GREGG), the Senator from Kentucky (Mr. MCCONNELL), and the Senator from Alaska (Mr. MURKOWSKI) were added as cosponsors of S. 758, a bill to establish legal standards and procedures for the fair, prompt, inexpensive, and efficient resolution of personal injury claims arising out of asbestos exposure, and for other purposes.

S. 759

At the request of Mr. MURKOWSKI, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 759, a bill to regulate the transmission of unsolicited commercial electronic mail on the Internet, and for other purposes.

S. 1003

At the request of Mr. ROCKEFELLER, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 1003, a bill to amend the Internal Revenue Code of 1986 to provide increased tax incentives for the purchase of alternative fuel and electric vehicle, and for other purposes.

S. 1085

At the request of Mrs. MURRAY, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 1085, a bill to amend the Internal Revenue Code of 1986 to modify the treatment of bonds issued to acquire renewable resources on land subject to conservation easement.

S. 1102

At the request of Mr. GRAMS, the name of the Senator from Pennsylvania (Mr. SANTORUM) was added as a cosponsor of S. 1102, a bill to guarantee the right of individuals to receive full social security benefits under title II of the Social Security Act in full with an accurate annual cost-of-living adjustment.

S. 1131

At the request of Mr. EDWARDS, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of S. 1131, a bill to promote research into, and the development of an ultimate cure for, the disease known as Fragile X.

S. 1133

At the request of Mr. GRAMS, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of S. 1133, a bill to amend the Poultry Products Inspection Act to cover birds of the order Ratitae that are raised for use as human food.

S. 1155

At the request of Mr. ROBERTS, the name of the Senator from Georgia (Mr. CLELAND) was added as a cosponsor of S. 1155, a bill to amend the Federal Food, Drug, and Cosmetic Act to provide for uniform food safety warning notification requirements, and for other purposes.

S. 1187

At the request of Mr. DORGAN, the name of the Senator from Idaho (Mr. CRAIG) was added as a cosponsor of S. 1187, a bill to require the Secretary of the Treasury to mint coins in commemoration of the bicentennial of the

Lewis and Clark Expedition, and for other purposes.

S. 1272

At the request of Mr. NICKLES, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 1272, a bill to amend the Controlled Substances Act to promote pain management and palliative care without permitting assisted suicide and euthanasia, and for other purposes.

S. 1277

At the request of Mr. BAUCUS, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 1277, a bill to amend title XIX of the Social Security Act to establish a new prospective payment system for Federally-qualified health centers and rural health clinics.

S. 1315

At the request of Mr. BINGAMAN, the name of the Senator from Arizona (Mr. MCCAIN) was added as a cosponsor of S. 1315, a bill to permit the leasing of oil and gas rights on certain lands held in trust for the Navajo Nation or allotted to a member of the Navajo Nation, in any case in which there is consent from a specified percentage interest in the parcel of land under consideration for lease.

S. 1384

At the request of Mr. KOHL, the name of the Senator from Minnesota (Mr. WELLSTONE) was added as a cosponsor of S. 1384, a bill to amend the Public Health Service Act to provide for a national folic acid education program to prevent birth defects, and for other purposes.

S. 1445

At the request of Mr. KOHL, the name of the Senator from West Virginia (Mr. BYRD) was added as a cosponsor of S. 1445, a bill to amend titles XVIII and XIX of the Social Security Act to prevent abuse of recipients of long-term care services under the medicare and medicaid programs.

S. 1452

At the request of Mr. SHELBY, the names of the Senator from Mississippi (Mr. COCHRAN) and the Senator from North Carolina (Mr. HELMS) were added as cosponsors of S. 1452, a bill to modernize the requirements under the National Manufactured Housing Construction and Safety Standards of 1974 and to establish a balanced consensus process for the development, revision, and interpretation of Federal construction and safety standards for manufactured homes.

S. 1488

At the request of Mr. GORTON, the names of the Senator from Indiana (Mr. LUGAR) and the Senator from Michigan (Mr. ABRAHAM) were added as cosponsors of S. 1488, a bill to amend the Public Health Service Act to provide for recommendations of the Secretary of Health and Human Services regarding the placement of automatic external defibrillators in Federal buildings in order to improve survival rates of individuals who experience cardiac arrest in such buildings, and to establish protections from civil liability arising from the emergency use of the devices.

S. 1571

At the request of Mr. JEFFORDS, the name of the Senator from Mississippi (Mr. LOTT) was added as a cosponsor of S. 1571, a bill to amend title 38, United States Code, to provide for permanent eligibility of former members of the Selected Reserve for veterans housing loans.

S. 1573

At the request of Mr. LIEBERMAN, the name of the Senator from New York (Mr. MOYNIHAN) was added as a cosponsor of S. 1573, a bill to provide a reliable source of funding for State, local, and Federal efforts to conserve land and water, preserve historic resources, improve environmental resources, protect fish and wildlife, and preserve open and green spaces.

S. 1590

At the request of Mr. CRAPO, the names of the Senator from Illinois (Mr. DURBIN) and the Senator from Colorado (Mr. CAMPBELL) were added as cosponsors of S. 1590, a bill to amend title 49, United States Code, to modify the authority of the Surface Transportation Board, and for other purposes.

S. 1608

At the request of Mr. WYDEN, the names of the Senator from South Dakota (Mr. JOHNSON) and the Senator from Ohio (Mr. DEWINE) were added as cosponsors of S. 1608, a bill to provide annual payments to the States and counties from National Forest System lands managed by the Forest Service, and the revested Oregon and California Railroad and reconveyed Coos Bay Wagon Road grant lands managed predominately by the Bureau of Land Management, for use by the counties in which the lands are situated for the benefit of the public schools, roads, emergency and other public purposes; to encourage and provide new mechanism for cooperation between counties and the Forest Service and the Bureau of Land Management to make necessary investments in Federal Lands, and reaffirm the positive connection between Federal Lands counties and Federal Lands; and for other purposes.

S. 1689

At the request of Mr. GRASSLEY, the name of the Senator from Georgia (Mr. COVERDELL) was added as a cosponsor of S. 1689, a bill to require a report on the current United States policy and strategy regarding counter-narcotics assistance for Colombia, and for other purposes.

S. 1690

At the request of Mrs. MURRAY, her name was added as a cosponsor of S. 1690, a bill to require the United States to take action to provide bilateral debt relief, and improve the provision of multilateral debt relief, in order to give a fresh start to poor countries.

SENATE CONCURRENT RESOLUTION 34

At the request of Mr. SPECTER, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of Senate Concurrent Resolution 34, a concurrent resolution relating to the observance of ''In Memory'' Day.

AMENDMENT NO. 1889

At the request of Mr. NICKLES the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of amendment No. 1889 proposed to S. 1650, an original bill making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2000, and for other purposes.

SENATE RESOLUTION 197—REFERRING S. 1698 ENTITLED ''A BILL FOR THE RELIEF OF D.W. JACOBSON, RONALD KARKALA, AND PAUL BJORGEN OF GRAND RAPIDS, MINNESOTA'' TO THE CHIEF JUDGE OF THE UNITED STATES COURT OF FEDERAL CLAIMS FOR A REPORT THEREON

Mr. GRAMS submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 197

Resolved,

SECTION 1. REFERRAL.

S. 1698 entitled ''A bill for the relief of D. W. Jacobson, Ronald Karkala, and Paul Bjorgen of Grand Rapids, Minnesota'' now pending in the Senate, together with all the accompanying papers, is referred to the chief judge of the United States Court of Federal Claims.

SEC. 2. PROCEEDING AND REPORT.

The chief judge shall—

(1) proceed according to the provisions of sections 1492 and 2509 of title 28, United States Code; and

(2) report back to the Senate, at the earliest practicable date, providing—

(A) such findings of fact and conclusions that are sufficient to inform the Congress of the nature, extent, and character of the claim for compensation referred to in such bill as a legal or equitable claim against the United States or a gratuity; and

(B) the amount, if any, legally or equitably due from the United States to D. W. Jacobson, Ronald Karkala, and Paul Bjorgen of Grand Rapids, Minnesota.

AMENDMENTS SUBMITTED

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT 2000

LAUTENBERG AMENDMENT NO. 2267

Mr. LAUTENBERG proposed an amendment to amendment No. 1851 proposed by Mr. NICKLES to the bill (S. 1650) making appropriations for the Departments of Labor, Health and Human

Services, and Education, and related agencies for the fiscal year ending September 30, 2000, and for other purposes; as follows:

At the end of the amendment add the following:

SEC. ___. PROTECTING SOCIAL SECURITY SURPLUSES.

(a) FINDINGS.—The Senate finds the following:

(1) The Congressional Budget Office has projected that Congress is headed toward using at least $19,000,000,000 of the social security surplus in fiscal year 2000.

(2) Amendment number 1851 calls for across-the-board cuts, which could result in a broad-based reduction of 10 percent, taking into consideration approved appropriations bills and other costs likely to be incurred in the future, such as relief for hurricane victims, Kosovo, and health care providers.

(3) These across-the-board cuts would sharply reduce military readiness and long-term defense modernization programs, cut emergency aid to farmers and hurricane victims, reduce the number of children served by Head Start, cut back aid to schools to help reduce the class size, severely limit the number of veterans served in VA hospitals, reduce the number of FBI and Border Patrol agents, restrict funding for important transportation investments, and limit funding for environmental cleanup sites.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that instead of raiding social security surpluses or indiscriminately cutting defense, emergency relief, education, veterans' health care, law enforcement, transportation, environmental cleanup, and other discretionary appropriations across the board, Congress should fund fiscal year 2000 appropriations, without using budget scorekeeping gimmicks, by closing special-interest tax loopholes and using other appropriate offsets.

KENNEDY AMENDMENT NO. 2268

Mr. KENNEDY proposed an amendment to the bill, S. 1650, supra; as follows:

At the appropriate place, insert the following:

In order to improve the quality of education funds available for education, including funds for Title 1, the Individuals with Disabilities Education Act and Pell Grants shall be excluded from any across-the-board reduction.

ABRAHAM (AND OTHERS) AMENDMENT NO. 2269

(Ordered to lie on the table.)

Mr. ABRAHAM (for himself, Mr. COVERDELL, Mr. GRASSLEY, Mr. ASHCROFT, and Mr. SMITH of New Hampshire) submitted an amendment intended to be proposed by them to amendment No. 1828 proposed by Mr. COVERDELL to the bill, S. 1650, supra; as follows:

Strike all after the first word and insert the following:

Notwithstanding any other provision of this Act, no funds appropriated under this Act shall be used to carry out any program of distributing sterile needles or syringes for the hypodermic injection of any illegal drug. This provision shall become effective one day after the date of enactment.

NOTICE OF HEARING

SUBCOMMITTEE ON FOREST AND PUBLIC LAND MANAGEMENT

Mr. CRAIG. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Subcommittee on Forests and Public Land Management of the Senate Committee on Energy and Natural Resources.

The hearing will take place Tuesday, October 19, 1999, at 10 a.m., in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of this hearing is to receive testimony on S. 1608, a bill to provide annual payments to the States and counties from National Forest System lands managed by the Forest Service, and the revested Oregon and California Railroad and reconveyed Coos Bay Wagon Road grant lands managed predominately by the Bureau of Land Management, for use by the counties in which the lands are situated for the benefit of the public schools, roads, emergency and other public purposes; to encourage and provide a new mechanism for cooperation between counties and the Forest Service and the Bureau of Land Management to make necessary investments in federal lands, and reaffirm the positive connection between Federal Lands counties and Federal Lands; and for other purposes.

Those who wish to submit written statements should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510.

SUBCOMMITTEE ON WATER AND POWER

Mr. SMITH. Mr. President, I would like to announce for the information of the Senate and the public that a legislative hearing has been scheduled before the Subcommittee on Water and Power.

The purpose of this hearing is to receive testimony on S. 1167, a bill to amend the Pacific Northwest Electric Power Planning and Conservation Act to provide for expanding the scope of the Independent Scientific Review Panel; S. 1694, a bill to direct the Secretary of the Interior to conduct a study on the reclamation and reuse of water and wastewater in the State of Hawaii; S. 1612, a bill to direct the Secretary of the Interior to convey certain irrigation project property to certain irrigation and reclamation districts in the State of Nebraska; S. 1474, providing conveyance of the Palmetto Bend project to the State of Texas; S. 1697, to authorize the Secretary of the Interior to refund certain collections received pursuant to the Reclamation Reform Act of 1982; and S. 1178, a bill to direct the Secretary of the Interior to convey certain parcels of land acquired for the Blunt Reservoir and Pierre Canal features of the Oahe Irrigation Project, South Dakota, to the Commission of Schools and Public Lands of the State of South Dakota for the purpose of mitigating lost wildlife habitat, on the condition that the current preferential leaseholders shall have an option to purchase the parcels from the Commission, and for other purposes.

The hearing will take place on Wednesday, October 20, 1999, at 2:30 p.m., in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Subcommittee on Water and Power, Committee on Energy and Natural Resources, United States Senate, 364 Dirksen Senate Office Building, Washington DC 20510–6150.

For further information, please call Kristin Phillips, Staff Assistant or Colleen Deegan, Counsel.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. SPECTER. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry, be allowed to meet during the session of the Senate on Wednesday, October 6, 1999. The purpose of this meeting will be to discuss the science of biotechnology and its potential applications to agriculture.

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

COMMITTEE ON ARMED SERVICES

Mr. SPECTER. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet at 9:30 a.m., on Wednesday, October 6, 1999, in open session in SH–216 and in closed session in SH–219, to receive testimony on the national security implications of the Comprehensive Test Ban Treaty.

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. SPECTER. Mr. President, I ask unanimous consent that the full Committee on Environment and Public Works be granted permission to conduct a hearing Wednesday, October 6, 3 p.m., to receive testimony from Skila Harris, nominated by the President to be a member of the board of directors, Tennessee Valley Authority; Glenn L. McCullough, Jr., nominated by the President to be a member of the board of directors of the Tennessee Valley Authority; and Gerald V. Poje, nominated by the President to be a member of the Chemical Safety and Hazard Investigation Board.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. SPECTER. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the

Senate on Wednesday, October 6, 1999, at 10 a.m. and 2:15 p.m., to hold two hearings.

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

COMMITTEE ON THE JUDICIARY

Mr. SPECTER. Mr. President, the Committee on the Judiciary requests unanimous consent to conduct a hearing on Wednesday, October 6, 1999, beginning at 2 p.m., in Dirksen Room 226.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. SPECTER. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, October 6, 1999, at 2 p.m., to hold a closed hearing on intelligence matters.

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

SUBCOMMITTEE ON SURFACE TRANSPORTATION AND MERCHANT MARINE

Mr. SPECTER. Mr. President, I ask unanimous consent that the Surface Transportation and Merchant Marine Subcommittee of the Senate Committee on Commerce, Science, and Transportation be authorized to meet on Wednesday, October 6, 1999, at 9:30 a.m., on the Cruise Ship Tourism Development Act of 1999.

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

SUBCOMMITTEE ON TECHNOLOGY, TERRORISM AND GOVERNMENT INFORMATION

Mr. SPECTER. Mr. President, the Committee on the Judiciary Subcommittee on Technology, Terrorism and Government Information requests unanimous consent to conduct a hearing on Wednesday, October 6, 1999, beginning at 10 a.m., in Dirksen Room 226.

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

ADDITIONAL STATEMENTS

TRIBUTE TO THE ATLANTA BRAVES

● Mr. CLELAND. Mr. President, I rise today to pay tribute to the Atlanta Braves baseball team for winning their eighth consecutive divisional championship and, once again, finishing the season with the best record in Major League Baseball. While their record may suggest that this championship was won with a great deal of ease, this could not be further from the truth. Before the season began, the Braves and baseball as a whole were shaken by the news that Andreas Galarraga, the All-Star first baseman of the Braves, had been diagnosed with non-hodgkin's lymphoma, a form of cancer. Although Galarraga had to sit own the entire 1999 season, he has now fully recovered and everyone is eagerly awaiting his return to the field next year.

Despite the loss of Galarraga and several other individuals who had been an integral part of the previous championship teams, the Atlanta Braves never gave up. Through this difficult time, the Braves played to the best of their ability and exceeded everyone's expectations. This season the Braves won more games than any other team in baseball which is why, including the worst to first season of 1991, this season may have been the most meaningful of all their recent successes.

In this year when each major league team individually celebrated Hank Aaron Day—a day devoted to the memory of baseball's all time homerun leader breaking Babe Ruth's staggering record of 714 homers—the Atlanta Braves once again rose to the top. Their national following combined with their hard work and perseverance have given the Braves the moniker of ''America's Team,'' an honor well suited for these champions.●

COOPERATIVES

● Mr. CONRAD. Mr. President, October is ''Co-op Month,'' and today I would like to stress the importance of cooperatives to the nation and especially to my state of North Dakota. Cooperatives are pure examples of good business—companies formed, owned and democratically controlled by the people who use its services and who receive benefits from patronage. Cooperatives are institutions that demonstrate people making their lives better through hard work and their knowledge of the American economic system.

In fact, the notion of cooperation is an ideal—people working together to accomplish a task and provide products and services for the public good. It is this basic philosophical idea, which so many find difficult to achieve, that the citizens of my state have been particularly adept at making a reality. North Dakota farmers have been leaders when it comes to improving their economic and social positions through cooperative community enterprise. From the great traditions of early political movements that created cooperative momentum—the American Society of Equity, the Nonpartisan League, and the Farmers Union—an educational base was formed that today still influences the drive for cooperative development. As a result, electricity and telephone service, pasta, sugar, bison and scores of other marketing and service cooperatives cover North Dakota today. Income is distributed, products and services are supplied, and employment and opportunity are spread throughout the state.

Cooperatives are formed to protect the way of life for independent producers and provide essential services for rural communities. Member education, one-member, one-vote equity in business decisions, and relying on neighbors to form and maintain the institution are all cooperative principles that underpin the success of these ventures. The legendary hardships that have been overcome in my state's pioneering history required cooperation among neighbors for everything from food and shelter to aid in farm labor and human companionship. Cooperation and the formation of cooperative enterprise were logical means of ensuring rural survival. We have long known that through organization, we can accomplish any goal, and through cooperation we can work together to benefit all. Therefore, during October, the month designated to recognize the importance of cooperatives, I thank the members of cooperatives for taking the initiative to direct their economic futures and for contributing to the unique economic heritage of North Dakota and this nation.●

IN CELEBRATION OF REV. GREGORY J. JACKSON

● Mr. TORRICELLI. Mr. President, I rise today in recognition of the Reverend Gregory J. Jackson as he celebrates his 15th year as pastor of the Mount Olive Baptist Church in Hackensack, New Jersey. Reverend Jackson has been an ordained minister for over twenty-three years and has ministered to the Hackensack community since 1984. It is a pleasure for me to be able to honor his accomplishments.

Since his ordination on May 16, 1976, Reverend Jackson has worked to help those less fortunate throughout New York and New Jersey. During his career, Reverend Jackson has shown commitment to public service as well as dedication to the disabled. These life experiences have proved invaluable in his ministry. His activism is widely known and admired throughout the State of New Jersey.

In addition to his ministry in Hackensack, Reverend Jackson has played a very active role in strengthening the political and economic life of New Jersey. He has served on a number of civic organizations including the NAACP of Bergen County, Fair Housing Board of Bergen County, and the Advisory Board of the Office on Aging. He has also served as the President of the Hackensack Board of Education, Treasurer of the North Jersey Baptist Association, Vice-President of the Fellowship of Black Churches and as Vice-President of the Bergen County Council of Churches. Reverend Jackson recently been named as Director of Promotions of the Lott Carey Baptist Foreign Mission Convention.

Although Reverend Jackson has dedicated so much time to civic organizations, he has never lost sight of the need to serve his community. During his fifteen year tenure as the pastor of Mount Olive Baptist Church, the parish has grown by more than 1,000 new members. In addition, Reverend Jackson has implemented ministry programs to improve the Hackensack community both spiritually and educationally.

I am pleased to recognize a leader of great stature in New Jersey, and a close friend. Through all of the years

we have spent, working to strengthen New Jersey's communities, I have always known Reverend Jackson to stand on principle, loyalty, and commitment. I look forward to continuing to work with Reverend Jackson, and I wish him the best as he celebrates this momentous occasion.●

RECOGNITION OF THE SS *WAYNE VICTORY*

● Mr. LEVIN. Mr. President, I rise today to call my colleagues' attention to a new exhibit of artifacts from the SS *Wayne Victory*. The exhibit, which is located at Wayne State University in my home town of Detroit, MI, is being dedicated on Friday, October 8, 1999.

The SS *Wayne Victory* was a so-called ''Victory Ship,'' one of several hundred ships built during the final two years of World War II to serve as cargo and troop transport vessels. The SS *Wayne Victory* was named for Wayne University, now known as Wayne State University. Commissioned in 1945, the SS *Wayne Victory* served in World War II, the Korean conflict and the Vietnam war.

Thanks to the efforts of a Wayne State University alumnus, the contributions of the SS *Wayne Victory* to our armed forces will be celebrated for years to come. Many ships of its kind fell into disuse and were forgotten after their service. Fortunately, Joe Gerson, who grew up in Detroit and graduated from Wayne State University in 1951, located the SS *Wayne Victory* and negotiated with the federal government for the permanent loan of several artifacts from the ship to the university. These artifacts include the ship's bell, engine order telegraph, wheel, furniture, oars, life rings, and name board. Mr. Gerson also generously contributed funds which allowed the university to transport the artifacts to Detroit and to display them in the permanent exhibit being dedicated this Friday.

Mr. President, the preservation of artifacts like those from the SS *Wayne Victory* is critical if we are to continue to learn from history. Thanks to Joe Gerson and Wayne State University, one small, but significant, piece of American military history will be available for people to study in the 21st century. I know my colleagues join me in extending Joe Gerson and Wayne State University our thanks and congratulations for their commitment to the preservation of the memory of the SS *Wayne Victory*'s role in some of the most significant military conflicts in our nation's history.●

AIR TRANSPORTATION IMPROVEMENT ACT

On October 5, 1999, amended and passed H.R. 1000. The bill, as amended, follows:

Resolved, That the bill from the House of Representatives (H.R. 1000) entitled ''An Act to amend title 49, United States Code, to reauthorize programs of the Federal Aviation Administration, and for other purposes.'', do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE; TABLE OF SECTIONS.

(a) SHORT TITLE.—This Act may be cited as the ''Air Transportation Improvement Act''.

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

Sec. 1. Short title; table of sections.
Sec. 2. Amendments to title 49, United States Code.

TITLE I—AUTHORIZATIONS

Sec. 101. Federal Aviation Administration operations.
Sec. 102. Air navigation facilities and equipment.
Sec. 103. Airport planning and development and noise compatibility planning and programs.
Sec. 104. Reprogramming notification requirement.
Sec. 105. Airport security program.
Sec. 106. Automated surface observation system stations.

TITLE II—AIRPORT IMPROVEMENT PROGRAM AMENDMENTS

Sec. 201. Removal of the cap on discretionary fund.
Sec. 202. Innovative use of airport grant funds.
Sec. 203. Matching share.
Sec. 204. Increase in apportionment for noise compatibility planning and programs.
Sec. 205. Technical amendments.
Sec. 206. Report on efforts to implement capacity enhancements.
Sec. 207. Prioritization of discretionary projects.
Sec. 208. Public notice before grant assurance requirement waived.
Sec. 209. Definition of public aircraft.
Sec. 210. Terminal development costs.
Sec. 211. Airfield pavement conditions.
Sec. 212. Discretionary grants.
Sec. 213. Contract tower cost-sharing.

TITLE III—AMENDMENTS TO AVIATION LAW

Sec. 301. Severable services contracts for periods crossing fiscal years.
Sec. 302. Stage 3 noise level compliance for certain aircraft.
Sec. 303. Government and industry consortia.
Sec. 304. Implementation of Article 83 Bis of the Chicago Convention.
Sec. 305. Foreign aviation services authority.
Sec. 306. Flexibility to perform criminal history record checks; technical amendments to Pilot Records Improvement Act.
Sec. 307. Extension of Aviation Insurance Program.
Sec. 308. Technical corrections to civil penalty provisions.
Sec. 309. Criminal penalty for pilots operating in air transportation without an airman's certificate.
Sec. 310. Nondiscriminatory interline interconnection requirements.
Sec. 311. Review process for emergency orders under section 44709.

TITLE IV—MISCELLANEOUS

Sec. 401. Oversight of FAA response to year 2000 problem.
Sec. 402. Cargo collision avoidance systems deadline.
Sec. 403. Runway safety areas; precision approach path indicators.
Sec. 404. Airplane emergency locators.
Sec. 405. Counterfeit aircraft parts.
Sec. 406. FAA may fine unruly passengers.
Sec. 407. Higher standards for handicapped access.
Sec. 408. Conveyances of United States Government land.
Sec. 409. Flight operations quality assurance rules.
Sec. 410. Wide area augmentation system.
Sec. 411. Regulation of Alaska guide pilots.
Sec. 412. Alaska rural aviation improvement.
Sec. 413. Human factors program.
Sec. 414. Independent validation of FAA costs and allocations.
Sec. 415. Application of Federal Procurement Policy Act.
Sec. 416. Report on modernization of oceanic ATC system.
Sec. 417. Report on air transportation oversight system.
Sec. 418. Recycling of EIS.
Sec. 419. Protection of employees providing air safety information.
Sec. 420. Improvements to air navigation facilities.
Sec. 421. Denial of airport access to certain air carriers.
Sec. 422. Tourism.
Sec. 423. Sense of the Senate on property taxes on public-use airports.
Sec. 424. Federal Aviation Administration Personnel Management System.
Sec. 425. Authority to sell aircraft and aircraft parts for use in responding to oil spills.
Sec. 426. Aircraft and aviation component repair and maintenance advisory panel.
Sec. 427. Aircraft situational display data.
Sec. 428. Allocation of Trust Fund funding.
Sec. 429. Taos Pueblo and Blue Lakes Wilderness Area demonstration project.
Sec. 430. Airline marketing disclosure.
Sec. 431. Compensation under the Death on the High Seas Act.
Sec. 432. FAA study of breathing hoods.
Sec. 433. FAA study of alternative power sources for flight data recorders and cockpit voice recorders.
Sec. 434. Passenger facility fee letters of intent.
Sec. 435. Elimination of HAZMAT enforcement backlog.
Sec. 436. FAA evaluation of long-term capital leasing.
Sec. 437. Prohibitions against smoking on scheduled flights.
Sec. 438. Designating current and former military airports.
Sec. 439. Rolling stock equipment.
Sec. 440. Monroe Regional Airport land conveyance.
Sec. 441. Cinncinati-Municipal Blue Ash Airport.
Sec. 442. Report on Specialty Metals Consortium.
Sec. 443. Pavement condition.
Sec. 444. Inherently low-emission airport vehicle pilot program.
Sec. 445. Conveyance of airport property to an institution of higher education in Oklahoma.
Sec. 446. Automated Surface Observation System/Automated Weather Observing System Upgrade.
Sec. 447. Terminal Automated Radar Display and Information System.
Sec. 448. Cost/benefit analysis for retrofit of 16G seats.
Sec. 449. Raleigh County, West Virginia, Memorial Airport.
Sec. 450. Airport safety needs.
Sec. 451. Flight training of international students.
Sec. 452. Grant Parish, Louisiana.
Sec. 453. Designation of general aviation airport.
Sec. 454. Airline Deregulation Study Commission.
Sec. 455. Nondiscrimination in the use of private airports.
Sec. 456. Curfew.
Sec. 457. Federal Aviation Administration Year 2000 Technology Safety Enforcement Act of 1999.

Sec. 458. Expressing the sense of the Senate concerning air traffic over northern Delaware.
Sec. 459. Study of outdoor air, ventilation, and recirculation air requirements for passenger cabins in commercial aircraft.
Sec. 460. General Aviation Metropolitan Access and Reliever Airport Grant Fund.
Sec. 461. Study on airport noise.
Sec. 462. Sense of the Senate concerning EAS.
Sec. 463. Airline quality service reports.
Sec. 464. Prevention of frauds involving aircraft or space vehicle parts in interstate or foreign commerce.
Sec. 465. Preservation of essential air service at dominated hub airports.
Sec. 466. Availability of funds for Georgia's regional airport enhancement program.

TITLE V—AVIATION COMPETITION PROMOTION

Sec. 501. Purpose.
Sec. 502. Establishment of small community aviation development program.
Sec. 503. Community-carrier air service program.
Sec. 504. Authorization of appropriations.
Sec. 505. Marketing practices.
Sec. 506. Changes in, and phase-out of, slot rules.
Sec. 507. Consumer notification of e-ticket expiration dates.
Sec. 508. Regional air service incentive options.
Sec. 509. Requirement to enhance competitiveness of slot exemptions for regional jet air service and new entrant air carriers at certain high density traffic airports.

TITLE VI—NATIONAL PARKS OVERFLIGHTS

Sec. 601. Findings.
Sec. 602. Air tour management plans for national parks.
Sec. 603. Advisory group.
Sec. 604. Overflight fee report.
Sec. 605. Prohibition of commercial air tours over the Rocky Mountain National Park.

TITLE VII—TITLE 49 TECHNICAL CORRECTIONS

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Sec. 1001. Short title.
Sec. 1002. Removal of limitation.

TITLE XI—NOISE ABATEMENT

Sec. 1101. Good neighbors policy.
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Sec. 1103. GAO review of FAA community noise assessment.

TITLE XII—STUDY TO ENSURE CONSUMER INFORMATION

Sec. 1201. Short title.
Sec. 1202. National Commission to Ensure Consumer Information and Choice in the Airline Industry.

TITLE XIII—FEDERAL AVIATION RESEARCH, ENGINEERING, AND DEVELOPMENT

Sec. 1301. Authorization of appropriations.
Sec. 1302. Integrated national aviation research plan.
Sec. 1303. Internet availability of information.
Sec. 1304. Research on nonstructural aircraft systems.
Sec. 1305. Post Free Flight Phase I activities.
Sec. 1306. Research program to improve airfield pavements.
Sec. 1307. Sense of Senate regarding protecting the frequency spectrum used for aviation communication.
Sec. 1308. Study.

TITLE XIV—AIRLINE CUSTOMER SERVICE COMMITMENT

Sec. 1401. Airline customer service reports.
Sec. 1402. Increased financial responsibility for lost baggage.
Sec. 1403. Increased penalty for violation of aviation consumer protection laws.
Sec. 1404. Comptroller General investigation.
Sec. 1405. Funding of enforcement of airline consumer protections.

TITLE XV—PENALTIES FOR UNRULY PASSENGERS

Sec. 1501. Penalties for unruly passengers.
Sec. 1502. Deputizing of strike State and local law enforcement officers.
Sec. 1503. Study and report on aircraft noise.

TITLE XVI—AIRLINE COMMISSION

Sec. 1601. Short title.
Sec. 1602. National Commission to Ensure Consumer Information and Choice in the Airline Industry.

TITLE XVII—TRANSPORTATION OF ANIMALS

Sec. 1701. Short title; table of contents.
Sec. 1702. Findings.

SUBTITLE A—ANIMAL WELFARE

Sec. 1711. Definition of transport.
Sec. 1712. Information on incidence of animals in air transport.
Sec. 1713. Reports by carriers on incidents involving animals during air transport.
Sec. 1714. Annual reports.

SUBTITLE B—TRANSPORTATION

Sec. 1721. Policies and procedures for transporting animals.
Sec. 1722. Civil penalties and compensation for loss, injury, or death of animals during air transport.
Sec. 1723. Cargo hold improvements to protect animal health and safety.

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

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

TITLE I—AUTHORIZATIONS

SEC. 101. FEDERAL AVIATION ADMINISTRATION OPERATIONS.

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

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

''(1) IN GENERAL.—There are authorized to be appropriated to the Secretary of Transportation for operations of the Administration $5,632,000,000 for fiscal year 1999, $5,784,000,000 for fiscal year 2000, $6,073,000,000 for fiscal year 2001, and $6,377,000,000 for fiscal year 2002. Of the amounts authorized to be appropriated for fiscal year 2000, not more than $9,100,000 shall be used to support air safety efforts through payment of United States membership obligations, to be paid as soon as practicable.

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

''(3) UNIVERSITY CONSORTIUM.—There are authorized to be appropriated not more than $9,100,000 for the 3 fiscal year period beginning with fiscal year 2000 to support a university consortium established to provide an air safety and security management certificate program, working cooperatively with the Federal Aviation Administration and United States air carriers. Funds authorized under this paragraph—

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

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

(b) COORDINATION.—The authority granted the Secretary under section 41720 of title 49, United States Code, does not affect the Secretary's authority under any other provision of law.

SEC. 102. AIR NAVIGATION FACILITIES AND EQUIPMENT.

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

''(1) $2,131,000,000 for fiscal year 1999.
''(2) $2,689,000,000 for fiscal year 2000.
''(3) $2,799,000,000 for fiscal year 2001.
''(4) $2,914,000,000 for fiscal year 2002.''.

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

(1) by striking ''fiscal years 1995 and 1996'' and inserting ''fiscal years 1999 through 2002''; and

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

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

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

(a) EXTENSION AND AUTHORIZATION.—Section 48103 is amended by striking ''1999.'' and inserting ''1999, $4,885,000,000 for fiscal years ending before October 1, 2000, $7,295,000,000 for fiscal years ending before October 1, 2001, and $9,705,000,000 for fiscal years ending before October 1, 2002.''.

(b) PROJECT GRANT AUTHORITY.—Section 47104(c) is amended by striking ''September 30, 1999,'' and inserting ''September 30, 2002,''.

SEC. 104. REPROGRAMMING NOTIFICATION REQUIREMENT.

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

SEC. 105. AIRPORT SECURITY PROGRAM.

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

"§ 47136. Airport security program

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

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

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

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

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

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

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

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

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

''47136. Airport security program.''.

SEC. 106. AUTOMATED SURFACE OBSERVATION SYSTEM STATIONS.

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

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

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

TITLE II—AIRPORT IMPROVEMENT PROGRAM AMENDMENTS

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

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

SEC. 202. INNOVATIVE USE OF AIRPORT GRANT FUNDS.

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

"§ 47135. Innovative financing techniques

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

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

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

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

''(1) payment of interest;

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

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

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

''47135. Innovative financing techniques.''.

SEC. 203. MATCHING SHARE.

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

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

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

SEC. 205. TECHNICAL AMENDMENTS.

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

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

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

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

(2) in paragraph (1) by—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

''(D) on flights, including flight segments, between 2 or more points in Hawaii.''.

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

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

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

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

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

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

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

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

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

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

(1) Section 47151 is amended—

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

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

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

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

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

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

(2) Section 47152 is amended—

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

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

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

''47152. Terms of conveyances.''.

(4) Section 47153(a) is amended—

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

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

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

(i) MINIMUM APPORTIONMENT.—Section 47114(c)(1)(B) is amended by adding at the end thereof the following: ''For fiscal years beginning after fiscal year 1999, the preceding sentence shall be applied by substituting '$650,000' for '$500,000'.''.

(j) APPORTIONMENT FOR CARGO ONLY AIRPORTS.—

(1) Section 47114(c)(2)(A) is amended by striking ''2.5 percent'' and inserting ''3 percent''.

(2) Section 47114(c)(2) is further amended by striking subparagraph (C) and redesignating subparagraph (D) as subparagraph (C).

(k) TEMPORARY AIR SERVICE INTERRUPTIONS.—Section 47114(c)(1) is amended by adding at the end thereof the following:

''(C) The Secretary may, notwithstanding subparagraph (A), apportion to an airport sponsor in a fiscal year an amount equal to the amount apportioned to that sponsor in the previous fiscal year if the Secretary finds that—

''(i) passenger boardings at the airport fell below 10,000 in the calendar year used to calculate the apportionment;

''(ii) the airport had at least 10,000 passenger boardings in the calendar year prior to the calendar year used to calculate apportionments to airport sponsors in a fiscal year; and

''(iii) the cause of the shortfall in passenger boardings was a temporary but significant interruption in service by an air carrier to that airport due to an employment action, natural disaster, or other event unrelated to the demand for air transportation at the affected airport.''.

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

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

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

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

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

(m) ELIGIBILITY OF RUNWAY INCURSION PREVENTION DEVICES.—

(1) POLICY.—Section 47101(a)(11) is amended by inserting ''(including integrated in-pavement lighting systems for runways and taxiways and other runway and taxiway incursion prevention devices)'' after ''activities''.

(2) MAXIMUM USE OF SAFETY FACILITIES.—Section 47101(f) is amended—

(A) by striking ''and'' at the end of paragraph (9); and

(B) by striking ''area.'' in paragraph (10) and inserting ''area; and''; and

(C) by adding at the end the following:

''(11) runway and taxiway incursion prevention devices, including integrated in-pavement lighting systems for runways and taxiways.''.

(3) AIRPORT DEVELOPMENT DEFINED.—Section 47102(3)(B)(ii) is amended by inserting ''and including integrated in-pavement lighting systems for runways and taxiways and other runway and taxiway incursion prevention devices'' before the semicolon at the end.

(n) TECHNICAL AMENDMENTS.—Section 47116(d) is amended—

(1) by striking ''In making'' and inserting the following:

''(1) CONSTRUCTION OF NEW RUNWAYS.—In making'';

(2) by adding at the end the following:

''(2) AIRPORT DEVELOPMENT FOR TURBINE POWERED AIRCRAFT.—In making grants to sponsors described in subsection (b)(1), the Secretary shall give priority consideration to airport development projects to support operations by turbine powered aircraft, if the non-Federal share of the project is at least 40 percent.''; and

(3) by aligning the remainder of paragraph (1) (as designated by subparagraph (A) of this paragraph) with paragraph (2) (as added by subparagraph (B) of this paragraph).

SEC. 206. REPORT ON EFFORTS TO IMPLEMENT CAPACITY ENHANCEMENTS.

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

SEC. 207. PRIORITIZATION OF DISCRETIONARY PROJECTS.

Section 47120 is amended—

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

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

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

SEC. 208. PUBLIC NOTICE BEFORE GRANT ASSURANCE REQUIREMENT WAIVED.

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

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

SEC. 209. DEFINITION OF PUBLIC AIRCRAFT.

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

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

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

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

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

SEC. 210. TERMINAL DEVELOPMENT COSTS.

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

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

SEC. 211. AIRFIELD PAVEMENT CONDITIONS.

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

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

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

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

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

SEC. 212. DISCRETIONARY GRANTS.

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

SEC. 213. CONTRACT TOWER COST-SHARING.

Section 47124(b) is amended by adding at the end the following:

''(3) CONTRACT AIR TRAFFIC CONTROL TOWER PILOT PROGRAM.—

''(A) IN GENERAL.—The Secretary shall establish a pilot program to contract for air traffic control services at Level I air traffic control towers, as defined by the Administrator of the Federal Aviation Administration, that do not qualify for the Contract Tower Program established under subsection (a) and continued under paragraph (1) (hereafter in this paragraph referred to as the 'Contract Tower Program').

''(B) PROGRAM COMPONENTS.—In carrying out the pilot program established under subparagraph (A), the Administrator shall—

''(i) utilize for purposes of cost-benefit analyses, current, actual, site-specific data, forecast estimates, or airport master plan data provided by a facility owner or operator and verified by the Administrator;

''(ii) approve for participation only facilities willing to fund a pro rata share of the operating costs of the air traffic control tower to achieve a one-to-one benefit-to-cost ratio, as required for eligibility under the Contract Tower Program; and

''(iii) approve for participation no more than 2 facilities willing to fund up to 50 percent, but not less than 25 percent, of construction costs for an air traffic control tower built by the airport operator and for each of such facilities the Federal share of construction cost does not exceed $1,100,000.

''(C) PRIORITY.—In selecting facilities to participate in the program under this paragraph, the Administrator shall give priority to the following:

''(i) Air traffic control towers that are participating in the Contract Tower Program but have been notified that they will be terminated from such program because the Administrator has determined that the benefit-to-cost ratio for their continuation in such program is less than 1.0.

''(ii) Air traffic control towers that the Administrator determines have a benefit-to-cost ratio of at least .50.

''(iii) Air traffic control towers of the Federal Aviation Administration that are closed as a result of the air traffic controllers strike in 1981.

''(iv) Air traffic control towers located at airports that are prepared to assume partial responsibility for maintenance costs.

''(v) Air traffic control towers that are located at airports with safety or operational problems related to topography, weather, runway configuration, or mix of aircraft.

''(D) COSTS EXCEEDING BENEFITS.—If the costs of operating an air traffic control tower under the pilot program established under this paragraph exceed the benefits, the airport sponsor or State or local government having jurisdiction over the airport shall pay the portion of the costs that exceed such benefits.

''(E) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriation

$6,000,000 per fiscal year to carry out this paragraph.''.

TITLE III—AMENDMENTS TO AVIATION LAW

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

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

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

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

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

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

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

SEC. 302. STAGE 3 NOISE LEVEL COMPLIANCE FOR CERTAIN AIRCRAFT.

(a) EXEMPTION FOR AIRCRAFT MODIFICATION OR DISPOSAL, SCHEDULED HEAVY MAINTENANCE, OR LEASING-RELATED FLIGHTS.—Section 47528 is amended—

(1) by striking ''subsection (b)'' in subsection (a) and inserting ''subsection (b) or (f)'';

(2) by adding at the end of subsection (e) the following:

''(4) An air carrier operating Stage 2 aircraft under this subsection may transport Stage 2 aircraft to or from the 48 contiguous States on a non-revenue basis in order—

''(A) to perform maintenance (including major alterations) or preventative maintenance on aircraft operated, or to be operated, within the limitations of paragraph (2)(B); or

''(B) conduct operations within the limitations of paragraph (2)(B).''; and

(3) adding at the end thereof the following:

''(f) AIRCRAFT MODIFICATION, DISPOSAL, SCHEDULED HEAVY MAINTENANCE, OR LEASING.—

''(1) IN GENERAL.—The Secretary shall permit a person to operate after December 31, 1999, a Stage 2 aircraft in nonrevenue service through the airspace of the United States or to or from an airport in the contiguous 48 States in order to—

''(A) sell, lease, or use the aircraft outside the contiguous 48 States;

''(B) scrap the aircraft;

''(C) obtain modifications to the aircraft to meet Stage 3 noise levels;

''(D) perform scheduled heavy maintenance or significant modifications on the aircraft at a maintenance facility located in the contiguous 48 States;

''(E) deliver the aircraft to an operator leasing the aircraft from the owner or return the aircraft to the lessor;

''(F) prepare or park or store the aircraft in anticipation of any of the activities described in subparagraphs (A) through (E); or

''(G) divert the aircraft to an alternative airport in the contiguous 48 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 subparagraphs (A) through (F).

''(2) PROCEDURE TO BE PUBLISHED.—The Secretary shall establish and publish, not later than 30 days after the date of enactment of the Air Transportation Improvement Act a procedure to implement paragraph (1) of this subsection through the use of categorical waivers, ferry permits, or other means.''.

(b) NOISE STANDARDS FOR EXPERIMENTAL AIRCRAFT.—

(1) IN GENERAL.—Section 47528(a) is amended by inserting ''(for which an airworthiness certificate other than an experimental certificate has been issued by the Administrator)'' after ''civil subsonic turbojet''.

(2) FAR MODIFIED.—The Federal Aviation Regulations, contained in Part 14 of the Code of Federal Regulations, that implement section 47528 and related provisions shall be deemed to incorporate this change on the effective date of this Act.

SEC. 303. GOVERNMENT AND INDUSTRY CONSORTIA.

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

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

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

Section 44701 is amended—

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 305. FOREIGN AVIATION SERVICES AUTHORITY.

Section 45301(a)(2) is amended to read as follows:

''(2) Services provided to a foreign government or to any entity obtaining services outside the United States other than—

''(A) air traffic control services; and

''(B) fees for production-certification-related service pertaining to aeronautical products manufactured outside the United States.''.

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

Section 44936 is amended—

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

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

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

SEC. 307. EXTENSION OF AVIATION INSURANCE PROGRAM.

Section 44310 is amended by striking ''August 6, 1999.'' and inserting ''December 31, 2003.''.

SEC. 308. TECHNICAL CORRECTIONS TO CIVIL PENALTY PROVISIONS.

Section 46301 is amended—

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

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

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

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

(a) IN GENERAL.—Chapter 463 is amended by adding at the end the following:

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

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

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

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

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

''(c) CONTROLLED SUBSTANCE CRIMINAL PENALTY.—

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

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

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

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

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

(b) CLERICAL AMENDMENT.—The chapter analysis for chapter 463 is amended by adding at the end thereof the following:

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

SEC. 310. NONDISCRIMINATORY INTERLINE INTERCONNECTION REQUIREMENTS.

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

''§ 41717. Interline agreements for domestic transportation

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

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

(b) CLERICAL AMENDMENT.—The chapter analysis for subchapter I of chapter 417 is amended by adding at the end thereof the following:

''41717. Interline agreements for domestic transportation.''.

SEC. 311. REVIEW PROCESS FOR EMERGENCY ORDERS UNDER SECTION 44709.

Section 44709(e) is amended to read as follows:

''(e) EFFECTIVENESS OF ORDERS PENDING APPEAL.—

''(1) IN GENERAL.—When a person files an appeal with the Board under subsection (d) of this section, the order of the Administrator is stayed.

''(2) EXCEPTION.—Notwithstanding paragraph (1), the order of the Administrator is effective immediately if the Administrator advises the Board that an emergency exists and safety in air commerce or air transportation requires the order to be effective immediately.

''(3) REVIEW OF EMERGENCY ORDER.—A person affected by the immediate effectiveness of the Administrator's order under paragraph (2) may request a review by the Board, under procedures promulgated by the Board, on the issues of the appeal that are related to the existence of an emergency. Any such review shall be requested within 48 hours after the order becomes effective. If the Administrator is unable to demonstrate to the Board that an emergency exists that requires the immediate application of the order in the interest of safety in air commerce and air transportation, the order shall, notwithstanding paragraph (2), be stayed. The Board shall dispose of a review request under this paragraph within 5 days after it is filed.

''(4) FINAL DISPOSITION.—The Board shall make a final disposition of an appeal under subsection (d) within 60 days after the appeal is filed.''.

TITLE IV—MISCELLANEOUS

SEC. 401. OVERSIGHT OF FAA RESPONSE TO YEAR 2000 PROBLEM.

The Administrator of the Federal Aviation Administration shall report to the Senate Committee on Commerce, Science, and Transportation and the House Committee on Transportation and Infrastructure every 3 months through December 31, 2000, in oral or written form, on electronic data processing problems associated with the year 2000 within the Administration.

SEC. 402. CARGO COLLISION AVOIDANCE SYSTEMS DEADLINE.

(a) IN GENERAL.—The Administrator of the Federal Aviation Administration shall require by regulation that, not later than December 31, 2002, collision avoidance equipment be installed on each cargo airplane with a maximum certificated takeoff weight in excess of 15,000 kilograms.

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

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

(2) other safety or public interest objectives.

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

SEC. 403. RUNWAY SAFETY AREAS; PRECISION APPROACH PATH INDICATORS.

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

(1) the improvement of runway safety areas; and

(2) the installation of precision approach path indicators.

SEC. 404. AIRPLANE EMERGENCY LOCATORS.

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

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

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

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

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

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

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

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

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

(c) EFFECTIVE DATE; REGULATIONS.—

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

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

SEC. 405. COUNTERFEIT AIRCRAFT PARTS.

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

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

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

''(a) DENIAL OF CERTIFICATE.—

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

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

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

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

''(b) REVOCATION OF CERTIFICATE.—

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

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

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

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

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

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

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

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

''(e) ACQUITTAL OR REVERSAL.—

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

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

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

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

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

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

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

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

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

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

''(2) the holder satisfies the requirements for the certificate without regard to that individual, then the Administrator may amend the certificate to impose a limitation that the certificate will not be valid if that individual has a controlling or ownership interest in the holder. A

decision by the Administrator under this subsection is not reviewable by the Board.''.

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

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

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

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

SEC. 406. FAA MAY FINE UNRULY PASSENGERS.

(a) IN GENERAL.—Chapter 463 (as amended by section 309) is amended by adding at the end thereof the following:

''§ 46318. Interference with cabin or flight crew

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

''(b) COMPROMISE AND SETOFF.—

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

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

(b) CONFORMING CHANGE.—The chapter analysis for chapter 463 is amended by adding at the end thereof the following:

''46318. Interference with cabin or flight crew.''.

SEC. 407. HIGHER STANDARDS FOR HANDICAPPED ACCESS.

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

(b) INVESTIGATION OF ALL COMPLAINTS REQUIRED.—Section 41705 is amended—

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

(2) by striking ''carrier'' and inserting ''carrier, including any foreign air carrier doing business in the United States,''; and

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

''(b) EACH ACT CONSTITUTES SEPARATE OFFENSE.—Each separate act of discrimination prohibited by subsection (a) constitutes a separate violation of that subsection.

''(c) INVESTIGATION OF COMPLAINTS.—

''(1) IN GENERAL.—The Secretary or a person designated by the Secretary shall investigate each complaint of a violation of subsection (a).

''(2) PUBLICATION OF DATA.—The Secretary or a person designated by the Secretary shall publish disability-related complaint data in a manner comparable to other consumer complaint data.

''(3) EMPLOYMENT.—The Secretary is authorized to employ personnel necessary to enforce this section.

''(4) REVIEW AND REPORT.—The Secretary or a person designated by the Secretary shall regularly review all complaints received by air carriers alleging discrimination on the basis of disability, and report annually to Congress on the results of such review.

''(5) TECHNICAL ASSISTANCE.—Not later than 180 days after enactment of the Air Transportation and Improvement Act, the Secretary shall—

''(A) implement a plan, in consultation with the Department of Justice, United States Architectural and Transportation Barriers Compliance Board, and the National Council on Disability, to provide technical assistance to air carriers and individuals with disabilities in understanding the rights and responsibilities of this section; and

''(B) ensure the availability and provision of appropriate technical assistance manuals to individuals and entities with rights or duties under this section.''.

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

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

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

''(7) VIOLATION OF SECTION 41705.—

''(A) CREDIT; VOUCHER; CIVIL PENALTY.— Unless an individual accepts a credit or voucher for the purchase of a ticket on an air carrier or any affiliated air carrier for a violation of subsection (a) in an amount (determined by the Secretary) of—

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

''(ii) not less than $2,500 and not more than $5,000 for any subsequent violation,

then that air carrier is liable to the United States Government for a civil penalty, determined by the Secretary, of not more than 100 percent of the amount of the credit or voucher so determined.

''(B) REMEDY NOT EXCLUSIVE.—Nothing in subparagraph (A) precludes or affects the right of persons with disabilities to file private rights of action under section 41705 or to limit claims for compensatory or punitive damages asserted in such cases.

''(C) ATTORNEY'S FEES.—In addition to the penalty provided by subparagraph (A), an individual who—

''(i) brings a civil action against an air carrier to enforce this section; and

''(ii) who is awarded damages by the court in which the action is brought,

may be awarded reasonable attorneys' fees and costs of litigation reasonably incurred in bringing the action if the court deems it appropriate.''.

SEC. 408. CONVEYANCES OF UNITED STATES GOVERNMENT LAND.

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

''(a) CONVEYANCES TO PUBLIC AGENCIES.—

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

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

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

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

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

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

''(C) make the requested conveyance if—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 409. FLIGHT OPERATIONS QUALITY ASSURANCE RULES.

Not later than 90 days after the date of enactment of this Act, the Administrator shall issue a notice of proposed rulemaking to develop procedures to protect air carriers and their employees from enforcement actions for violations of the Federal Aviation Regulations other than criminal or deliberate acts that are reported or discovered as a result of voluntary reporting programs, such as the Flight Operations Quality Assurance Program and the Aviation Safety Action Program.

SEC. 410. WIDE AREA AUGMENTATION SYSTEM.

(a) PLAN.—The Administrator of the Federal Aviation Administration shall identify or develop a plan to implement WAAS to provide

navigation and landing approach capabilities for civilian use and make a determination as to whether a backup system is necessary. Until the Administrator determines that WAAS is the sole means of navigation, the Administrator shall continue to develop and maintain a backup system.

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

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

(2) submit a timetable for implementing WAAS; and

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

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

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

SEC. 411. REGULATION OF ALASKA GUIDE PILOTS.

(a) IN GENERAL.—Beginning on the date of the enactment of this Act, flight operations conducted by Alaska guide pilots shall be regulated under the general operating and flight rules contained in part 91 of title 14, Code of Federal Regulations.

(b) RULEMAKING PROCEEDING.—

(1) IN GENERAL.—The Administrator shall conduct a rulemaking proceeding and issue a final rule to modify the general operating and flight rules referred to in subsection (a) by establishing special rules applicable to the flight operations conducted by Alaska guide pilots.

(2) CONTENTS OF RULES.—A final rule issued by the Administrator under paragraph (1) shall require Alaska guide pilots—

(A) to operate aircraft inspected no less often than after 125 hours of flight time;

(B) to participate in an annual flight review, as described in section 61.56 of title 14, Code of Federal Regulations;

(C) to have at least 500 hours of flight time as a pilot;

(D) to have a commercial rating, as described in subpart F of part 61 of such title;

(E) to hold at least a second-class medical certificate, as described in subpart C of part 67 of such title;

(F) to hold a current letter of authorization issued by the Administrator; and

(G) to take such other actions as the Administrator determines necessary for safety.

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

(1) LETTER OF AUTHORIZATION.—The term ''letter of authorization'' means a letter issued by the Administrator once every 5 years to an Alaska guide pilot certifying that the pilot is in compliance with general operating and flight rules applicable to the pilot. In the case of a multi-pilot operation, at the election of the operating entity, a letter of authorization may be issued by the Administrator to the entity or to each Alaska guide pilot employed by the entity.

(2) ALASKA GUIDE PILOT.—The term ''Alaska guide pilot'' means a pilot who—

(A) conducts aircraft operations over or within the State of Alaska;

(B) operates single engine, fixed wing aircraft on floats, wheels, or skis, providing commercial hunting, fishing, or other guide services and related accommodations in the form of camps or lodges; and

(C) transports clients by such aircraft incidental to hunting, fishing, or other guide services, or uses air transport to enable guided clients to reach hunting or fishing locations.

SEC. 412. ALASKA RURAL AVIATION IMPROVEMENT.

(a) APPLICATION OF FAA REGULATIONS.—Section 40113 is amended by adding at the end thereof the following:

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

(b) AVIATION CLOSED CIRCUIT TELEVISION.—The Administrator of the Federal Aviation Administration, in consultation with commercial and general aviation pilots, shall install closed circuit weather surveillance equipment at not fewer that 15 rural airports in Alaska and provide for the dissemination of information derived from such equipment to pilots for preflight planning purposes and en route purposes, including through the dissemination of such information to pilots by flight service stations. There are authorized to be appropriated $2,000,000 for the purposes of this subsection.

(c) MIKE-IN-HAND WEATHER OBSERVATION.—The Administrator of the Federal Aviation Administration and the Assistant Administrator of the National Weather Service, in consultation with the National Transportation Safety Board and the Governor of the State of Alaska, shall develop and implement a ''mike-in-hand'' weather observation program in Alaska under which Federal Aviation Administration employees, National Weather Service employees, other Federal or State employees sited at an airport, or persons contracted specifically for such purpose (including part-time contract employees who are not sited at such airport), will provide near-real time aviation weather information via radio and otherwise to pilots who request such information.

(d) RURAL IFR COMPLIANCE.—There are authorized to be appropriated $4,000,000 to the Administrator for runway lighting and weather reporting systems at remote airports in Alaska to implement the CAPSTONE project.

SEC. 413. HUMAN FACTORS PROGRAM.

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

''§ 44516. Human factors program

''(a) REPORT.—The Administrator of the Federal Aviation Administration shall report within 1 year after the date of enactment of the Air Transportation Improvement Act to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on the status of the Administration's efforts to encourage the adoption and implementation of Advanced Qualification Programs for air carriers under this section.

''(b) HUMAN FACTORS TRAINING.—

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

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

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

''(2) PILOTS AND FLIGHT CREWS.—The Administrator shall work with the aviation industry to develop specific training curricula to address critical safety problems, including problems of pilots—

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

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

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

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

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

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

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

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

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

''44516. Human factors program.''.

SEC. 414. INDEPENDENT VALIDATION OF FAA COSTS AND ALLOCATIONS.

(a) INDEPENDENT ASSESSMENT.—

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

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

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

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

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

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

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

(C) An assessment and validation of the general cost pools used by the Federal Aviation Administration, including the rationale for and reliability of the bases on which the Federal Aviation Administration proposes to allocate costs of services to users and the integrity of the cost pools as well as any other factors considered important by the Inspector General. Appropriate

statistical tests shall be performed to assess relationships between costs in the various cost pools and activities and services to which the costs are attributed by the Federal Aviation Administration.

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

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

SEC. 415. APPLICATION OF FEDERAL PROCUREMENT POLICY ACT.

Section 348 of the Department of Transportation and Related Agencies Appropriations Act, 1996 (49 U.S.C. 40110 nt) is amended—

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

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

''(c) CERTAIN PROVISIONS OF THE OFFICE OF FEDERAL PROCUREMENT POLICY ACT.—Notwithstanding subsection (b)(2), section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423) shall apply to the new acquisition management system developed and implemented under subsection (a) with the following modifications:

''(1) Subsections (f) and (g) shall not apply.

''(2) Within 90 days after the date of enactment of the Air Transportation Improvement Act, the Administrator of the Federal Aviation Administration shall adopt definitions for the acquisition management system that are consistent with the purpose and intent of the Office of Federal Procurement Policy Act.

''(3) After the adoption of those definitions, the criminal, civil, and administrative remedies provided under the Office of Federal Procurement Policy Act apply to the acquisition management system.

''(4) In the administration of the acquisition management system, the Administrator may take adverse personnel action under section 27(e)(3)(A)(iv) of the Office of Federal Procurement Policy Act in accordance with the procedures contained in the Administration's personnel management system.''.

SEC. 416. REPORT ON MODERNIZATION OF OCEANIC ATC SYSTEM.

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

SEC. 417. REPORT ON AIR TRANSPORTATION OVERSIGHT SYSTEM.

Beginning in calendar year 2000, the Administrator of the Federal Aviation Administration shall report biannually to the Congress on the air transportation oversight system program announced by the Administration on May 13, 1998, in detail on the training of inspectors, the number of inspectors using the system, air carriers subject to the system, and the budget for the system.

SEC. 418. RECYCLING OF EIS.

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

SEC. 419. PROTECTION OF EMPLOYEES PROVIDING AIR SAFETY INFORMATION.

(a) GENERAL RULE.—Chapter 421 is amended by adding at the end the following new subchapter:

''SUBCHAPTER III—WHISTLEBLOWER PROTECTION PROGRAM

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

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

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

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

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

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

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

''(1) FILING AND NOTIFICATION.—

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

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

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

''(i) filing of the complaint;

''(ii) allegations contained in the complaint;

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

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

''(2) INVESTIGATION; PRELIMINARY ORDER.—

''(A) IN GENERAL.—

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

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

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

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

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

''(B) REQUIREMENTS.—

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

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

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

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

''(3) FINAL ORDER.—

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

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

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

''(II) denies the complaint.

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

''(B) REMEDY.—If, in response to a complaint filed under paragraph (1), the Secretary of Labor determines that a violation of subsection (a) has occurred, the Secretary of Labor shall

order the air carrier, contractor, or subcontractor that the Secretary of Labor determines to have committed the violation to—

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

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

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

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

''(4) FRIVOLOUS COMPLAINTS.—Rule 11 of the Federal Rules of Civil Procedure applies to any complaint brought under this section that the Secretary finds to be frivolous or to have been brought in bad faith.

''(5) REVIEW.—

''(A) APPEAL TO COURT OF APPEALS.—

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

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

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

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

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

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

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

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

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

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

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

''(e) CONTRACTOR DEFINED.—In this section, the term 'contractor' means a company that performs safety-sensitive functions by contract for an air carrier.''.

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

(c) CONFORMING AMENDMENT.—The chapter analysis for chapter 421 is amended by adding at the end the following:

''SUBCHAPTER III—WHISTLEBLOWER PROTECTION PROGRAM

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

(d) CIVIL PENALTY.—Section 46301(a)(1)(A) is amended by striking ''subchapter II of chapter 421,'' and inserting ''subchapter II or III of chapter 421,''.

SEC. 420. IMPROVEMENTS TO AIR NAVIGATION FACILITIES.

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

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

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

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

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

SEC. 421. DENIAL OF AIRPORT ACCESS TO CERTAIN AIR CARRIERS.

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

''(q) DENIAL OF ACCESS.—

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

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

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

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

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

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

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

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

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

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

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

SEC. 422. TOURISM.

(a) FINDINGS.—Congress finds that—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) PURPOSES.—The purposes of this section are to provide international visitor initiatives

and an international marketing program to enable the United States travel and tourism industry and every level of government to benefit from a successful effort to make the United States the premiere travel destination in the world.

(c) INTERNATIONAL VISITOR ASSISTANCE TASK FORCE.—

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

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

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

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

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

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

(A) The Secretary of Commerce.

(B) The Secretary of State.

(C) The Secretary of Transportation.

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

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

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

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

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

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

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

(e) AUTHORIZATION OF APPROPRIATIONS.—

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

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

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

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

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

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

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

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

SEC. 423. SENSE OF THE SENATE ON PROPERTY TAXES ON PUBLIC-USE AIRPORTS.

It is the sense of the Senate that—

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

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

SEC. 424. FEDERAL AVIATION ADMINISTRATION PERSONNEL MANAGEMENT SYSTEM.

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

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

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

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

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

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

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

SEC. 425. AUTHORITY TO SELL AIRCRAFT AND AIRCRAFT PARTS FOR USE IN RESPONDING TO OIL SPILLS.

(a) AUTHORITY.—

(1) Notwithstanding section 202 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483) and subject to subsections (b) and (c), the Secretary of Defense may, during the period beginning March 1, 1999, and ending on September 30, 2002, sell aircraft and aircraft parts referred to in paragraph (2) to a person or entity that provides oil spill response services (including the application of oil dispersants by air) pursuant to an oil spill response plan that has been approved by the Secretary of the Department in which the Coast Guard is operating.

(2) The aircraft and aircraft parts that may be sold under paragraph (1) are aircraft and aircraft parts of the Department of Defense that are determined by the Secretary to be—

(A) excess to the needs of the Department; and

(B) acceptable for commercial sale.

(b) CONDITIONS OF SALE.—Aircraft and aircraft parts sold under subsection (a)—

(1) shall have as their primary purpose usage for oil spill spotting, observation, and dispersant delivery and may not have any secondary purpose that would interfere with oil spill response efforts under an oil spill response plan;

(2) may not be flown outside of or removed from the United States except for the purpose of fulfilling an international agreement to assist in oil spill dispersing efforts, for immediate response efforts for an oil spill outside United States waters that has the potential to threaten United States waters, or for other purposes that are jointly approved by the Secretary of Defense and the Secretary of Transportation.

(c) CERTIFICATION OF PERSONS AND ENTITIES.—The Secretary of Defense may sell aircraft and aircraft parts to a person or entity under subsection (a) only if the Secretary of Transportation certifies to the Secretary of Defense, in writing, before the sale, that the person or entity is capable of meeting the terms and conditions of a contract to deliver oil spill dispersants by air, and that the overall system to be employed by that person or entity for the delivery and application of oil spill dispersants has been sufficiently tested to ensure that the person or entity is capable of being included in an oil spill response plan that has been approved by the Secretary of the Department in which the Coast Guard is operating.

(d) REGULATIONS.—

(1) As soon as practicable after the date of enactment of this Act, the Secretary of Defense shall, in consultation with the Secretary of Transportation and the Administrator of General Services, prescribe regulations relating to the sale of aircraft and aircraft parts under this section.

(2) The regulations shall—

(A) ensure that the sale of the aircraft and aircraft parts is made at a fair market value as determined by the Secretary of Defense, and, to the extent practicable, on a competitive basis;

(B) require a certification by the purchaser that the aircraft and aircraft parts will be used only in accordance with the conditions set forth in subsection (b);

(C) establish appropriate means of verifying and enforcing the use of the aircraft and aircraft parts by the purchaser and other end-users in accordance with the conditions set forth in subsection (b) or pursuant to subsection (e); and

(D) ensure, to the maximum extent practicable, that the Secretary of Defense consults with the Administrator of General Services and with the heads of appropriate departments and agencies of the Federal Government regarding alternative requirements for such aircraft and aircraft parts before the sale of such aircraft and aircraft parts under this section.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary of Defense may require such other terms and conditions in connection with each sale of aircraft and aircraft parts under this section as the Secretary considers appropriate for such sale. Such terms and conditions shall meet the requirements of regulations prescribed under subsection (d).

(f) REPORT.—Not later than March 31, 2002, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report on the Secretary's exercise of authority under this section. The report shall set forth—

(1) the number and types of aircraft sold under the authority, and the terms and conditions under which the aircraft were sold;

(2) the persons or entities to which the aircraft were sold; and

(3) an accounting of the current use of the aircraft sold.

(g) CONSTRUCTION.—Nothing in this section may be construed as affecting the authority of the Administrator of the Federal Aviation Administration under any other provision of law.

(h) PROCEEDS FROM SALE.—The net proceeds of any amounts received by the Secretary of Defense from the sale of aircraft and aircraft parts under this section shall be covered into the general fund of the Treasury as miscellaneous receipts.

SEC 426. AIRCRAFT AND AVIATION COMPONENT REPAIR AND MAINTENANCE ADVISORY PANEL.

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

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

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

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

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

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

(B) 1 representative of cargo air carriers;

(C) 1 representative of passenger air carriers;

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

(E) 1 representative of aircraft manufacturers; and

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

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

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

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

(c) RESPONSIBILITIES.—The panel shall—

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

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

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

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

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

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

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

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

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

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

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

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

(2) December 31, 2000.

(h) ANNUAL REPORT TO CONGRESS.—The Administrator shall report annually to the Congress on the number and location of air agency certificates that were revoked, suspended, or not renewed during the preceding year.

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

SEC. 427. AIRCRAFT SITUATIONAL DISPLAY DATA.

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

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

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

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

SEC. 428. ALLOCATION OF TRUST FUND FUNDING.

(a) DEFINITIONS.—In this section:

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

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

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

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

(b) REPORTING.—

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

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

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

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

SEC. 429. TAOS PUEBLO AND BLUE LAKES WILDERNESS AREA DEMONSTRATION PROJECT.

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

SEC. 430. AIRLINE MARKETING DISCLOSURE.

(a) DEFINITIONS.—In this section:

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

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

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

SEC. 431. COMPENSATION UNDER THE DEATH ON THE HIGH SEAS ACT.

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

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

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

''(b) COMMERCIAL AVIATION.—

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

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

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

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

SEC. 432. FAA STUDY OF BREATHING HOODS.

The Administrator shall study whether breathing hoods currently available for use by flight crews when smoke is detected are adequate and report the results of that study to the Congress within 120 days after the date of enactment of this Act.

SEC. 433. FAA STUDY OF ALTERNATIVE POWER SOURCES FOR FLIGHT DATA RECORDERS AND COCKPIT VOICE RECORDERS.

The Administrator of the Federal Aviation Administration shall study the need for an alternative power source for on-board flight data

recorders and cockpit voice recorders and shall report the results of that study to the Congress within 120 days after the date of enactment of this Act. If, within that time, the Administrator determines, after consultation with the National Transportation Safety Board that the Board is preparing recommendations with respect to this subject matter and will issue those recommendations within a reasonable period of time, the Administrator shall report to the Congress the Administrator's comments on the Board's recommendations rather than conducting a separate study.

SEC. 434. PASSENGER FACILITY FEE LETTERS OF INTENT.

The Secretary of Transportation may not require an eligible agency (as defined in section 40117(a)(2) of title 49, United States Code), to impose a passenger facility fee (as defined in section 40117(a)(4) of that title) in order to obtain a letter of intent under section 47110 of that title.

SEC. 435. ELIMINATION OF HAZMAT ENFORCEMENT BACKLOG.

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

(1) The transportation of hazardous materials continues to present a serious aviation safety problem which poses a potential threat to health and safety, and can result in evacuations, emergency landings, fires, injuries, and deaths.

(2) Although the Federal Aviation Administration budget for hazardous materials inspection increased $10,500,000 in fiscal year 1998, the General Accounting Office has reported that the backlog of hazardous materials enforcement cases has increased from 6 to 18 months.

(b) ELIMINATION OF HAZARDOUS MATERIALS ENFORCEMENT BACKLOG.—The Administrator of the Federal Aviation Administration shall—

(1) make the elimination of the backlog in hazardous materials enforcement cases a priority;

(2) seek to eliminate the backlog within 6 months after the date of enactment of this Act; and

(3) make every effort to ensure that inspection and enforcement of hazardous materials laws are carried out in a consistent manner among all geographic regions, and that appropriate fines and penalties are imposed in a timely manner for violations.

(c) INFORMATION REGARDING PROGRESS.—The Administrator shall provide information in oral or written form to the Committee on Commerce, Science, and Transportation, on a quarterly basis beginning 3 months after the date of enactment of this Act for a year, on plans to eliminate the backlog and enforcement activities undertaken to carry out subsection (b).

SEC. 436. FAA EVALUATION OF LONG-TERM CAPITAL LEASING.

Nothwithstanding any other provision of law to the contrary, the Administrator of the Federal Aviation Administration may establish a pilot program for fiscal years 2001 through 2004 to test and evaluate the benefits of long-term contracts for the leasing of aviation equipment and facilities. The Administrator shall establish criteria for the program. The Administrator may enter into no more than 10 leasing contracts under this section, each of which shall be for a period greater than 5 years, under which the equipment or facility operates. The contracts to be evaluated may include requirements related to oceanic and air traffic control, air-to-ground radio communications, and air traffic control tower construction.

SEC. 437. PROHIBITIONS AGAINST SMOKING ON SCHEDULED FLIGHTS.

(a) IN GENERAL.—Section 41706 is amended to read as follows:

"§ 41706. Prohibitions against smoking on scheduled flights

''(a) SMOKING PROHIBITION IN INTRASTATE AND INTERSTATE AIR TRANSPORTATION.—An individual may not smoke in an aircraft on a scheduled airline flight segment in interstate air transportation or intrastate air transportation.

''(b) SMOKING PROHIBITION IN FOREIGN AIR TRANSPORTATION.—The Secretary of Transportation (referred to in this subsection as the 'Secretary') shall require all air carriers and foreign air carriers to prohibit on and after October 1, 1999, smoking in any aircraft on a scheduled airline flight segment within the United States or between a place in the United States and a place outside the United States.

''(c) LIMITATION ON APPLICABILITY.—

''(1) IN GENERAL.—If a foreign government objects to the application of subsection (b) on the basis that subsection provides for an extraterritorial application of the laws of the United States, the Secretary may waive the application of subsection (b) to a foreign air carrier licensed by that foreign government at such time as an alternative prohibition negotiated under paragraph (2) becomes effective and is enforced by the Secretary.

''(2) ALTERNATIVE PROHIBITION.—If, pursuant to paragraph (1), a foreign government objects to the prohibition under subsection (b), the Secretary shall enter into bilateral negotiations with the objecting foreign government to provide for an alternative smoking prohibition.

''(d) REGULATIONS.—The Secretary shall prescribe such regulations as are necessary to carry out this section.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date that is 60 days after the date of enactment of this Act.

SEC. 438. DESIGNATING CURRENT AND FORMER MILITARY AIRPORTS.

Section 47118 is amended—

(1) by striking ''12.'' in subsection (a) and inserting ''15.''; and

(2) by striking ''5-fiscal-year periods'' in subsection (d) and inserting ''periods, each not to exceed 5 fiscal years,''.

SEC. 439. ROLLING STOCK EQUIPMENT.

(a) IN GENERAL.—Section 1168 of title 11, United States Code, is amended to read as follows:

"§ 1168. Rolling stock equipment

''(a)(1) The right of a secured party with a security interest in or of a lessor or conditional vendor of equipment described in paragraph (2) to take possession of such equipment in compliance with an equipment security agreement, lease, or conditional sale contract, and to enforce any of its other rights or remedies under such security agreement, lease, or conditional sale contract, to sell, lease, or otherwise retain or dispose of such equipment, is not limited or otherwise affected by any other provision of this title or by any power of the court, except that right to take possession and enforce those other rights and remedies shall be subject to section 362, if—

''(A) before the date that is 60 days after the date of commencement of a case under this chapter, the trustee, subject to the court's approval, agrees to perform all obligations of the debtor under such security agreement, lease, or conditional sale contract; and

''(B) any default, other than a default of a kind described in section 365(b)(2), under such security agreement, lease, or conditional sale contract—

''(i) that occurs before the date of commencement of the case and is an event of default therewith is cured before the expiration of such 60-day period;

''(ii) that occurs or becomes an event of default after the date of commencement of the case and before the expiration of such 60-day period is cured before the later of—

''(I) the date that is 30 days after the date of the default or event of the default; or

''(II) the expiration of such 60-day period; and

''(iii) that occurs on or after the expiration of such 60-day period is cured in accordance with the terms of such security agreement, lease, or conditional sale contract, if cure is permitted under that agreement, lease, or conditional sale contract.

''(2) The equipment described in this paragraph—

''(A) is rolling stock equipment or accessories used on rolling stock equipment, including superstructures or racks, that is subject to a security interest granted by, leased to, or conditionally sold to a debtor; and

''(B) includes all records and documents relating to such equipment that are required, under the terms of the security agreement, lease, or conditional sale contract, that is to be surrendered or returned by the debtor in connection with the surrender or return of such equipment.

''(3) Paragraph (1) applies to a secured party, lessor, or conditional vendor acting in its own behalf or acting as trustee or otherwise in behalf of another party.

''(b) The trustee and the secured party, lessor, or conditional vendor whose right to take possession is protected under subsection (a) may agree, subject to the court's approval, to extend the 60-day period specified in subsection (a)(1).

''(c)(1) In any case under this chapter, the trustee shall immediately surrender and return to a secured party, lessor, or conditional vendor, described in subsection (a)(1), equipment described in subsection (a)(2), if at any time after the date of commencement of the case under this chapter such secured party, lessor, or conditional vendor is entitled pursuant to subsection (a)(1) to take possession of such equipment and makes a written demand for such possession of the trustee.

''(2) At such time as the trustee is required under paragraph (1) to surrender and return equipment described in subsection (a)(2), any lease of such equipment, and any security agreement or conditional sale contract relating to such equipment, if such security agreement or conditional sale contract is an executory contract, shall be deemed rejected.

''(d) With respect to equipment first placed in service on or prior to October 22, 1994, for purposes of this section—

''(1) the term 'lease' includes any written agreement with respect to which the lessor and the debtor, as lessee, have expressed in the agreement or in a substantially contemporaneous writing that the agreement is to be treated as a lease for Federal income tax purposes; and

''(2) the term 'security interest' means a purchase-money equipment security interest.

''(e) With respect to equipment first placed in service after October 22, 1994, for purposes of this section, the term 'rolling stock equipment' includes rolling stock equipment that is substantially rebuilt and accessories used on such equipment.''.

(b) AIRCRAFT EQUIPMENT AND VESSELS.—Section 1110 of title 11, United States Code, is amended to read as follows:

"§ 1110. Aircraft equipment and vessels

''(a)(1) Except as provided in paragraph (2) and subject to subsection (b), the right of a secured party with a security interest in equipment described in paragraph (3), or of a lessor or conditional vendor of such equipment, to take possession of such equipment in compliance with a security agreement, lease, or conditional sale contract, and to enforce any of its other rights or remedies, under such security agreement, lease, or conditional sale contract, to sell, lease, or otherwise retain or dispose of such equipment, is not limited or otherwise affected by any other provision of this title or by any power of the court.

''(2) The right to take possession and to enforce the other rights and remedies described in paragraph (1) shall be subject to section 362 if—

''(A) before the date that is 60 days after the date of the order for relief under this chapter, the trustee, subject to the approval of the court, agrees to perform all obligations of the debtor

under such security agreement, lease, or conditional sale contract; and

''(B) any default, other than a default of a kind specified in section 365(b)(2), under such security agreement, lease, or conditional sale contract—

''(i) that occurs before the date of the order is cured before the expiration of such 60-day period;

''(ii) that occurs after the date of the order and before the expiration of such 60-day period is cured before the later of—

''(I) the date that is 30 days after the date of the default; or

''(II) the expiration of such 60-day period; and

''(iii) that occurs on or after the expiration of such 60-day period is cured in compliance with the terms of such security agreement, lease, or conditional sale contract, if a cure is permitted under that agreement, lease, or contract.

''(3) The equipment described in this paragraph—

''(A) is—

''(i) an aircraft, aircraft engine, propeller, appliance, or spare part (as defined in section 40102 of title 49) that is subject to a security interest granted by, leased to, or conditionally sold to a debtor that, at the time such transaction is entered into, holds an air carrier operating certificate issued pursuant to chapter 447 of title 49 for aircraft capable of carrying 10 or more individuals or 6,000 pounds or more of cargo; or

''(ii) a documented vessel (as defined in section 30101(1) of title 46) that is subject to a security interest granted by, leased to, or conditionally sold to a debtor that is a water carrier that, at the time such transaction is entered into, holds a certificate of public convenience and necessity or permit issued by the Department of Transportation; and

''(B) includes all records and documents relating to such equipment that are required, under the terms of the security agreement, lease, or conditional sale contract, to be surrendered or returned by the debtor in connection with the surrender or return of such equipment.

''(4) Paragraph (1) applies to a secured party, lessor, or conditional vendor acting in its own behalf or acting as trustee or otherwise in behalf of another party.

''(b) The trustee and the secured party, lessor, or conditional vendor whose right to take possession is protected under subsection (a) may agree, subject to the approval of the court, to extend the 60-day period specified in subsection (a)(1).

''(c)(1) In any case under this chapter, the trustee shall immediately surrender and return to a secured party, lessor, or conditional vendor, described in subsection (a)(1), equipment described in subsection (a)(3), if at any time after the date of the order for relief under this chapter such secured party, lessor, or conditional vendor is entitled pursuant to subsection (a)(1) to take possession of such equipment and makes a written demand for such possession to the trustee.

''(2) At such time as the trustee is required under paragraph (1) to surrender and return equipment described in subsection (a)(3), any lease of such equipment, and any security agreement or conditional sale contract relating to such equipment, if such security agreement or conditional sale contract is an executory contract, shall be deemed rejected.

''(d) With respect to equipment first placed in service on or before October 22, 1994, for purposes of this section—

''(1) the term 'lease' includes any written agreement with respect to which the lessor and the debtor, as lessee, have expressed in the agreement or in a substantially contemporaneous writing that the agreement is to be treated as a lease for Federal income tax purposes; and

''(2) the term 'security interest' means a purchase-money equipment security interest.''.

SEC. 440. MONROE REGIONAL AIRPORT LAND CONVEYANCE.

The Secretary of Transportation may waive all terms contained in the 1949 deed of conveyance under which the United States conveyed certain property then constituting Selman Field, Louisiana, to the City of Monroe, Louisiana, subject to the following conditions:

(1) The city agrees that in conveying any interest in such property the city will receive an amount for such interest that is equal to the fair market value for such interest.

(2) The amount received by the city for such conveyance shall be used by the city—

(A) for the development, improvement, operation, or maintenance of a public airport; or

(B) for the development or improvement of the city's airport industrial park co-located with the Monroe Regional Airport to the extent that such development or improvement will result in an increase, over time, in the amount the industrial park will pay to the airport to an amount that is greater than the amount the city received for such conveyance.

SEC. 441. CINCINNATI-MUNICIPAL BLUE ASH AIRPORT.

To maintain the efficient utilization of airports in the high-growth Cincinnati local airport system, and to ensure that the Cincinnati-Municipal Blue Ash Airport continues to operate to relieve congestion at Cincinnati-Northern Kentucky International Airport and to provide greater access to the general aviation community beyond the expiration of the City of Cincinnati's grant obligations, the Secretary of Transportation may approve the sale of Cincinnati-Municipal Blue Ash Airport from the City of Cincinnati to the City of Blue Ash upon a finding that the City of Blue Ash meets all applicable requirements for sponsorship and if the City of Blue Ash agrees to continue to maintain and operate Blue Ash Airport, as generally contemplated and described within the Blue Ash Master Plan Update dated November 30, 1998, for a period of 20 years from the date existing grant assurance obligations of the City of Cincinnati expire.

SEC. 442. REPORT ON SPECIALTY METALS CONSORTIUM.

The Administrator of the Federal Aviation Administration may work with a consortium of domestic metal producers and aircraft engine manufacturers to improve the quality of turbine engine materials and to address melting technology enhancements. The Administrator shall report to the Congress within 6 months after entering into an agreement with any such consortium of such producers and manufacturers on the goals and efforts of the consortium.

SEC. 443. PAVEMENT CONDITION.

The Administrator of the Federal Aviation Administration may conduct a study on the extent of alkali silica reactivity-induced pavement distress in concrete runways, taxiways, and aprons for airports comprising the national air transportation system. If the Administrator conducts such a study, it shall include a determination based on in-the-field inspections followed by petrographic analysis or other similar techniques.

SEC. 444. INHERENTLY LOW-EMISSION AIRPORT VEHICLE PILOT PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 471 is further amended by adding at the end the following:

''§ 47137. Inherently low-emission airport vehicle pilot program

''(a) IN GENERAL.—The Secretary of Transportation shall carry out a pilot program at not more than 10 public-use airports under which the sponsors of such airports may use funds made available under section 48103 for use at such airports to carry out inherently low-emission vehicle activities. Notwithstanding any other provision of this subchapter, inherently low-emission vehicle activities shall for purposes of the pilot program be treated as eligible for assistance under this subchapter.

''(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(d)).

''(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 pilot 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 pilot program.

''(d) UNITED STATES GOVERNMENT'S SHARE.—Notwithstanding any other provision of this subchapter, the United States Government's share of the costs of a project carried out under the pilot program shall be 50 percent.

''(e) MAXIMUM AMOUNT.—Not more than $2,000,000 may be expended under the pilot program at any single public-use airport.

''(f) TECHNICAL ASSISTANCE.—

''(1) IN GENERAL.—Participants carrying out inherently low-emission vehicle activities under this pilot program may use no less than 10 percent of the amounts made available for expenditure at the airport under the pilot program to receive technical assistance in carrying out such activities.

''(2) ELIGIBLE CONSORTIUM.—To the maximum extent practicable, participants in the pilot 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).

''(3) PLANNING ASSISTANCE.—The administrator may provide $500,000 from funds made available under section 48103 to a multi-State, western regional technology consortium for the purposes of developing for dissemination prior to the commencement of the pilot program a comprehensive best practices planning guide that addresses appropriate technologies, environmental and economic impacts, and the role of planning and mitigation strategies.

''(g) REPORT TO CONGRESS.—Not later than 18 months after the date of the enactment of the Air Transportation Improvement Act, the Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report containing—

''(1) an evaluation of the effectiveness of the pilot program;

''(2) an identification of other public-use airports that expressed an interest in participating in the pilot program; and

''(3) a description of the mechanisms used by the Secretary to ensure that the information and know-how gained by participants to the pilot program is transferred among the participants and to other interested parties, including other public-use airports.

''(h) INHERENTLY LOW-EMISSION VEHICLE ACTIVITY DEFINED.—In this section, the term 'inherently low-emission vehicle activity' means—

''(1) the construction of infrastructure or modifications at public-use airports to enable the delivery of fuel and services necessary for the use of vehicles that are certified as inherently low-emission vehicles under title 40 of the Code of Federal Regulations, that—

''(A) operate exclusively on compressed natural gas, liquefied natural gas, liquefied petroleum gas, electricity, hydrogen, or a blend at least 85 percent of which is methanol;

''(B) are labeled in accordance with section 88.312–93(c) of such title; and

''(C) are located or primarily used at public-use airports;

''(2) the construction of infrastructure or modifications at public-use airports to enable the delivery of fuel and services necessary for the use of non-road vehicles that—

''(A) operate exclusively on compressed natural gas, liquefied natural gas, liquefied petroleum gas, electricity, hydrogen, or a blend at least 85 percent of which is methanol;

''(B) meet or exceed the standards set forth in section 86.1708–99 of title 40 of the Code of Federal Regulations, or the standards set forth in section 89.112(a) of such title, and are in compliance with the requirements of section 89.112(b) of such title; and

''(C) are located or primarily used at public-use airports;

''(3) the payment of that portion of the cost of acquiring such vehicles that exceeds the cost of acquiring other vehicles or engines that would be used for the same purpose; or

''(4) the acquisition of technological capital equipment to enable the delivery of fuel and services necessary for the use of vehicles described in paragraph (1).''.

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 471 is further amended by adding at the end the following:

''47137. Inherently low-emission airport vehicle pilot program.''.

SEC. 445. CONVEYANCE OF AIRPORT PROPERTY TO AN INSTITUTION OF HIGHER EDUCATION IN OKLAHOMA.

(a) IN GENERAL.—Notwithstanding any other provision of law, including the Surplus Property Act of 1944 (58 Stat. 765, chapter 479; 50 U.S.C. App. 1622 et seq.), the Secretary of Transportation (or the appropriate Federal officer) may waive, without charge, any of the terms contained in any deed of conveyance described in subsection (b) that restrict the use of any land described in such a deed that, as of the date of enactment of this Act, is not being used for the operation of an airport or for air traffic. A waiver made under the preceding sentence shall be deemed to be consistent with the requirements of section 47153 of title 49, United States Code.

(b) DEED OF CONVEYANCE.—A deed of conveyance referred to in subsection (a) is a deed of conveyance issued by the United States before the date of enactment of this Act for the conveyance of lands to a public institution of higher education in Oklahoma.

(c) USE OF LANDS SUBJECT TO WAIVER.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the lands subject to a waiver under subsection (a) shall not be subject to any term, condition, reservation, or restriction that would otherwise apply to that land as a result of the conveyance of that land by the United States to the institution of higher education.

(2) USE OF LANDS.—An institution of higher education that is issued a waiver under subsection (a) may use revenues derived from the use, operation, or disposal of that land only for weather-related and educational purposes that include benefits for aviation.

(d) GRANTS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, if an institution of higher education that is subject to a waiver under subsection (a) received financial assistance in the form of a grant from the Federal Aviation Administration or a predecessor agency before the date of enactment of this Act, then the Secretary of Transportation may waive the repayment of the outstanding amount of any grant that the institution of higher education would otherwise be required to pay.

(2) ELIGIBILITY TO RECEIVE SUBSEQUENT GRANTS.—Nothing in paragraph (1) shall affect the eligibility of an institution of higher education that is subject to that paragraph from receiving grants from the Secretary of Transportation under chapter 471 of title 49, United States Code, or under any other provision of law relating to financial assistance provided through the Federal Aviation Administration.

SEC. 446. AUTOMATED SURFACE OBSERVATION SYSTEM/AUTOMATED WEATHER OBSERVING SYSTEM UPGRADE.

Section 48101 is further amended by adding at the end the following:

''(f) AUTOMATED SURFACE OBSERVATION SYSTEM/AUTOMATED WEATHER OBSERVING SYSTEM UPGRADE.—Of the amounts appropriated under subsection (a) for fiscal years beginning after September 30, 2000, such sums as may be necessary for the implementation and use of upgrades to the current automated surface observation system/automated weather observing system, if the upgrade is successfully demonstrated.''.

SEC. 447. TERMINAL AUTOMATED RADAR DISPLAY AND INFORMATION SYSTEM.

The Administrator of the Federal Aviation Administration shall develop a national policy and related procedures concerning the Terminal Automated Radar Display and Information System and sequencing for Visual Flight Rule air traffic control towers.

SEC. 448. COST/BENEFIT ANALYSIS FOR RETROFIT OF 16G SEATS.

Before the Administrator of the Federal Aviation Administration issues a final rule requiring the air carriers to retrofit existing aircraft with 16G seats, the Administrator shall conduct, in consultation with the Inspector General of the Department of Transportation, a comprehensive analysis of the costs and benefits that would be associated with the issuance of such a final rule.

SEC. 449. RALEIGH COUNTY, WEST VIRGINIA, MEMORIAL AIRPORT.

The Secretary of Transportation may grant a release from any term or condition in a grant agreement for the development or improvement of the Raleigh County Memorial Airport, West Virginia, if the Secretary determines that the property to be released—

(1) does not exceed 400 acres; and

(2) is not needed for airport purposes.

SEC. 450. AIRPORT SAFETY NEEDS.

(a) IN GENERAL.—The Administrator shall conduct a study reviewing current and future airport safety needs that—

(1) focuses specifically on the mission of rescue personnel, rescue operations response time, and extinguishing equipment; and

(2) gives particular consideration to the need for different requirements for airports that are related to the size of the airport and the size of the community immediately surrounding the airport.

(b) REPORT TRANSMITTED TO CONGRESS; DEADLINE.—The Administrator shall transmit a report containing the Administrator's findings and recommendations to the Aviation Subcommittee of the Senate Committee on Commerce, Science, and Transportation and the Aviation Subcommittee of the House of Representatives Committee on Transportation and Infrastructure within 6 months after the date of enactment of this Act.

(c) COST/BENEFIT ANALYSIS OF PROPOSED CHANGES.—If the Administrator recommends, on the basis of a study conducted under subsection (a), that part 139 of title 14, Code of Federal Regulations, should be revised to meet current and future airport safety needs, the Administrator shall include a cost-benefit analysis of any recommended changes in the report.

SEC. 451. FLIGHT TRAINING OF INTERNATIONAL STUDENTS.

The Federal Aviation Administration shall implement a bilateral aviation safety agreement for conversion of flight crew licenses between the government of the United States and the Joint Aviation Authority member governments.

SEC. 452. GRANT PARISH, LOUISIANA.

IN GENERAL.—The United States may release, without monetary consideration, all restrictions, conditions, and limitations on the use, encumbrance, or conveyance of certain land located in Grant Parish, Louisiana, identified as Tracts B, C, and D on the map entitled ''Plat of Restricted Properties/Former Pollock Army Airfield, Pollock, Louisiana'', dated August 1, 1996, to the extent such restrictions, conditions, and limitations are enforceable by the United States, but the United States shall retain the right of access to, and use of, that land for national defense purposes in time of war or national emergency.

(b) MINERAL RIGHTS.—Nothing in subsection (a) affects the ownership or disposition of oil, gas, or other mineral resources associated with land described in subsection (a).

SEC. 453. DESIGNATION OF GENERAL AVIATION AIRPORT.

Section 47118 of title 49, United States Code, is amended—

(1) in the second sentence of subsection (a), by striking ''12'' and inserting ''15''; and

(2) by adding at the end the following new subsection:

''(g) DESIGNATION OF GENERAL AVIATION AIRPORT.—Notwithstanding any other provision of this section, at least one of the airports designated under subsection (a) may be a general aviation airport that is a former military installation closed or realigned under a law described in subsection (a)(1).''.

SEC. 454. AIRLINE DEREGULATION STUDY COMMISSION.

(a) ESTABLISHMENT OF COMMISSION.—

(1) ESTABLISHMENT.—There is established a commission to be known as the Airline Deregulation Study Commission (in this section referred to as the ''Commission'').

(2) MEMBERSHIP.—

(A) COMPOSITION.—Subject to subparagraph (B), the Commission shall be composed of 15 members of whom—

(i) 5 shall be appointed by the President;

(ii) 5 shall be appointed by the President pro tempore of the Senate, 3 upon the recommendation of the Majority Leader, and 2 upon the recommendation of the Minority Leader of the Senate; and

(iii) 5 shall be appointed by the Speaker of the House of Representatives, 3 upon the Speaker's own initiative, and 2 upon the recommendation of the Minority Leader of the House of Representatives.

(B) MEMBERS FROM RURAL AREAS.—

(i) REQUIREMENT.—Of the individuals appointed to the Commission under subparagraph (A)—

(I) one of the individuals appointed under clause (i) of that subparagraph shall be an individual who resides in a rural area; and

(II) two of the individuals appointed under each of clauses (ii) and (iii) of that subparagraph shall be individuals who reside in a rural area.

(ii) GEOGRAPHIC DISTRIBUTION.—The appointment of individuals under subparagraph (A) pursuant to the requirement in clause (i) of this subparagraph shall, to the maximum extent practicable, be made so as to ensure that a variety of geographic areas of the country are represented in the membership of the Commission.

(C) DATE.—The appointments of the members of the Commission shall be made not later than 60 days after the date of the enactment of this Act.

(3) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(4) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

(5) MEETINGS.—The Commission shall meet at the call of the Chairperson.

(6) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(7) CHAIRPERSON.—The Commission shall select a Chairman and Vice Chairperson from among its members.

(b) DUTIES OF THE COMMISSION.—

(1) STUDY.—

(A) DEFINITIONS.—In this subsection, the terms 'air carrier' and 'air transportation' have the meanings given those terms in section 40102(a).

(B) CONTENTS.—The Commission shall conduct a thorough study of the impacts of deregulation of the airline industry of the United States on—

(i) the affordability, accessibility, availability, and quality of air transportation, particularly in small-sized and medium-sized communities;

(ii) economic development and job creation, particularly in areas that are underserved by air carriers;

(iii) the economic viability of small-sized airports; and

(iv) the long-term configuration of the United States passenger air transportation system.

(C) MEASUREMENT FACTORS.—In carrying out the study under this subsection, the Commission shall develop measurement factors to analyze the quality of passenger air transportation service provided by air carriers by identifying the factors that are generally associated with quality passenger air transportation service.

(D) BUSINESS AND LEISURE TRAVEL.—In conducting measurements for an analysis of the affordability of air travel, to the extent practicable, the Commission shall provide for appropriate control groups and comparisons with respect to business and leisure travel.

(2) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Commission shall submit an interim report to the President and Congress, and not later than 18 months after the date of the enactment of this Act, the Commission shall submit a report to the President and Congress. Each such report shall contain a detailed statement of the findings and conclusions of the Commission, together with its recommendations for such legislation and administrative actions as it considers appropriate.

(c) POWERS OF THE COMMISSION.—

(1) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out the duties of the Commission under this section.

(2) INFORMATION FROM FEDERAL AGENCIES.—The Commission shall consult with the Comptroller General of the United States and may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the duties of the Commission under this section. Upon request of the Chairperson of the Commission, the head of such department or agency shall furnish such information to the Commission.

(3) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(4) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(d) COMMISSION PERSONNEL MATTERS.—

(1) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(2) STAFF.—

(A) IN GENERAL.—The Chairperson of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.

(B) COMPENSATION.—The Chairperson of the Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(3) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(4) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(e) TERMINATION OF COMMISSION.—The Commission shall terminate 90 days after the date on which the Commission submits its report under subsection (b).

(f) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated $950,000 for fiscal year 2000 to the Commission to carry out this section.

(2) AVAILABILITY.—Any sums appropriated pursuant to the authorization of appropriations in paragraph (1) shall remain available until expended.

SEC. 455. NONDISCRIMINATION IN THE USE OF PRIVATE AIRPORTS.

Chapter 401 of subtitle VII of title 49, United States Code, is amended by inserting the following new section after section 40122:

"§ 40123. Nondiscrimination in the use of private airports

''(a) IN GENERAL.—Notwithstanding any other provision of law, no State, county, city or municipal government may prohibit the use or full enjoyment of a private airport within its jurisdiction by any person on the basis of that person's race, creed, color, national origin, sex, or ancestry.''.

SEC. 456. CURFEW.

Notwithstanding any other provision of law, any exemptions granted to air carriers under this Act may not result in additional operations at Ronald Reagan Washington National Airport between the hours of 10:00 p.m. and 7:00 a.m.

SEC. 457. FEDERAL AVIATION ADMINISTRATION YEAR 2000 TECHNOLOGY SAFETY ENFORCEMENT ACT OF 1999.

(a) SHORT TITLE.—This section be cited as the ''Federal Aviation Administration Year 2000 Technology Safety Enforcement Act of 1999''.

(b) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Federal Aviation Administration.

(2) AIR CARRIER OPERATING CERTIFICATE.—The term ''air carrier operating certificate'' has the same meaning as in section 44705 of title 49, United States Code.

(3) YEAR 2000 TECHNOLOGY PROBLEM.—The term ''year 2000 technology problem'' means a failure by any device or system (including any computer system and any microchip or integrated circuit embedded in another device or product), or any software, firmware, or other set or collection of processing instructions to process, to calculate, to compare, to sequence, to display, to store, to transmit, or to receive year-2000 date-related data failures—

(A) to deal with or account for transitions or comparisons from, into, and between the years 1999 and 2000 accurately;

(B) to recognize or accurately process any specific date in 1999, 2000, or 2001; or

(C) to accurately account for the year 2000's status as a leap year, including recognition and processing of the correct date on February 29, 2000.

(c) RESPONSE TO REQUEST FOR INFORMATION.—Any person who has an air carrier operating certificate shall respond on or before November 1, 1999, to any request for information from the Administrator regarding readiness of that person with regard to the year 2000 technology problem as it relates to the compliance of that person with applicable safety regulations.

(d) FAILURE TO RESPOND.—

(1) SURRENDER OF CERTIFICATE.—After November 1, 1999, the Administrator shall make a decision on the record whether to compel any air carrier that has not responded on or before November 1, 1999, to a request for information regarding the readiness of that air carrier with regard to the year 2000 technology problem as it relates to the air carrier's compliance with applicable safety regulations to surrender its operating certificate to the Administrator.

(2) REINSTATEMENT OF CERTIFICATE.—The Administrator may return an air carrier operating certificate that has been surrendered under this subsection upon—

(A) a finding by the Administrator that a person whose certificate has been surrendered has provided sufficient information to demonstrate compliance with applicable safety regulations as it relates to the year 2000 technology problem; or

(B) upon receipt of a certification, signed under penalty or perjury, by the chief operating officer of the air carrier, that such air carrier has addressed the year 2000 technology problem so that the air carrier will be in full compliance with applicable safety regulations on and after January 1, 2000.

SEC. 458. EXPRESSING THE SENSE OF THE SENATE CONCERNING AIR TRAFFIC OVER NORTHERN DELAWARE.

(a) DEFINITION.—The term ''Brandywine Intercept'' means the point over Brandywine Hundred in northern Delaware that pilots use for guidance and maintenance of safe operation from other aircraft and over which most aircraft pass on their East Operations approach to Philadelphia International Airport.

(b) FINDINGS.—Congress makes the following findings:

(1) The Brandywine Hundred area of New Castle County, Delaware serves as a major approach causeway to Philadelphia International Airport's East Operations runways.

(2) The standard of altitude over the Brandywine Intercept is 3,000 feet, with airport scatter charts indicating that within a given hour of consistent weather and visibility aircraft fly over the Brandywine Hundred at anywhere from 2,500 to 4,000 feet.

(3) Lower airplane altitudes result in increased ground noise.

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

(1) include northern Delaware in any study of aircraft noise conducted under part 150 of title 14 of the Code of Federal Regulations required under the National Environmental Policy Act of 1969 for the redesign of the airspace surrounding Philadelphia International Airport;

(2) study the feasibility, consistent with safety, of placing the approach causeway for Philadelphia International Airport's East Operations over the Delaware River (instead of Brandywine Hundred); and

(3) study the feasibility of increasing the standard altitude over the Brandywine Intercept from 3,000 feet to 4,000 feet.

SEC. 459. STUDY OF OUTDOOR AIR, VENTILATION, AND RECIRCULATION AIR REQUIREMENTS FOR PASSENGER CABINS IN COMMERCIAL AIRCRAFT.

(a) DEFINITIONS.—In this section, the terms ''air carrier'' and ''aircraft'' have the meanings given those terms in section 40102 of title 49, United States Code.

(b) IN GENERAL.—As soon as practicable after the date of enactment of this section, the Secretary of Transportation (referred to in this section as the ''Secretary'') shall conduct a study

of sources of air supply contaminants of aircraft and air carriers to develop alternatives to replace engine and auxiliary power unit bleed air as a source of air supply. To carry out this paragraph, the Secretary may enter into an agreement with the Director of the National Academy of Sciences for the National Research Council to conduct the study.

(c) AVAILABILITY OF INFORMATION.—Upon completion of the study under this section in one year's time, the Administrator of the Federal Aviation Administration shall make available the results of the study to air carriers through the Aviation Consumer Protection Division of the Office of the General Counsel for the Department of Transportation.

SEC. 460. GENERAL AVIATION METROPOLITAN ACCESS AND RELIEVER AIRPORT GRANT FUND.

(a) DEFINITION.—Title 49, United States Code, is amended by adding the following new subparagraph at the end of section 47144(d)(1):

''(C) GENERAL AVIATION METROPOLITAN ACCESS AND RELIEVER AIRPORT.—'General Aviation Metropolitan Access and Reliever Airport' means a Reliever Airport which has annual operations in excess of 75,000 operations, a runway with a minimum usable landing distance of 5,000 feet, a precision instrument landing procedure, a minimum of 150 based aircraft, and where the adjacent Air Carrier Airport exceeds 20,000 hours of annual delays as determined by the Federal Aviation Administration.''.

(b) APPORTIONMENT.—Title 49, United States Code, section 47114(d), is amended by adding at the end:

''(4) The Secretary shall apportion an additional 5 percent of the amount subject to apportionment for each fiscal year to States that include a General Aviation Metropolitan Access and Reliever Airport equal to the percentage of the apportionment equal to the percentage of the number of operations of the State's eligible General Aviation Metropolitan Access and Reliever Airports compared to the total operations of all General Aviation Metropolitan Access and Reliever Airports.''.

SEC. 461. STUDY ON AIRPORT NOISE.

(a) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Administrator of the Environmental Protection Agency shall submit a study on airport noise to Congress, the Secretary of Transportation, and the Administrator of the Federal Aviation Administration.

(b) AREAS OF STUDY.—The study shall examine—

(1) the selection of noise measurement methodologies used by the Administrator of the Federal Aviation Administration;

(2) the threshold of noise at which health impacts are felt;

(3) the effectiveness of noise abatement programs at airports around the United States; and

(4) the impacts of aircraft noise on students and educators in schools.

(c) RECOMMENDATIONS.—The study shall include specific recommendations to the Secretary of Transportation and the Administrator of the Federal Aviation Administration concerning new measures that should be implemented to mitigate the impact of aircraft noise on communities surrounding airports.

SEC. 462. SENSE OF THE SENATE CONCERNING EAS.

(a) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) essential air service (EAS) to smaller communities remains vital, and that the difficulties encountered by many communities in retaining EAS warrant increased Federal attention;

(2) the FAA should give full consideration to ending the local match required by Dickinson, North Dakota.

(b) REPORT.—Not later than 60 days after enactment of this legislation, the Secretary of Transportation shall report to the Congress with an analysis of the difficulties faced by many smaller communities in retaining EAS and a plan to facilitate easier EAS retention. This report shall give particular attention to communities in North Dakota.

SEC. 463. AIRLINE QUALITY SERVICE REPORTS.

The Secretary of Transportation shall modify the Airline Service Quality Performance reports required under part 234 of title 14, Code of Federal Regulations, to more fully disclose to the public the nature and source of delays and cancellations experienced by air travelers. Such modifications shall include a requirement that air carriers report delays and cancellations in categories which reflect the reasons for such delays and cancellations. Such categories and reporting shall be determined by the Administrator in consultation with representatives of airline passengers, air carriers, and airport operators, and shall include delays and cancellations caused by air traffic control.

SEC. 464. PREVENTION OF FRAUDS INVOLVING AIRCRAFT OR SPACE VEHICLE PARTS IN INTERSTATE OR FOREIGN COMMERCE.

(a) SHORT TITLE.—This section may be cited as the ''Aircraft Safety Act of 1999''.

(b) DEFINITIONS.—Section 31 of title 18, United States Code, is amended by striking all after the section heading and inserting the following:

''(a) IN GENERAL.—

''(1) AIRCRAFT.—The term 'aircraft' means a civil, military, or public contrivance invented, used, or designed to navigate, fly, or travel in the air.

''(2) AVIATION QUALITY.—The term 'aviation quality', with respect to a part of an aircraft or space vehicle, means the quality of having been manufactured, constructed, produced, repaired, overhauled, rebuilt, reconditioned, or restored in conformity with applicable standards specified by law (including a regulation) or contract.

''(3) DESTRUCTIVE SUBSTANCE.—The term 'destructive substance' means an explosive substance, flammable material, infernal machine, or other chemical, mechanical, or radioactive device or matter of a combustible, contaminative, corrosive, or explosive nature.

''(4) IN FLIGHT.—The term 'in flight' means—

''(A) any time from the moment at which all the external doors of an aircraft are closed following embarkation until the moment when any such door is opened for disembarkation; and

''(B) in the case of a forced landing, until competent authorities take over the responsibility for the aircraft and the persons and property on board.

''(5) IN SERVICE.—The term 'in service' means—

''(A) any time from the beginning of preflight preparation of an aircraft by ground personnel or by the crew for a specific flight until 24 hours after any landing; and

''(B) in any event includes the entire period during which the aircraft is in flight.

''(6) MOTOR VEHICLE.—The term 'motor vehicle' means every description of carriage or other contrivance propelled or drawn by mechanical power and used for commercial purposes on the highways in the transportation of passengers, passengers and property, or property or cargo.

''(7) PART.—The term 'part' means a frame, assembly, component, appliance, engine, propeller, material, part, spare part, piece, section, or related integral or auxiliary equipment.

''(8) SPACE VEHICLE.—The term 'space vehicle' means a man-made device, either manned or unmanned, designed for operation beyond the Earth's atmosphere.

''(9) STATE.—The term 'State' means a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

''(10) USED FOR COMMERCIAL PURPOSES.—The term 'used for commercial purposes' means the carriage of persons or property for any fare, fee, rate, charge or other consideration, or directly or indirectly in connection with any business, or other undertaking intended for profit.

''(b) TERMS DEFINED IN OTHER LAW.—In this chapter, the terms 'aircraft engine', 'air navigation facility', 'appliance', 'civil aircraft', 'foreign air commerce', 'interstate air commerce', 'landing area', 'overseas air commerce', 'propeller', 'spare part', and 'special aircraft jurisdiction of the United States' have the meanings given those terms in sections 40102(a) and 46501 of title 49.''.

(c) FRAUD.—

(1) IN GENERAL.—Chapter 2 of title 18, United States Code, is amended by adding at the end the following:

''§ 38. Fraud involving aircraft or space vehicle parts in interstate or foreign commerce

''(a) OFFENSES.—A person that, in or affecting interstate or foreign commerce, knowingly—

''(1)(A) falsifies or conceals a material fact;

''(B) makes any materially fraudulent representation; or

''(C) makes or uses any materially false writing, entry, certification, document, record, data plate, label, or electronic communication;

concerning any aircraft or space vehicle part;

''(2) exports from or imports or introduces into the United States, sells, trades, installs on or in any aircraft or space vehicle any aircraft or space vehicle part using or by means of a fraudulent representation, document, record, certification, depiction, data plate, label, or electronic communication; or

''(3) attempts or conspires to commit an offense described in paragraph (1) or (2);

shall be punished as provided in subsection (b).

''(b) PENALTIES.—The punishment for an offense under subsection (a) is as follows:

''(1) AVIATION QUALITY.—If the offense relates to the aviation quality of a part and the part is installed in an aircraft or space vehicle, a fine of not more than $500,000, imprisonment for not more than 25 years, or both.

''(2) FAILURE TO OPERATE AS REPRESENTED.—If, by reason of the failure of the part to operate as represented, the part to which the offense is related is the probable cause of a malfunction or failure that results in serious bodily injury (as defined in section 1365) to or the death of any person, a fine of not more than $1,000,000, imprisonment for any term of years or life, or both.

''(3) ORGANIZATIONS.—If the offense is committed by an organization, a fine of not more than $25,000,000.

''(4) OTHER CIRCUMSTANCES.—In the case of an offense not described in paragraph (1), (2), or (3), a fine under this title, imprisonment for not more than 15 years, or both.

''(c) CIVIL REMEDIES.—

''(1) IN GENERAL.—The district courts of the United States shall have jurisdiction to prevent and restrain violations of this section by issuing appropriate orders, including—

''(A) ordering a person CONVICTED OF AN OFFENSE UNDER THIS SECTION to divest any interest, direct or indirect, in any enterprise, or to destroy, or to mutilate and sell as scrap, aircraft material or part inventories or stocks;

''(B) imposing reasonable restrictions on the future activities or investments of any such person, including prohibiting engagement in the same type of endeavor as used to commit the offense; and

''(C) ordering dissolution or reorganization of any enterprise, making due provisions for the rights and interests of innocent persons.

''(2) RESTRAINING ORDERS AND PROHIBITION.—Pending final determination of a proceeding brought under this section, the court may enter such restraining orders or prohibitions, or take such other actions (including the acceptance of satisfactory performance bonds) as the court deems proper.

''(3) ESTOPPEL.—A final judgment rendered in favor of the United States in any criminal proceeding brought under this section shall estop the defendant from denying the essential allegations of the criminal offense in any subsequent civil proceeding brought by the United States.

''(d) CRIMINAL FORFEITURE.—

''(1) IN GENERAL.—The court, in imposing sentence on any person convicted of an offense under this section, shall order, in addition to any other sentence and irrespective of any provision of State law, that the person forfeit to the United States—

''(A) any property constituting, or derived from, any proceeds that the person obtained, directly or indirectly, as a result of the offense; and

''(B) any property used, or intended to be used in any manner, to commit or facilitate the commission of the offense.

''(2) APPLICATION OF OTHER LAW.—The forfeiture of property under this section, including any seizure and disposition of the property, and any proceedings relating to the property, shall be governed by section 413 of the Comprehensive Drug Abuse and Prevention Act of 1970 (21 U.S.C. 853) (not including subsection (d) of that section).

''(e) CONSTRUCTION WITH OTHER LAW.—This section does not preempt or displace any other remedy, civil or criminal, provided by Federal or State law for the fraudulent importation, sale, trade, installation, or introduction into commerce of an aircraft or space vehicle part.

''(f) TERRITORIAL SCOPE.—This section applies to conduct occurring inside or outside the United States.

''(g) AUTHORIZED INVESTIGATIVE DEMAND PROCEDURES.—

''(1) AUTHORIZATION.—

''(A) SUBPOENAS.—In any investigation relating to any act or activity involving an offense under this section, the Attorney General may issue in writing and cause to be served a subpoena—

''(i) requiring the production of any record (including any book, paper, document, electronic medium, or other object or tangible thing) that may be relevant to an authorized law enforcement inquiry, that a person or legal entity may possess or have care or custody of or control over; and

''(ii) requiring a custodian of a record to give testimony concerning the production and authentication of the record.

''(B) CONTENTS.—A subpoena under subparagraph (A) shall—

''(i) describe the object required to be produced; and

''(ii) prescribe a return date within a reasonable period of time within which the object can be assembled and produced.

''(C) LIMITATION.—The production of a record shall not be required under this section at any place more than 500 miles from the place at which the subpoena for the production of the record is served.

''(D) WITNESS FEES.—A witness summoned under this section shall be paid the same fees and mileage as are paid witnesses in courts of the United States.

''(b) SERVICE.—

''(1) IN GENERAL.—A subpoena issued under subsection (a) may be served by any person who is at least 18 years of age and is designated in the subpoena to serve the subpoena.

''(2) NATURAL PERSONS.—Service of a subpoena issued under subsection (a) on a natural person may be made by personal delivery of the subpoena to the person.

''(3) CORPORATIONS AND OTHER ORGANIZATIONS.—Service of a subpoena issued under subsection (a) on a domestic or foreign corporation or on a partnership or other unincorporated association that is subject to suit under a common name may be made by delivering the subpoena to an officer, to a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process for the corporation, partnership, or association.

''(4) PROOF OF SERVICE.—The affidavit of the person serving the subpoena entered or a true copy of such an affidavit shall be proof of service.

''(c) ENFORCEMENT.—

''(1) IN GENERAL.—In the case of a failure to comply with a subpoena issued under subsection (a), the Attorney General may invoke the aid of any court of the United States within the jurisdiction of which the investigation is carried on or of which the subpoenaed person is an inhabitant, or in which the subpoenaed person carries on business or may be found, to compel compliance with the subpoena.

''(2) ORDERS.—The court may issue an order requiring the subpoenaed person to appear before the Attorney General to produce a record or to give testimony concerning the production and authentication of a record.

''(3) CONTEMPT.—Any failure to obey the order of the court may be punished by the court as a contempt of court.

''(4) PROCESS.—All process in a case under this subsection may be served in any judicial district in which the subpoenaed person may be found.

''(d) IMMUNITY FROM CIVIL LIABILITY.—Notwithstanding any Federal, State, or local law, any person (including any officer, agent, or employee of a person) that receives a subpoena under this section, who complies in good faith with the subpoena and produces a record or material sought by a subpoena under this section, shall not be liable in any court of any State or the United States to any customer or other person for the production or for nondisclosure of the production to the customer.''.

(2) CONFORMING AMENDMENTS.—

(A) CHAPTER ANALYSIS.—The analysis for chapter 2 of title 18, United States Code, is amended by adding at the end the following:

''38. Fraud involving aircraft or space vehicle parts in interstate or foreign commerce.''.

(B) WIRE AND ELECTRONIC COMMUNICATIONS.—Section 2516(1)(c) of title 18, United States Code, is amended by inserting ''section 38 (relating to aircraft parts fraud),'' after ''section 32 (relating to destruction of aircraft or aircraft facilities),''.

SEC. 465. PRESERVATION OF ESSENTIAL AIR SERVICE AT DOMINATED HUB AIRPORTS.

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

''§ 41743. Preservation of basic essential air service at dominated hub airports

''(a) IN GENERAL.—If the Secretary of Transportation determines that extraordinary circumstances jeopardize the reliable and competitive performance of essential air service under this subchapter from a subsidized essential air service community to and from an essential airport facility, then the Secretary may require the air carrier that has more than 50 percent of the total annual enplanements at the essential airport facility to take action to enable an air carrier to provide reliable and competitive essential air service to that community. Action required by the Secretary under this subsection may include interline agreements, ground services, subleasing of gates, and the provision of any other service or facility necessary for the performance of satisfactory essential air service to that community.

''(b) ESSENTIAL AIRPORT FACILITY DEFINED.—In this section, the term 'essential airport facility' means a large hub airport (as defined in section 41731) in the contiguous 48 States at which 1 air carrier has more than 50 percent of the total annual enplanements at that airport.''.

SEC. 466. AVAILABILITY OF FUNDS FOR GEORGIA'S REGIONAL AIRPORT ENHANCEMENT PROGRAM.

Of the amounts made available to the Secretary of Transportation for the fiscal year 2000 under section 48103 of title 49, United States Code, funds may be available for Georgia's regional airport enhancement program for the acquisition of land.

TITLE V—AVIATION COMPETITION PROMOTION

SEC. 501. PURPOSE.

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

SEC. 502. ESTABLISHMENT OF SMALL COMMUNITY AVIATION DEVELOPMENT PROGRAM.

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

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

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

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

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

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

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

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

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

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

''(3) REPORTS.—The program director shall provide an annual report to the Secretary and the Congress beginning in 2000 that—

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

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

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

SEC. 503. COMMUNITY-CARRIER AIR SERVICE PROGRAM.

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

''§ 41743. Air service program for small communities

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

''(b) SELECTION OF PARTICIPANTS.—In selecting community programs for participation in the communities program under subsection (a), the

program director shall apply criteria, including geographical diversity and the presentation of unique circumstances, that will demonstrate the feasibility of the program. For purposes of this subsection, the application of geographical diversity criteria means criteria that—

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

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

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

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

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

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

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

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

''(2) may obligate funds authorized under section 504 of the Air Transportation Improvement Act to carry out this section;

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

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

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

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

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

''(e) LIMITATIONS.—

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

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

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

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

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

''(2) AMOUNT.—The program director may not obligate more than $80,000,000 of the amounts authorized under 504 of the Air Transportation Improvement Act over the 4 years of the program.

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

''(f) REPORT.—The program director shall report through the Secretary to the Congress annually on the progress made under this section during the preceding year in expanding commercial aviation service to smaller communities.

''§ 41744. Pilot program project authority

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

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

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

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

''(1) out of amounts authorized under section 504 of the Air Transportation Improvement Act, provide financial assistance by way of grants to small communities or consortia of small communities under section 41743 of up to $500,000 per year; and

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

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

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

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

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

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

''§ 41745. Assistance to communities for service

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

''§ 41746. Additional authority

''In carrying out this chapter, the Secretary—

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

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

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

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

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

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

''41743. Air service program for small communities.
''41744. Pilot program project authority.
''41745. Assistance to communities for service.
''41746. Additional authority.''.

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

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

SEC. 504. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary of Transportation $80,000,000 to carry out sections 41743 through 41746 of title 49, United States Code, for the 4 fiscal-year period beginning with fiscal year 2000.

SEC. 505. MARKETING PRACTICES.

Section 41712 is amended—

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

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

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

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

''(2) code-sharing partnerships;

''(3) computer reservation system displays;

''(4) gate arrangements at airports;

''(5) exclusive dealing arrangements; and

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

''(c) REGULATIONS.—If the Secretary finds, after conducting the review required by subsection (b), that marketing practices inhibit the availability of such service to such communities, then, after public notice and an opportunity for comment, the Secretary may promulgate regulations that address the problem, or take other appropriate action. Nothing in this section expands the authority or jurisdiction of the Secretary to promulgate regulations under the Federal Aviation Act or under any other Act.''.

SEC. 506. CHANGES IN, AND PHASE-OUT OF, SLOT RULES.

(a) RULES THAT APPLY TO ALL SLOT EXEMPTION REQUESTS.—

(1) PROMPT CONSIDERATION OF REQUESTS.—Section 41714(i) is amended to read as follows:

''(i) 45-DAY APPLICATION PROCESS.—

''(1) REQUEST FOR SLOT EXEMPTIONS.—Any slot exemption request filed with the Secretary under this section, section 41717, or 41719 shall include—

''(A) the names of the airports to be served;

''(B) the times requested; and

''(C) such additional information as the Secretary may require.

''(2) ACTION ON REQUEST; FAILURE TO ACT.—Within 45 days after a slot exemption request under this section, section 41717, or section 41719 is received by the Secretary, the Secretary shall—

''(A) approve the request if the Secretary determines that the requirements of the section under which the request is made are met;

''(B) return the request to the applicant for additional information; or

''(C) deny the request and state the reasons for its denial.

''(3) 45-DAY PERIOD TOLLED FOR TIMELY REQUEST FOR MORE INFORMATION.—If the Secretary returns the request for additional information during the first 10 days after the request is filed, then the 45-day period shall be tolled until the date on which the additional information is filed with the Secretary.

''(4) FAILURE TO DETERMINE DEEMED APPROVAL.—If the Secretary neither approves the request under paragraph (2)(A) nor denies the request under subparagraph (2)(C) within the 45-day period beginning on the date it is received, excepting any days during which the 45-day period is tolled under paragraph (3), then the request is deemed to have been approved on the 46th day after it was filed with the Secretary.''.

(2) EXEMPTIONS MAY NOT BE BOUGHT OR SOLD.—Section 41714 is further amended by adding at the end the following:

''(j) EXEMPTIONS MAY NOT BE BOUGHT OR SOLD.—No exemption from the requirements of subparts K and S of part 93 of title 14, Code of Federal Regulations, granted under this section, section 41717, or section 41719 may be bought or sold by the carrier to which it is granted.''.

(3) EQUAL TREATMENT OF AFFILIATED CARRIERS.—Section 41714, as amended by paragraph (2), is further amended by adding at the end thereof the following:

''(k) AFFILIATED CARRIERS.—For purposes of this section, section 41717, 41718, and 41719, the Secretary shall treat all commuter air carriers that have cooperative agreements, including code-share agreements, with other air carriers equally for determining eligibility for the application of any provision of those sections regardless of the form of the corporate relationship between the commuter air carrier and the other air carrier.''.

(4) NEW ENTRANT SLOTS.—Section 41714(c) is amended—

(A) by striking ''(1) IN GENERAL.—'';

(B) by striking ''and the circumstances to be exceptional,''; and

(C) by striking paragraph (2).

(5) LIMITED INCUMBENT; REGIONAL JET.—Section 40102 is amended by—

(A) inserting after paragraph (28) the following:

''(28A) The term 'limited incumbent air carrier' has the meaning given that term in subpart S of part 93 of title 14, Code of Federal Regulations, except that '20' shall be substituted for '12' in sections 93.213(a)(5), 93.223(c)(3), and 93.225(h) as such sections were in effect on August 1, 1998.''; and

(B) inserting after paragraph (37) the following:

''(37A) The term 'regional jet' means a passenger, turbofan-powered aircraft carrying not fewer than 30 and not more than 50 passengers.''.

(b) PHASE-OUT OF SLOT RULES.—Chapter 417 is amended—

(1) by redesignating sections 41715 and 41716 as sections 41720 and 41721; and

(2) by inserting after section 41714 the following:

''§ 41715. Phase-out of slot rules at certain airports

''(a) TERMINATION.—The rules contained in subparts S and K of part 93, title 14, Code of Federal Regulations, shall not apply after December 31, 2006, at LaGuardia Airport or John F. Kennedy International Airport.

''(b) FAA SAFETY AUTHORITY NOT COMPROMISED.—Nothing in subsection (a) affects the Federal Aviation Administration's authority for safety and the movement of air traffic.

(c) PRESERVATION OF EXISTING SERVICE.—Chapter 417, as amended by subsection (b), is amended by inserting after section 41715 the following:

''§ 41716. Preservation of certain existing slot-related air service

''An air carrier that provides air transportation of passengers from a high density airport (other than Ronald Reagan Washington National Airport) to a small hub airport or nonhub airport, or to an airport that is smaller than a small hub or nonhub airport, on or before the date of enactment of the Air Transportation Improvement Act pursuant to an exemption from the requirements under subparts K and S of part 93 of title 14, Code of Federal Regulations (pertaining to slots at high density airports), or where slots were issued to an airline conditioned on a specific airport being served, may not terminate air transportation service for that route for a period of 2 years (with respect to service from LaGuardia Airport or John F. Kennedy International Airport), or 4 years (with respect to service from Chicago O'Hare International Airport), after the date on which those requirements cease to apply to that high density airport unless—

''(1) before October 1, 1999, the Secretary received a written air service termination notice for that route; or

''(2) after September 30, 1999, the air carrier submits an air service termination notice under section 41720 for that route and the Secretary determines that the carrier suffered excessive losses, including substantial losses on operations on that route during the calendar quarters immediately preceding submission of the notice.''.

(d) SPECIAL RULES AFFECTING LAGUARDIA AIRPORT AND JOHN F. KENNEDY INTERNATIONAL AIRPORT.—Chapter 417, as amended by subsection (c), is amended by inserting after section 41716 the following:

''§ 41717. Interim slot rules at New York airports

''(a) IN GENERAL.—The Secretary of Transportation may, by order, grant exemptions from the requirements under subparts K and S of part 93 of title 14, Code of Federal Regulations (pertaining to slots at high density airports) with respect to a regional jet aircraft providing air transportation between LaGuardia Airport or John F. Kennedy International Airport and a small hub or nonhub airport—

''(1) if the operator of the regional jet aircraft was not providing such air transportation during the week of June 15, 1999; or

''(2) if the level of air transportation to be provided between such airports by the operator of the regional jet aircraft during any week will exceed the level of air transportation provided by such operator between such airports during the week of June 15, 1999.''.

(e) SPECIAL RULES AFFECTING CHICAGO O'HARE INTERNATIONAL AIRPORT.—

(1) IN GENERAL.—Subchapter I of chapter 417, as amended by subsection (d), is amended by inserting after section 41717 the following:

''§ 41718. Special Rules for Chicago O'Hare International Airport

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

''(b) EQUIPMENT AND SERVICE REQUIREMENTS.—

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

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

''(A) 18 shall be used only for service to underserved markets, of which no fewer than 6 shall be designated as commuter slot exemptions; and

''(B) 12 shall be air carrier slot exemptions.

''(c) PROCEDURAL REQUIREMENTS.—Before granting exemptions under subsection (a), the Secretary shall—

''(1) conduct an environmental review, taking noise into account, and determine that the granting of the exemptions will not cause a significant increase in noise;

''(2) determine whether capacity is available and can be used safely and, if the Secretary so determines then so certify;

''(3) give 30 days notice to the public through publication in the Federal Register of the Secretary's intent to grant the exemptions; and

''(4) consult with appropriate officers of the State and local government on any related noise and environmental issues.

''(d) UNDERSERVED MARKET DEFINED.—In this section, the term 'service to underserved markets' means passenger air transportation service to an airport that is a nonhub airport or a small hub airport (as defined in paragraphs (4) and (5), respectively, of section 41731(a)).''.

(2) 3-YEAR REPORT.—The Secretary shall study and submit a report 3 years after the first exemption granted under section 41718(a) of title 49, United States Code, is first used on the impact of the additional slots on the safety, environment, noise, access to underserved markets, and competition at Chicago O'Hare International Airport.

(f) SPECIAL RULES AFFECTING REAGAN WASHINGTON NATIONAL AIRPORT.—

(1) IN GENERAL.—Chapter 417, as amended by subsection (e), is amended by inserting after section 41718 the following:

"§ 41719. Special Rules for Ronald Reagan Washington National Airport

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

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

''(2) increase competition by new entrant air carriers or in multiple markets;

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

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

''(b) WITHIN-PERIMETER EXEMPTIONS.—The Secretary shall by order grant exemptions from the requirements of sections 49104(a)(5), 49111(e), and 41714 of this title and subparts K and S of part 93 of title 14, Code of Federal Regulations, to air carriers for service to airports that were designated as medium-hub or smaller airports in the Federal Aviation Administration's Primary Airport Enplanement Activity Summary for Calendar Year 1997 within the perimeter established for civil aircraft operations at Ronald Reagan Washington National Airport under section 49109. The Secretary shall develop criteria for distributing slot exemptions for flights within the perimeter to such airports under this paragraph in a manner that promotes air transportation—

''(1) by new entrant and limited incumbent air carriers;

''(2) to communities without existing service to Ronald Reagan Washington National Airport;

''(3) to small communities; or

''(4) that will provide competitive service on a monopoly nonstop route to Ronald Reagan Washington National Airport.

''(c) LIMITATIONS.—

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

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

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

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

''(B) will result in 12 additional daily air carrier slot exemptions at such airport for service within the perimeter; and

''(C) will not result in additional daily slot exemptions for service to any within-the-perimeter airport that was designated as a large-hub airport in the Federal Aviation Administration's Primary Airport Enplanement Activity Summary for Calendar Year 1997.

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

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

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

''(D) Subparagraph (C) does not apply to any increase in the number of instrument flight rule takeoffs and landings necessary to implement exemptions granted by the Secretary under section 41719.''.

(3) MWAA NOISE-RELATED GRANT ASSURANCES.—

(A) IN GENERAL.—In addition to any condition for approval of an airport development project that is the subject of a grant application submitted to the Secretary of Transportation under chapter 471 of title 49, United States Code, by the Metropolitan Washington Airports Authority, the Authority shall be required to submit a written assurance that, for each such grant made to the Authority for fiscal year 2000 or any subsequent fiscal year—

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

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

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

(C) SUNSET.—This paragraph shall cease to be in effect 5 years after the date of enactment of this Act if on that date the Secretary of Transportation certifies that the Metropolitan Washington Airports Authority has achieved full compliance with applicable noise compatibility planning and program requirements under part 150 of title 14, Code of Federal Regulations.

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

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

''(3) The Secretary shall give priority in making grants under paragraph (1)(A) to applications for airport noise compatibility planning and programs at and around—

''(A) LaGuardia Airport;

''(B) John F. Kennedy International Airport; and

''(C) Ronald Reagan Washington National Airport.''.

(h) STUDY OF COMMUNITY NOISE LEVELS AROUND HIGH DENSITY AIRPORTS.—The Secretary of Transportation shall study community noise levels in the areas surrounding the 4 high-density airports after the 100 percent Stage 3 fleet requirements are in place, and compare those levels with the levels in such areas before 1991.

(i) CONFORMING AMENDMENTS.—

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

(2) The chapter analysis for subchapter I of chapter 417 is amended—

(A) by redesignating the items relating to sections 41715 and 41716 as relating to sections 41720 and 41721, respectively; and

(B) by inserting after the item relating to section 41714 the following:

''41715. Phase-out of slot rules at certain airports.

''41716. Preservation of certain existing slot-related air service.

''41717. Interim slot rules at New York airports.

''41718. Interim application of slot rules at Chicago O'Hare. International Airport.

''41719. Special Rules for Ronald Reagan Washington National Airport.''.

(3) CONFORMING AMENDMENT.—Section 41714(a)(3) is amended by adding at the end thereof the following: ''The 132 slot cap under this paragraph does not apply to exemptions or slots made available under section 41718.''.

SEC. 507. CONSUMER NOTIFICATION OF E-TICKET EXPIRATION DATES.

Section 41712, as amended by section 505 of this Act, is amended by adding at the end thereof the following:

''(d) E-TICKET EXPIRATION NOTICE.—It shall be an unfair or deceptive practice under subsection (a) for any air carrier utilizing electronically transmitted tickets to fail to notify the purchaser of such a ticket of its expiration date, if any.''.

SEC. 508. REGIONAL AIR SERVICE INCENTIVE OPTIONS.

(a) PURPOSE.—The purpose of this section is to provide the Congress with an analysis of means to improve service by jet aircraft to underserved markets by authorizing a review of different programs of Federal financial assistance, including loan guarantees like those that would have been provided for by section 2 of S. 1353, 105th Congress, as introduced, to commuter air carriers that would purchase regional jet aircraft for use in serving those markets.

(b) STUDY.—The Secretary of Transportation shall study the efficacy of a program of Federal loan guarantees for the purchase of regional jets by commuter air carriers. The Secretary shall include in the study a review of options for funding, including alternatives to Federal funding. In the study, the Secretary shall analyze—

(1) the need for such a program;

(2) its potential benefit to small communities;

(3) the trade implications of such a program;

(4) market implications of such a program for the sale of regional jets;

(5) the types of markets that would benefit the most from such a program;

(6) the competitive implications of such a program; and

(7) the cost of such a program.

(c) REPORT.—The Secretary shall submit a report of the results of the study to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure not later than 24 months after the date of enactment of this Act.

SEC. 509. REQUIREMENT TO ENHANCE COMPETITIVENESS OF SLOT EXEMPTIONS FOR REGIONAL JET AIR SERVICE AND NEW ENTRANT AIR CARRIERS AT CERTAIN HIGH DENSITY TRAFFIC AIRPORTS.

(a) IN GENERAL.—Subchapter I of chapter 417, as amended by sections 507 and 508, is amended by adding at the end thereof the following:

"§ 41721. Requirement to enhance competitiveness of slot exemptions for nonstop regional jet air service and new entrant air carriers at certain airports

''In granting slot exemptions for nonstop regional jet air service and new entrant air carriers under this subchapter to John F. Kennedy

International Airport, and La Guardia Airport, the Secretary of Transportation shall require the Federal Aviation Administration to provide commercially reasonable times to takeoffs and landings of air flights conducted under those exemptions.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for subchapter I of chapter 417, as amended by this title, is amended by adding at the end thereof the following:

''41721. Requirement to enhance competitiveness of slot exemptions for nonstop regional jet air service and new entrant air carriers at certain airports.''.

TITLE VI—NATIONAL PARKS OVERFLIGHTS

SEC. 601. FINDINGS.

The Congress finds that—

(1) the Federal Aviation Administration has sole authority to control airspace over the United States;

(2) the Federal Aviation Administration has the authority to preserve, protect, and enhance the environment by minimizing, mitigating, or preventing the adverse effects of aircraft overflights on the public and tribal lands;

(3) the National Park Service has the responsibility of conserving the scenery and natural and historic objects and wildlife in national parks and of providing for the enjoyment of the national parks in ways that leave the national parks unimpaired for future generations;

(4) the protection of tribal lands from aircraft overflights is consistent with protecting the public health and welfare and is essential to the maintenance of the natural and cultural resources of Indian tribes;

(5) the National Parks Overflights Working Group, composed of general aviation, air tour, environmental, and Native American representatives, recommended that the Congress enact legislation based on its consensus work product; and

(6) this title reflects the recommendations made by that Group.

SEC. 602. AIR TOUR MANAGEMENT PLANS FOR NATIONAL PARKS.

(a) IN GENERAL.—Chapter 401, as amended by section 301 of this Act, is amended by adding at the end the following:

''§ 40126. Overflights of national parks

''(a) IN GENERAL.—

''(1) GENERAL REQUIREMENTS.—A commercial air tour operator may not conduct commercial air tour operations over a national park or tribal lands except—

''(A) in accordance with this section;

''(B) in accordance with conditions and limitations prescribed for that operator by the Administrator; and

''(C) in accordance with any effective air tour management plan for that park or those tribal lands.

''(2) APPLICATION FOR OPERATING AUTHORITY.—

''(A) APPLICATION REQUIRED.—Before commencing commercial air tour operations over a national park or tribal lands, a commercial air tour operator shall apply to the Administrator for authority to conduct the operations over that park or those tribal lands.

''(B) COMPETITIVE BIDDING FOR LIMITED CAPACITY PARKS.—Whenever a commercial air tour management plan limits the number of commercial air tour flights over a national park area during a specified time frame, the Administrator, in cooperation with the Director, shall authorize commercial air tour operators to provide such service. The authorization shall specify such terms and conditions as the Administrator and the Director find necessary for management of commercial air tour operations over the national park. The Administrator, in cooperation with the Director, shall develop an open competitive process for evaluating proposals from persons interested in providing commercial air tour services over the national park. In making a selection from among various proposals submitted, the Administrator, in cooperation with the Director, shall consider relevant factors, including—

''(i) the safety record of the company or pilots;

''(ii) any quiet aircraft technology proposed for use;

''(iii) the experience in commercial air tour operations over other national parks or scenic areas;

''(iv) the financial capability of the company;

''(v) any training programs for pilots; and

''(vi) responsiveness to any criteria developed by the National Park Service or the affected national park.

''(C) NUMBER OF OPERATIONS AUTHORIZED.—In determining the number of authorizations to issue to provide commercial air tour service over a national park, the Administrator, in cooperation with the Director, shall take into consideration the provisions of the air tour management plan, the number of existing commercial air tour operators and current level of service and equipment provided by any such companies, and the financial viability of each commercial air tour operation.

''(D) COOPERATION WITH NPS.—Before granting an application under this paragraph, the Administrator shall, in cooperation with the Director, develop an air tour management plan in accordance with subsection (b) and implement such plan.

''(E) TIME LIMIT ON RESPONSE TO ATMP APPLICATIONS.—The Administrator shall act on any such application and issue a decision on the application not later than 24 months after it is received or amended.

''(3) EXCEPTION.—Notwithstanding paragraph (1), commercial air tour operators may conduct commercial air tour operations over a national park under part 91 of the Federal Aviation Regulations (14 CFR 91.1 et seq.) if—

''(A) such activity is permitted under part 119 (14 CFR 119.1(e)(2));

''(B) the operator secures a letter of agreement from the Administrator and the national park superintendent for that national park describing the conditions under which the flight operations will be conducted; and

''(C) the total number of operations under this exception is limited to not more than 5 flights in any 30-day period over a particular park.

''(4) SPECIAL RULE FOR SAFETY REQUIREMENTS.—Notwithstanding subsection (c), an existing commercial air tour operator shall, not later than 90 days after the date of enactment of the Air Transportation Improvement Act, apply for operating authority under part 119, 121, or 135 of the Federal Aviation Regulations (14 CFR Pt. 119, 121, or 135). A new entrant commercial air tour operator shall apply for such authority before conducting commercial air tour operations over a national park or tribal lands.

''(b) AIR TOUR MANAGEMENT PLANS.—

''(1) ESTABLISHMENT OF ATMPS.—

''(A) IN GENERAL.—The Administrator shall, in cooperation with the Director, establish an air tour management plan for any national park or tribal land for which such a plan is not already in effect whenever a person applies for authority to operate a commercial air tour over the park. The development of the air tour management plan is to be a cooperative undertaking between the Federal Aviation Administration and the National Park Service. The air tour management plan shall be developed by means of a public process, and the agencies shall develop information and analysis that explains the conclusions that the agencies make in the application of the respective criteria. Such explanations shall be included in the Record of Decision and may be subject to judicial review.

''(B) OBJECTIVE.—The objective of any air tour management plan shall be to develop acceptable and effective measures to mitigate or prevent the significant adverse impacts, if any, of commercial air tours upon the natural and cultural resources and visitor experiences and tribal lands.

''(2) ENVIRONMENTAL DETERMINATION.—In establishing an air tour management plan under this subsection, the Administrator and the Director shall each sign the environmental decision document required by section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332) which may include a finding of no significant impact, an environmental assessment, or an environmental impact statement, and the Record of Decision for the air tour management plan.

''(3) CONTENTS.—An air tour management plan for a national park—

''(A) may prohibit commercial air tour operations in whole or in part;

''(B) may establish conditions for the conduct of commercial air tour operations, including commercial air tour routes, maximum or minimum altitudes, time-of-day restrictions, restrictions for particular events, maximum number of flights per unit of time, intrusions on privacy on tribal lands, and mitigation of noise, visual, or other impacts;

''(C) shall apply to all commercial air tours within ½ mile outside the boundary of a national park;

''(D) shall include incentives (such as preferred commercial air tour routes and altitudes, relief from caps and curfews) for the adoption of quiet aircraft technology by commercial air tour operators conducting commercial air tour operations at the park;

''(E) shall provide for the initial allocation of opportunities to conduct commercial air tours if the plan includes a limitation on the number of commercial air tour flights for any time period; and

''(F) shall justify and document the need for measures taken pursuant to subparagraphs (A) through (E).

''(4) PROCEDURE.—In establishing a commercial air tour management plan for a national park, the Administrator and the Director shall—

''(A) initiate at least one public meeting with interested parties to develop a commercial air tour management plan for the park;

''(B) publish the proposed plan in the Federal Register for notice and comment and make copies of the proposed plan available to the public;

''(C) comply with the regulations set forth in sections 1501.3 and 1501.5 through 1501.8 of title 40, Code of Federal Regulations (for purposes of complying with those regulations, the Federal Aviation Administration is the lead agency and the National Park Service is a cooperating agency); and

''(D) solicit the participation of any Indian tribe whose tribal lands are, or may be, overflown by aircraft involved in commercial air tour operations over a national park or tribal lands, as a cooperating agency under the regulations referred to in paragraph (4)(C).

''(5) AMENDMENTS.—Any amendment of an air tour management plan shall be published in the Federal Register for notice and comment. A request for amendment of an air tour management plan shall be made in such form and manner as the Administrator may prescribe.

''(c) INTERIM OPERATING AUTHORITY.—

''(1) IN GENERAL.—Upon application for operating authority, the Administrator shall grant interim operating authority under this paragraph to a commercial air tour operator for a national park or tribal lands for which the operator is an existing commercial air tour operator.

''(2) REQUIREMENTS AND LIMITATIONS.—Interim operating authority granted under this subsection—

''(A) shall provide annual authorization only for the greater of—

''(i) the number of flights used by the operator to provide such tours within the 12-month period prior to the date of enactment of the Air Transportation Improvement Act; or

''(ii) the average number of flights per 12-month period used by the operator to provide

such tours within the 36-month period prior to such date of enactment, and, for seasonal operations, the number of flights so used during the season or seasons covered by that 12-month period;

''(B) may not provide for an increase in the number of operations conducted during any time period by the commercial air tour operator to which it is granted unless the increase is agreed to by the Administrator and the Director;

''(C) shall be published in the Federal Register to provide notice and opportunity for comment;

''(D) may be revoked by the Administrator for cause;

''(E) shall terminate 180 days after the date on which an air tour management plan is established for that park or those tribal lands; and

''(F) shall—

''(i) promote protection of national park resources, visitor experiences, and tribal lands;

''(ii) promote safe operations of the commercial air tour;

''(iii) promote the adoption of quiet technology, as appropriate; and

''(iv) allow for modifications of the operation based on experience if the modification improves protection of national park resources and values and of tribal lands.

''(3) NEW ENTRANT AIR TOUR OPERATORS.—

''(A) IN GENERAL.—The Administrator, in cooperation with the Director, may grant interim operating authority under this paragraph to an air tour operator for a national park for which that operator is a new entrant air tour operator if the Administrator determines the authority is necessary to ensure competition in the provision of commercial air tours over that national park or those tribal lands.

''(B) SAFETY LIMITATION.—The Administrator may not grant interim operating authority under subparagraph (A) if the Administrator determines that it would create a safety problem at that park or on tribal lands, or the Director determines that it would create a noise problem at that park or on tribal lands.

''(C) ATMP LIMITATION.—The Administrator may grant interim operating authority under subparagraph (A) of this paragraph only if the air tour management plan for the park or tribal lands to which the application relates has not been developed within 24 months after the date of enactment of the Air Transportation Improvement Act.

''(d) DEFINITIONS.—In this section, the following definitions apply:

''(1) COMMERCIAL AIR TOUR.—The term 'commercial air tour' means any flight conducted for compensation or hire in a powered aircraft where a purpose of the flight is sightseeing. If the operator of a flight asserts that the flight is not a commercial air tour, factors that can be considered by the Administrator in making a determination of whether the flight is a commercial air tour, include, but are not limited to—

''(A) whether there was a holding out to the public of willingness to conduct a sightseeing flight for compensation or hire;

''(B) whether a narrative was provided that referred to areas or points of interest on the surface;

''(C) the area of operation;

''(D) the frequency of flights;

''(E) the route of flight;

''(F) the inclusion of sightseeing flights as part of any travel arrangement package; or

''(G) whether the flight or flights in question would or would not have been canceled based on poor visibility of the surface.

''(2) COMMERCIAL AIR TOUR OPERATOR.—The term 'commercial air tour operator' means any person who conducts a commercial air tour.

''(3) EXISTING COMMERCIAL AIR TOUR OPERATOR.—The term 'existing commercial air tour operator' means a commercial air tour operator that was actively engaged in the business of providing commercial air tours over a national park at any time during the 12-month period ending on the date of enactment of the Air Transportation Improvement Act.

''(4) NEW ENTRANT COMMERCIAL AIR TOUR OPERATOR.—The term 'new entrant commercial air tour operator' means a commercial air tour operator that—

''(A) applies for operating authority as a commercial air tour operator for a national park; and

''(B) has not engaged in the business of providing commercial air tours over that national park or those tribal lands in the 12-month period preceding the application.

''(5) COMMERCIAL AIR TOUR OPERATIONS.—The term 'commercial air tour operations' means commercial air tour flight operations conducted—

''(A) over a national park or within ½ mile outside the boundary of any national park;

''(B) below a minimum altitude, determined by the Administrator in cooperation with the Director, above ground level (except solely for purposes of takeoff or landing, or necessary for safe operation of an aircraft as determined under the rules and regulations of the Federal Aviation Administration requiring the pilot-in-command to take action to ensure the safe operation of the aircraft); and

''(C) less than 1 mile laterally from any geographic feature within the park (unless more than ½ mile outside the boundary).

''(6) NATIONAL PARK.—The term 'national park' means any unit of the National Park System.

''(7) TRIBAL LANDS.—The term 'tribal lands' means 'Indian country', as defined by section 1151 of title 18, United States Code, that is within or abutting a national park.

''(8) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Federal Aviation Administration.

''(9) DIRECTOR.—The term 'Director' means the Director of the National Park Service.''.

(b) EXEMPTIONS AND SPECIAL RULES.—

(1) GRAND CANYON.—Section 40126 of title 49, United States Code, as added by subsection (a), does not apply to—

(A) the Grand Canyon National Park; or

(B) Indian country within or abutting the Grand Canyon National Park.

(2) LAKE MEAD.—A commercial air tour of the Grand Canyon that transits over or near the Lake Mead National Recreation Area en route to, or returning from, the Grand Canyon, without offering a deviation in flight path between its point of origin and the Grand Canyon, shall be considered, for purposes of paragraph (1), to be exclusively a commercial air tour of the Grand Canyon.

(3) QUIET AIRCRAFT TECHNOLOGY FOR GRAND CANYON.—

(A) QUIET TECHNOLOGY REQUIREMENTS.—Within 9 months after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall designate reasonably achievable requirements for fixed-wing and helicopter aircraft necessary for such aircraft to be considered as employing quiet aircraft technology for purposes of this section. If no requirements are promulgated as mandated by this paragraph, then beginning 9 months after enactment of this Act and until the provisions of this paragraph are met, any aircraft shall be considered to be in compliance with this paragraph.

(B) ROUTES OR CORRIDORS.—The Administrator shall by rule establish routes or corridors for commercial air tours (as defined in section 40126(d)(1) of title 49, United States Code) by fixed-wing and helicopter aircraft that employ quiet aircraft technology for—

(i) tours of the Grand Canyon originating in Clark County, Nevada; and

(ii) ''local loop'' tours originating at the Grand Canyon National Park Airport, in Tusayan, Arizona.

(C) OPERATIONAL CAPS AND EXPANDED HOURS.—Commercial air tours (as so defined) by any fixed-wing or helicopter aircraft that employs quiet aircraft technology and that replaces an existing aircraft—

(i) shall not be subject to operational flight allocations applicable to other commercial air tours of the Grand Canyon; and

(ii) may be conducted during the hours from 7:00 a.m. to 7:00 p.m.

(D) MODIFICATION OF EXISTING AIRCRAFT TO MEET STANDARDS.—A commercial air tour (as so defined) by a fixed-wing or helicopter aircraft in a commercial air tour operator's fleet on the date of enactment of this Act that meets the requirements designated under subparagraph (A), or is subsequently modified to meet the requirements designated under subparagraph (A) may be used for commercial air tours under the same terms and conditions as a replacement aircraft under subparagraph (C) without regard to whether it replaces an existing aircraft.

(E) GOAL OF RESTORING NATURAL QUIET.—Nothing in this paragraph reduces the goal, established for the Federal Aviation Administration and the National Park Service under Public Law 100–91 (16 U.S.C. 1a–1 note), of achieving substantial restoration of the natural quiet at the Grand Canyon National Park.

(4) ALASKA.—The provisions of this title and section 40126 of title 49, United States Code, as added by subsection (a), do not apply to any land or waters located in Alaska.

(5) COMPLIANCE WITH OTHER REGULATIONS.—For purposes of section 40126 of title 49, United States Code—

(A) regulations issued by the Secretary of Transportation and the Administrator of the Federal Aviation Administration under section 3 of Public Law 100–91 (16 U.S.C. 1a–1, note); and

(B) commercial air tour operations carried out in compliance with the requirements of those regulations,

shall be deemed to meet the requirements of such section 40126.

(c) CLERICAL AMENDMENT.—The table of sections for chapter 401 is amended by adding at the end thereof the following:

''40126. Overflights of national parks.''.

SEC. 603. ADVISORY GROUP.

(a) ESTABLISHMENT.—Not later than 1 year after the date of enactment of this Act, the Administrator of the Federal Aviation Administration and the Director of the National Park Service shall jointly establish an advisory group to provide continuing advice and counsel with respect to the operation of commercial air tours over and near national parks.

(b) MEMBERSHIP.—

(1) IN GENERAL.—The advisory group shall be composed of—

(A) a balanced group of —

(i) representatives of general aviation;

(ii) representatives of commercial air tour operators;

(iii) representatives of environmental concerns; and

(iv) representatives of Indian tribes;

(B) a representative of the Federal Aviation Administration; and

(C) a representative of the National Park Service.

(2) EX-OFFICIO MEMBERS.—The Administrator and the Director shall serve as ex-officio members.

(3) CHAIRPERSON.—The representative of the Federal Aviation Administration and the representative of the National Park Service shall serve alternating 1-year terms as chairman of the advisory group, with the representative of the Federal Aviation Administration serving initially until the end of the calendar year following the year in which the advisory group is first appointed.

(c) DUTIES.—The advisory group shall provide advice, information, and recommendations to the Administrator and the Director—

(1) on the implementation of this title;

(2) on the designation of appropriate and feasible quiet aircraft technology standards for quiet aircraft technologies under development for commercial purposes, which will receive preferential treatment in a given air tour management plan;

(3) on other measures that might be taken to accommodate the interests of visitors to national parks; and

(4) on such other national park or tribal lands-related safety, environmental, and air touring issues as the Administrator and the Director may request.

(d) COMPENSATION; SUPPORT; FACA.—

(1) COMPENSATION AND TRAVEL.—Members of the advisory group who are not officers or employees of the United States, while attending conferences or meetings of the group or otherwise engaged in its business, or while serving away from their homes or regular places of business, each member may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

(2) ADMINISTRATIVE SUPPORT.—The Federal Aviation Administration and the National Park Service shall jointly furnish to the advisory group clerical and other assistance.

(3) NONAPPLICATION OF FACA.—Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) does not apply to the advisory group.

(e) REPORT.—The Administrator and the Director shall jointly report to the Congress within 24 months after the date of enactment of this Act on the success of this title in providing incentives for quiet aircraft technology.

SEC. 604. OVERFLIGHT FEE REPORT.

Not later than 180 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall transmit to Congress a report on the effects proposed overflight fees are likely to have on the commercial air tour industry. The report shall include, but shall not be limited to—

(1) the viability of a tax credit for the commercial air tour operators equal to the amount of the proposed fee charged by the National Park Service; and

(2) the financial effects proposed offsets are likely to have on Federal Aviation Administration budgets and appropriations.

SEC. 605. PROHIBITION OF COMMERCIAL AIR TOURS OVER THE ROCKY MOUNTAIN NATIONAL PARK.

Effective beginning on the date of enactment of this Act, no commercial air tour may be operated in the airspace over the Rocky Mountain National Park notwithstanding any other provision of this Act or section 40126 of title 49, United States Code, as added by this Act.

TITLE VII—TITLE 49 TECHNICAL CORRECTIONS

SEC. 701. RESTATEMENT OF 49 U.S.C. 106(g).

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

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

SEC. 702. RESTATEMENT OF 49 U.S.C. 44909.

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

TITLE VIII—TRANSFER OF AERONAUTICAL CHARTING ACTIVITY

SEC. 801. TRANSFER OF FUNCTIONS, POWERS, AND DUTIES.

Effective October 1, 2000, there are transferred to the Federal Aviation Administration and vested in the Administrator of the Federal Aviation Administration the functions, powers, and duties of the Secretary of Commerce and other officers of the Department of Commerce that relate to the Office of Aeronautical Charting and Cartography and are set forth in section 44721 of title 49, United States Code.

SEC. 802. TRANSFER OF OFFICE, PERSONNEL AND FUNDS.

(a) Effective October 1, 2000 the Office of Aeronautical Charting and Cartography of the National Oceanic and Atmospheric Administration, Department of Commerce, is transferred to the Federal Aviation Administration.

(b) Effective October 1, 2000 the personnel employed in connection with, and the assets, liabilities, contracts, property, equipment, facilities, records, and unexpended balance of appropriations, and other funds employed, held, used, arising from, available to, or to be made available in connection with the function and offices, or portions of offices, transferred by this Act, including all Senior Executive Service positions, subject to section 1531 of title 31, United States Code, are transferred to the Administrator of the Federal Aviation Administration for appropriate allocation. Personnel employed in connection with functions transferred by this Act transfer under any applicable law and regulation relating to transfer of functions. Unexpended funds transferred under this section shall be used only for the purposes for which the funds were originally authorized and appropriated, except that funds may be used for expenses associated with the transfer authorized by this Act.

SEC. 803. AMENDMENT OF TITLE 49, UNITED STATES CODE.

(a) IN GENERAL.—Section 44721 is amended to read as follows:

''§ 44721. Aeronautical charts and related products and services

''(a) IN GENERAL.—The Administrator of the Federal Aviation Administration is invested with and shall exercise, effective October 1, 2000 the functions, powers, and duties of the Secretary of Commerce and other officers of the Department of Commerce that relate to the Office of Aeronautical Charting and Cartography to provide aeronautical charts and related products and services for the safe and efficient navigation of air commerce, under the following authorities:

''(1) Sections 1 through 9 of the Act entitled ''An Act to define the functions and duties of the Coast and Geodetic Survey, and for other purposes'', approved August 6, 1947, (33 U.S.C. 883a-883h).

''(2) Section 6082 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (33 U.S.C. 883j).

''(3) Section 1307 of title 44, United States Code.

''(4) The provision of title II of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1995 under the heading 'National Oceanic and Atmospheric Administration' relating to aeronautical charts (44 U.S.C. 1307 nt).

''(b) AUTHORITY TO CONDUCT SURVEYS.—To provide aeronautical charts and related products and services for the safe and efficient navigation of air commerce, and to provide basic data for engineering and scientific purposes and for other commercial and industrial needs, the Administrator is authorized to conduct the following activities:

''(1) Aerial and field surveys for aeronautical charts.

''(2) Other airborne and field surveys when in the best interest of the United States Government.

''(3) Acquiring, owning, operating, maintaining and staffing aircraft in support of surveys.

''(c) ADDITIONAL AUTHORITY.—In order that full public benefit may be derived from the dissemination of data resulting from activities under this section and of related data from other sources, the Administrator is authorized to conduct the following activities:

''(1) Developing, processing, disseminating and publishing of digital and analog data, information, compilations, and reports.

''(2) Compiling, printing, and disseminating aeronautical charts and related products and services of the United States, its Territories, and possessions.

''(3) Compiling, printing and disseminating aeronautical charts and related products and services covering international airspace as are required primarily by United States civil aviation.

''(4) Compiling, printing and disseminating non-aeronautical navigational, transportation or public-safety-related products and services when in the best interests of the United States Government.

''(d) CONTRACT, COOPERATIVE AGREEMENTS, GRANTS, AND OTHER AGREEMENTS.—

''(1) The Administrator is authorized to contract with qualified organizations for the performance of any part of the authorized functions of the Office of Aeronautical Charting and Cartography when the Administrator deems such procedure to be in the public interest and will not compromise public safety.

''(2) The Administrator is authorized to enter into cooperative agreements, grants, reimbursable agreements, memoranda of understanding and other agreements, with a State, subdivision of a State, Federal agency, public or private organization, or individual, to carry out the purposes of this section.

''(e) SPECIAL SERVICES AND PRODUCTS.—

''(1) The Administrator is authorized, at the request of a State, subdivision of a State, Federal agency, public or private organization, or individual, to conduct special services, including making special studies, or developing special publications or products on matters relating to navigation, transportation, or public safety.

''(2) The Administrator shall assess a fee for any special service provided under paragraph (1). A fee shall be not more than the actual or estimated full cost of the service. A fee may be reduced or waived for research organizations, educational organizations, or non-profit organizations, when the Administrator determines that reduction or waiver of the fee is in the best interest of the United States Government by furthering public safety.

''(f) SALE AND DISSEMINATION OF AERONAUTICAL PRODUCTS.—

''(1) Aeronautical products created or maintained under the authority of this section shall be sold at prices established annually by the Administrator consistent with the following:

''(A) Subject to subparagraph (B), the price of an aeronautical product sold to the public shall be not more than necessary to recover all costs attributable to (i) data base management and processing; (ii) compilation; (iii) printing or other types of reproduction; and (iv) dissemination of the product.

''(B) The Administrator shall adjust the price of an aeronautical product and service sold to the public as necessary to avoid any adverse impact on aviation safety attributable to the price specified under this paragraph.

''(C) A price established under this paragraph may not include costs attributable to the acquisition of aeronautical data.

''(2) The Administrator shall publish annually the prices at which aeronautical products are sold to the public.

''(3) The Administrator may distribute aeronautical products and provide aeronautical services—

''(A) without charge to each foreign government or international organization with which the Administrator or a Federal agency has an agreement for exchange of these products or services without cost;

''(B) at prices the Administrator establishes, to the departments and officers of the United States requiring them for official use; and

''(C) at reduced or no charge where, in the judgment of the Administrator, furnishing the aeronautical product or service to a recipient is a reasonable exchange for voluntary contribution of information by the recipient to the activities under this section.

''(4) The fees provided for in this subsection are for the purpose of reimbursing the United States Government for the costs of creating, printing and disseminating aeronautical products and services under this section. The collection of fees authorized by this section does not alter or expand any duty or liability of the Government under existing law for the performance of functions for which fees are collected, nor does the collection of fees constitute an express or implied undertaking by the Government to perform any activity in a certain manner.''.

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

''44721. Aeronautical charts and related products and services.''.

SEC. 804. SAVINGS PROVISION.

(a) CONTINUED EFFECTIVENESS OF DIRECTIVES.—All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, privileges, and financial assistance that—

(1) have been issued, made, granted, or allowed to become effective by the President of the United States, the Secretary of Commerce, the National Oceanic and Atmospheric Administration (NOAA) Administrator, any Federal agency or official thereof, or by a court of competent jurisdiction, in the performance of functions which are transferred by this Act; and

(2) are in effect on the date of transfer, shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President of the United States, the Administrator, a court of competent jurisdiction, or by operation of law.

(b) CONTINUED EFFECTIVENESS OF PENDING ACTIONS.—

(1) The provisions of this Act shall not affect any proceedings, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending on the date of transfer before the Department of Commerce or the NOAA Administrator, or any officer thereof with respect to functions transferred by this Act; but such proceedings or applications, to the extent that they relate to functions transferred, shall be continued in accord with transition guidelines promulgated by the Administrator under the authority of this section. Orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by the Administrator, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection prohibits the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this Act had not been enacted.

(2) The Secretary of Commerce, the NOAA Administrator, and the Administrator of the Federal Aviation Administration are authorized to issue transition guidelines providing for the orderly transfer of proceedings and otherwise to accomplish the orderly transfer of functions, personnel and property under this Act.

(c) CONTINUED EFFECTIVENESS OF JUDICIAL ACTIONS.—No cause of action by or against the Department of Commerce or the National Oceanic and Atmospheric Administration with respect to functions transferred by this Act, or by or against any officer thereof in the official's capacity, shall abate by reason of the enactment of this Act. Causes of action and actions with respect to a function or office transferred by this Act, or other proceedings may be asserted by or against the United States or an official of the Federal Aviation Administration, as may be appropriate, and, in an action pending when this Act takes effect, the court may at any time, on its own motion or that of any party, enter an order that will give effect to the provisions of this subsection.

(d) SUBSTITUTION OR ADDITION OF PARTIES TO JUDICIAL ACTIONS.—If, on the date of transfer, the Department of Commerce or the National Oceanic and Atmospheric Administration, or any officer thereof in the official's capacity, is a party to an action, and under this Act any function relating to the action of such Department, Administration, or officer is transferred to the Federal Aviation Administration, then such action shall be continued with the Administrator of the Federal Aviation Administration substituted or added as a party.

(e) CONTINUED JURISDICTION OVER ACTIONS TRANSFERRED.—Orders and actions of the Administrator of the Federal Aviation Administration in the exercise of functions transferred by this Act shall be subject to judicial review to the same extent and in the same manner as if such orders and actions had been by the Department of Commerce or the National Oceanic and Atmospheric Administration, or any office or officer thereof, in the exercise of such functions immediately preceding their transfer.

(f) LIABILITIES AND OBLIGATIONS.—The Administrator shall assume all liabilities and obligations (tangible and incorporeal, present and executory) associated with the functions transferred under this Act on the date of transfer, including leases, permits, licenses, contracts, agreements, claims, tariffs, accounts receivable, accounts payable, financial assistance, and litigation relating to such obligations, regardless whether judgment has been entered, damages awarded, or appeal taken.

SEC. 805. NATIONAL OCEAN SURVEY.

(a) Section 1 of the Act entitled ''An Act to define the functions and duties of the Coast and Geodetic Survey, and for other purposes'', approved August 6, 1947, (33 U.S.C. 883a) is amended—

(1) by striking paragraph (1) and inserting the following:

''(1) Hydrographic, topographic and other types of field surveys;''; and

(2) by striking paragraph (4) and redesignating paragraph (5) as paragraph (4).

(b) Section 2 of that Act (33 U.S.C. 883b) is amended—

(1) by striking paragraphs (3) and (5), and redesignating paragraph (4) and (6) as paragraphs (3) and (4), respectively;

(2) by striking ''charts of the United States, its Territories, and possessions;'' in paragraph (3), as redesignated, and inserting ''charts;''; and

(3) by striking ''publications for the United States, its Territories, and possessions'' in paragraph (4), as redesignated, and inserting ''publications.''.

(c) Section 5(1) of that Act (33 U.S.C. 883e(1)) is amended by striking ''cooperative agreements'' and inserting ''cooperative agreements, or any other agreements,''.

SEC. 806. SALE AND DISTRIBUTION OF NAUTICAL AND AERONAUTICAL PRODUCTS BY NOAA.

(a) Section 1307 of title 44, United States Code, is amended by striking ''and aeronautical'' and ''or aeronautical'' each place they appear.

(b) Section 1307(a)(2)(B) of title 44, United States Code, is amended by striking ''aviation and''.

(c) Section 1307(d) of title 44, United States Code, is amended by striking ''aeronautical and''.

TITLE IX—MANAGEMENT REFORMS OF THE FEDERAL AVIATION ADMINISTRATION

SEC. 901. SHORT TITLE.

This title may be cited as the ''Air Traffic Management Improvement Act of 1999''.

SEC. 902. AMENDMENTS TO TITLE 49, UNITED STATES CODE.

Except as otherwise specifically 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 of law, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

SEC. 903. DEFINITIONS.

In this title:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Federal Aviation Administration.

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

SEC. 904. FINDINGS.

The Congress makes the following findings:

(1) The Nation's air transportation system is projected to grow by 3.4 percent per year over the next 12 years.

(2) Passenger enplanements are expected to rise to more than 1 billion by 2009, from the current level of 660 million.

(3) The aviation industry is one of our Nation's critical industries, providing a means of travel to people throughout the world, and a means of moving cargo around the globe.

(4) The ability of all sectors of American society, urban and rural, to access and to compete effectively in the new and dynamic global economy requires the ability of the aviation industry to serve all the Nation's communities effectively and efficiently.

(5) The Federal Government's role is to promote a safe and efficient national air transportation system through the management of the air traffic control system and through effective and sufficient investment in aviation infrastructure, including the Nation's airports.

(6) Numerous studies and reports, including the National Civil Aviation Review Commission, have concluded that the projected expansion of air service may be constrained by gridlock in our Nation's airways, unless substantial management reforms are initiated for the Federal Aviation Administration.

(7) The Federal Aviation Administration is responsible for safely and efficiently managing the National Airspace System 365 days a year, 24 hours a day.

(8) The Federal Aviation Administration's ability to efficiently manage the air traffic system in the United States is restricted by antiquated air traffic control equipment.

(9) The Congress has previously recognized that the Administrator needs relief from the Federal Government's cumbersome personnel and procurement laws and regulations to take advantage of emerging technologies and to hire and retain effective managers.

(10) The ability of the Administrator to achieve greater efficiencies in the management of the air traffic control system requires additional management reforms, such as the ability to offer incentive pay for excellence in the employee workforce.

(11) The ability of the Administrator to effectively manage finances is dependent in part on the Federal Aviation Administration's ability to enter into long-term debt and lease financing of facilities and equipment, which in turn is dependent on sustained sound audits and implementation of a cost management program.

(12) The Administrator should use the full authority of the Federal Aviation Administration to make organizational changes to improve the efficiency of the air traffic control system, without compromising the Federal Aviation Administration's primary mission of protecting the safety of the travelling public.

SEC. 905. AIR TRAFFIC CONTROL SYSTEM DEFINED.

Section 40102(a) is amended—

(1) by redesignating paragraphs (5) through (41) as paragraphs (6) through (42), respectively; and

(2) by inserting after paragraph (4) the following:

''(5) 'air traffic control system' means the combination of elements used to safely and efficiently monitor, direct, control, and guide aircraft in the United States and United States-assigned airspace, including—

''(A) allocated electromagnetic spectrum and physical, real, personal, and intellectual property assets making up facilities, equipment, and systems employed to detect, track, and guide aircraft movement;

''(B) laws, regulations, orders, directives, agreements, and licenses;

''(C) published procedures that explain required actions, activities, and techniques used to ensure adequate aircraft separation; and

''(D) trained personnel with specific technical capabilities to satisfy the operational, engineering, management, and planning requirements for air traffic control.''.

SEC. 906. CHIEF OPERATING OFFICER FOR AIR TRAFFIC SERVICES.

(a) Section 106 is amended by adding at the end the following:

''(r) CHIEF OPERATING OFFICER.—

''(1) IN GENERAL.—

''(A) APPOINTMENT.—There shall be a Chief Operating Officer for the air traffic control system to be appointed by the Administrator, after consultation with the Management Advisory Council. The Chief Operating Officer shall report directly to the Administrator and shall be subject to the authority of the Administrator.

''(B) QUALIFICATIONS.—The Chief Operating Officer shall have a demonstrated ability in management and knowledge of or experience in aviation.

''(C) TERM.—The Chief Operating Officer shall be appointed for a term of 5 years.

''(D) REMOVAL.—The Chief Operating Officer shall serve at the pleasure of the Administrator, except that the Administrator shall make every effort to ensure stability and continuity in the leadership of the air traffic control system.

''(E) COMPENSATION.—

''(i) The Chief Operating Officer shall be paid at an annual rate of basic pay not to exceed that of the Administrator, including any applicable locality-based payment. This basic rate of pay shall subject the chief operating officer to the post-employment provisions of section 207 of title 18 as if this position were described in section 207(c)(2)(A)(i) of that title.

''(ii) In addition to the annual rate of basic pay authorized by paragraph (1) of this subsection, the Chief Operating Officer may receive a bonus not to exceed 50 percent of the annual rate of basic pay, based upon the Administrator's evaluation of the Chief Operating Officer's performance in relation to the performance goals set forth in the performance agreement described in subsection (b) of this section. A bonus may not cause the Chief Operating Officer's total aggregate compensation in a calendar year to equal or exceed the amount of the President's salary under section 102 of title 3, United States Code.

''(2) ANNUAL PERFORMANCE AGREEMENT.—The Administrator and the Chief Operating Officer shall enter into an annual performance agreement that sets forth measurable organization and individual goals for the Chief Operating Officer in key operational areas. The agreement shall be subject to review and renegotiation on an annual basis.

''(3) ANNUAL PERFORMANCE REPORT.—The Chief Operating Officer shall prepare and submit to the Secretary of Transportation and Congress an annual management report containing such information as may be prescribed by the Secretary.

''(4) RESPONSIBILITIES.—The Administrator may delegate to the Chief Operating Officer, or any other authority within the Federal Aviation Administration responsibilities, including, but not limited to the following:

''(A) STRATEGIC PLANS.—To develop a strategic plan of the Federal Aviation Administration for the air traffic control system, including the establishment of—

''(i) a mission and objectives;

''(ii) standards of performance relative to such mission and objectives, including safety, efficiency, and productivity; and

''(iii) annual and long-range strategic plans.

''(iv) methods of the Federal Aviation Administration to accelerate air traffic control modernization and improvements in aviation safety related to air traffic control.

''(B) OPERATIONS.—To review the operational functions of the Federal Aviation Administration, including—

''(i) modernization of the air traffic control system;

''(ii) increasing productivity or implementing cost-saving measures; and

''(iii) training and education.

''(C) BUDGET.—To—

''(i) develop a budget request of the Federal Aviation Administration related to the air traffic control system prepared by the Administrator;

''(ii) submit such budget request to the Administrator and the Secretary of Transportation; and

''(iii) ensure that the budget request supports the annual and long-range strategic plans developed under paragraph (4)(A) of this subsection.

''(5) BUDGET SUBMISSION.—The Secretary shall submit the budget request prepared under paragraph (4)(D) of this subsection for any fiscal year to the President who shall submit such request, without revision, to the Committees on Transportation and Infrastructure and Appropriations of the House of Representatives and the Committees on Commerce, Science, and Transportation and Appropriations of the Senate, together with the President's annual budget request for the Federal Aviation Administration for such fiscal year.''.

SEC. 907. FEDERAL AVIATION MANAGEMENT ADVISORY COUNCIL.

(a) MEMBERSHIP.—Section 106(p)(2)(C) is amended to read as follows:

''(C) 13 members representing aviation interests, appointed by—

''(i) in the case of initial appointments to the Council, the President by and with the advice and consent of the Senate; and

''(ii) in the case of subsequent appointments to the Council, the Secretary of Transportation.''.

(b) TERMS OF MEMBERS.—Section 106(p)(6)(A)(i) is amended by striking ''by the President''.

(c) AIR TRAFFIC SERVICES SUBCOMMITTEE.—Section 106(p)(6) is amended by adding at the end thereof the following:

''(E) AIR TRAFFIC SERVICES SUBCOMMITTEE.—The Chairman of the Management Advisory Council shall constitute an Air Traffic Services Subcommittee to provide comments, recommend modifications, and provide dissenting views to the Administrator on the performance of air traffic services, including—

''(i) the performance of the Chief Operating Officer and other senior managers within the air traffic organization of the Federal Aviation Administration;

''(ii) long-range and strategic plans for air traffic services;

''(iii) review the Administrator's selection, evaluation, and compensation of senior executives of the Federal Aviation Administration who have program management responsibility over significant functions of the air traffic control system;

''(iv) review and make recommendations to the Administrator's plans for any major reorganization of the Federal Aviation Administration that would effect the management of the air traffic control system;

''(v) review, and make recommendations to the Administrator's cost allocation system and financial management structure and technologies to help ensure efficient and cost-effective air traffic control operation;

''(vi) review the performance and cooperation of managers responsible for major acquisition projects, including the ability of the managers to meet schedule and budget targets; and

''(vii) other significant actions that the Subcommittee considers appropriate and that are consistent with the implementation of this Act.''.

SEC. 908. COMPENSATION OF THE ADMINISTRATOR.

Section 106(b) is amended—

(1) by inserting ''(1)'' before ''The''; and

(2) by adding at the end the following:

''(2) In addition to the annual rate of pay authorized for the Administrator, the Administrator may receive a bonus not to exceed 50 percent of the annual rate of basic pay, based upon the Secretary's evaluation of the Administrator's performance in relation to the performance goals set forth in a performance agreement. A bonus may not cause the Administrator's total aggregate compensation in a calendar year to equal or exceed the amount of the President's salary under section 102 of title 3, United States Code.''.

SEC. 909. NATIONAL AIRSPACE REDESIGN.

(a) FINDINGS RELATING TO THE NATIONAL AIRSPACE.—The Congress makes the following additional findings:

(1) The national airspace, comprising more than 29 million square miles, handles more than 55,000 flights per day.

(2) Almost 2,000,000 passengers per day traverse the United States through 20 major en route centers including more than 700 different sectors.

(3) Redesign and review of the national airspace may produce benefits for the travelling public by increasing the efficiency and capacity of the air traffic control system and reducing delays.

(4) Redesign of the national airspace should be a high priority for the Federal Aviation Administration and the air transportation industry.

(b) REDESIGN REPORT.—The Administrator, with advice from the aviation industry and other interested parties, shall conduct a comprehensive redesign of the national airspace system and shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Transportation and Infrastructure of the House on the Administrator's comprehensive national airspace redesign. The report shall include projected milestones for completion of the redesign and shall also include a date for completion. The report must be submitted to the Congress no later than December 31, 2000. There are authorized to be appropriated to the Administrator to carry out this section $12,000,000 for fiscal years 2000, 2001, and 2002.

SEC. 910. FAA COSTS AND ALLOCATIONS SYSTEM MANAGEMENT.

(a) REPORT ON THE COST ALLOCATION SYSTEM.—No later than July 9, 2000, 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 on the cost allocation system currently under development by the Federal Aviation Administration. The report shall include a specific date for completion and implementation of the cost allocation system throughout the agency and shall also include the timetable and plan for the implementation of a cost management system.

(b) INDEPENDENT ASSESSMENT.—

(1) IN GENERAL.—The Inspector General of the Department of Transportation shall conduct the assessments described in this subsection. To conduct the assessments, the Inspector General may use the staff and resources of the Inspector General or contract with one or more independent entities.

(2) ASSESSMENT OF ADEQUACY AND ACCURACY OF FEDERAL AVIATION ADMINISTRATION COST DATA AND ATTRIBUTIONS.—

(A) IN GENERAL.—The Inspector General shall conduct an assessment to ensure that the method for calculating the overall costs of the Federal Aviation Administration and attributing such costs to specific users is appropriate, reasonable, and understandable to the users.

(B) COMPONENTS.—In conducting the assessment under this paragraph, the Inspector General shall assess the Federal Aviation Administration's definition of the services to which the Federal Aviation Administration ultimately attributes its costs.

(3) COST EFFECTIVENESS.—

(A) IN GENERAL.—The Inspector General shall assess the progress of the Federal Aviation Administration in cost and performance management, including use of internal and external benchmarking in improving the performance and productivity of the Federal Aviation Administration.

(B) ANNUAL REPORTS.—Not later than December 31, 2000, the Inspector General shall transmit to Congress an updated report containing the results of the assessment conducted under this paragraph.

(C) INFORMATION TO BE INCLUDED IN FEDERAL AVIATION ADMINISTRATION FINANCIAL REPORT.—The Administrator shall include in the annual financial report of the Federal Aviation Administration information on the performance of the Administration sufficient to permit users and others to make an informed evaluation of the progress of the Administration in increasing productivity.

SEC. 911. AIR TRAFFIC MODERNIZATION PILOT PROGRAM.

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

"§ 44516. Air traffic modernization joint venture pilot program

''(a) PURPOSE.—It is the purpose of this section to improve aviation safety and enhance mobility of the Nation's air transportation system by facilitating the use of joint ventures and innovative financing, on a pilot program basis, between the Federal Aviation Administration and industry, to accelerate investment in critical air traffic control facilities and equipment.

''(b) DEFINITIONS.—As used in this section:

''(1) ASSOCIATION.—The term 'Association' means the Air Traffic Modernization Association established by this section.

''(2) PANEL.—The term 'panel' means the executive panel of the Air Traffic Modernization Association.

''(3) OBLIGOR.—The term 'obligor' means a public airport, an air carrier or foreign air carrier that operates a public airport, or a consortium consisting of 2 or more of such entities.

''(4) ELIGIBLE PROJECT.—The term 'eligible project' means a project relating to the Nation's air traffic control system that promotes safety, efficiency or mobility, and is included in the Airway Capital Investment Plan required by section 44502, including—

''(A) airport-specific air traffic facilities and equipment, including local area augmentation systems, instrument landings systems, weather and wind shear detection equipment, lighting improvements and control towers;

''(B) automation tools to effect improvements in airport capacity, including passive final approach spacing tools and traffic management advisory equipment; and

''(C) facilities and equipment that enhance airspace control procedures, including consolidation of terminal radar control facilities and equipment, or assist in en route surveillance, including oceanic and off-shore flight tracking.

''(5) SUBSTANTIAL COMPLETION.—The term 'substantial completion' means the date upon which a project becomes available for service.

''(c) AIR TRAFFIC MODERNIZATION ASSOCIATION.—

''(1) IN GENERAL.—There may be established in the District of Columbia a private, not for profit corporation, which shall be known as the Air Traffic Modernization Association, for the purpose of providing assistance to obligors through arranging lease and debt financing of eligible projects.

''(2) NON-FEDERAL ENTITY.—The Association shall not be an agency, instrumentality or establishment of the United States Government and shall not be a 'wholly-owned Government controlled corporation' as defined in section 9101 of title 31, United States Code. No action under section 1491 of title 28, United States Code, shall be allowable against the United States based on the actions of the Association.

''(3) EXECUTIVE PANEL.—

''(A) The Association shall be under the direction of an executive panel made up of 3 members, as follows—

''(i) 1 member shall be an employee of the Federal Aviation Administration to be appointed by the Administrator;

''(ii) 1 member shall be a representative of commercial air carriers, to be appointed by the Management Advisory Council; and

''(iii) 1 member shall be a representative of operators of primary airports, to be appointed by the Management Advisory Council.

''(B) The panel shall elect from among its members a chairman who shall serve for a term of 1 year and shall adopt such bylaws, policies, and administrative provisions as are necessary to the functioning of the Association.

''(4) POWERS, DUTIES AND LIMITATIONS.—Consistent with sound business techniques and provisions of this chapter, the Association is authorized—

''(A) to borrow funds and enter into lease arrangements as lessee with other parties relating to the financing of eligible projects, provided that any public debt issuance shall be rated investment grade by a nationally recognized statistical rating organization;

''(B) to lend funds and enter into lease arrangements as lessor with obligors, but—

''(i) the term of financing offered by the Association shall not exceed the useful life of the eligible project being financed, as estimated by the Administrator; and

''(ii) the aggregate amount of combined debt and lease financing provided under this subsection for air traffic control facilities and equipment—

''(I) may not exceed $500,000,000 per fiscal year for fiscal years 2000, 2001, and 2002;

''(II) shall be used for not more than 10 projects; and

''(III) may not provide funding in excess of $50,000,000 for any single project; and

''(C) to exercise all other powers that are necessary and proper to carry out the purposes of this section.

''(5) PROJECT SELECTION CRITERIA.—In selecting eligible projects from applicants to be funded under this section, the Association shall consider the following criteria:

''(A) The eligible project's contribution to the national air transportation system, as outlined in the Federal Aviation Administration's modernization plan for alleviating congestion, enhancing mobility, and improving safety.

''(B) The credit-worthiness of the revenue stream pledged by the obligor.

''(C) The extent to which assistance by the Association will enable the obligor to accelerate the date of substantial completion of the project.

''(D) The extent of economic benefit to be derived within the aviation industry, including both public and private sectors.

''(d) AUTHORITY TO ENTER INTO JOINT VENTURE.—

''(1) IN GENERAL.—Subject to the conditions set forth in this section, the Administrator of the Federal Aviation Administration is authorized to enter into a joint venture, on a pilot program basis, with Federal and non-Federal entities to establish the Air Traffic Modernization Association described in subsection (c) for the purpose of acquiring, procuring or utilizing air traffic facilities and equipment in accordance with the Airway Capital Investment Plan.

''(2) COST SHARING.—The Administrator is authorized to make payments to the Association from amounts available under section 4801(a) of this title, provided that the agency's share of an annual payment for a lease or other financing agreement does not exceed the direct or imputed interest portion of each annual payment for an eligible project. The share of the annual payment to be made by an obligor to the lease or other financing agreement shall be in sufficient amount to amortize the asset cost. If the obligor is an airport sponsor, the sponsor may use revenue from a passenger facility fee, provided that such revenue does not exceed 25 cents per enplaned passenger per year.

''(3) PROJECT SPECIFICATIONS.—The Administrator shall have the sole authority to approve the specifications, staffing requirements, and operating and maintenance plan for each eligible project, taking into consideration the recommendations of the Air Traffic Services Subcommittee of the Management Advisory Council.

''(e) INCENTIVES FOR PARTICIPATION.—An airport sponsor that enters into a lease or financial arrangement financed by the Air Traffic Modernization Association may use its share of the annual payment as a credit toward the non-Federal matching share requirement for any funds made available to the sponsor for airport development projects under chapter 471 of this title.

''(f) UNITED STATES NOT OBLIGATED.—The contribution of Federal funds to the Association pursuant to subsection (d) of this section shall not be construed as a commitment, guarantee, or obligation on the part of the United States to any third party, nor shall any third party have any right against the United States by virtue of the contribution. The obligations of the Association do not constitute any commitment, guarantee or obligation of the United States.

''(g) REPORT TO CONGRESS.—Not later than 3 years after establishment of the Association, the Administrator shall provide a comprehensive and detailed report to the Senate Committee on Commerce, Science, and Transportation and the House Committee on Transportation and Infrastructure on the Association's activities including—

''(1) an assessment of the Association's effectiveness in accelerating the modernization of the air traffic control system;

''(2) a full description of the projects financed by the Association and an evaluation of the benefits to the aviation community and general public of such investment; and

''(3) recommendations as to whether this pilot program should be expanded or other strategies should be pursued to improve the safety and efficiency of the Nation's air transportation system.

''(h) AUTHORIZATION.—Not more than the following amounts may be appropriated to the Administrator from amounts made available under section 4801(a) of this title for the agency's share of the organizational and administrative costs for the Air Traffic Modernization Association—

''(1) $500,000 for fiscal year 2000;

''(2) $500,000 for fiscal year 2001; and

''(3) $500,000 for fiscal year 2002.

''(i) RELATIONSHIP TO OTHER AUTHORITIES.—Nothing in this section is intended to limit or diminish existing authorities of the Administrator to acquire, establish, improve, operate, and maintain air navigation facilities and equipment.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 40117(b)(1) is amended by striking ''controls.'' and inserting ''controls, or to finance an eligible project through the Air Traffic Modernization Association in accordance with section 44516 of this title.''.

(2) The analysis for chapter 445 is amended by adding at the end the following:

''44516. Air traffic modernization pilot program.''.

TITLE X—METROPOLITAN AIRPORTS AUTHORITY IMPROVEMENT ACT

SEC. 1001. SHORT TITLE.

This title may be cited as the ''Metropolitan Airports Authority Improvement Act''.

SEC. 1002. REMOVAL OF LIMITATION.

Section 49106(c)(6) of title 49, United States Code, is amended—

(1) by striking subparagraph (C); and

(2) by redesignating subparagraph (D) as subparagraph (C).

TITLE XI—NOISE ABATEMENT

SEC. 1101. GOOD NEIGHBORS POLICY.

(a) PUBLIC DISCLOSURE OF NOISE MITIGATION EFFORTS BY AIR CARRIERS.—Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Secretary of Transportation shall collect and publish information provided by air carriers regarding their operating practices that encourage their pilots to follow the Federal Aviation Administration's operating guidelines on noise abatement.

(b) SAFETY FIRST.—The Secretary shall take such action as is necessary to ensure that noise abatement efforts do not threaten aviation safety.

(c) PROTECTION OF PROPRIETARY INFORMATION.—In publishing information required by this section, the Secretary shall take such action as is necessary to prevent the disclosure of any air carrier's proprietary information.

(d) NO MANDATE.—Nothing in this section shall be construed to mandate, or to permit the Secretary to mandate, the use of noise abatement settings by pilots.

SEC. 1102. GAO REVIEW OF AIRCRAFT ENGINE NOISE ASSESSMENT.

(a) GAO STUDY.—Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall conduct a study and report to Congress on regulations and activities of the Federal Aviation Administration in the area of aircraft engine noise assessment. The study shall include a review of—

(1) the consistency of noise assessment techniques across different aircraft models and aircraft engines, and with varying weight and thrust settings; and

(2) a comparison of testing procedures used for unmodified engines and engines with hush kits or other quieting devices.

(b) RECOMMENDATIONS TO THE FAA.—The Comptroller General's report shall include specific recommendations to the Federal Aviation Administration on new measures that should be implemented to ensure consistent measurement of aircraft engine noise.

SEC. 1103. GAO REVIEW OF FAA COMMUNITY NOISE ASSESSMENT.

(a) GAO STUDY.—Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall conduct a study and report to Congress on the regulations and activities of the Federal Aviation Administration in the area of noise assessment in communities near airports. The study shall include a review of whether the noise assessment practices of the Federal Aviation Administration fairly and accurately reflect the burden of noise on communities.

(b) RECOMMENDATIONS TO THE FAA.—The Comptroller General's report shall include specific recommendations to the Federal Aviation Administration on new measures to improve the assessment of airport noise in communities near airports.

TITLE XII—STUDY TO ENSURE CONSUMER INFORMATION

SEC. 1201. SHORT TITLE.

This title may be cited as the ''Improved Consumer Access to Travel Information Act''.

SEC. 1202. NATIONAL COMMISSION TO ENSURE CONSUMER INFORMATION AND CHOICE IN THE AIRLINE INDUSTRY.

(a) ESTABLISHMENT.—There is established a commission to be known as the ''National Commission to Ensure Consumer Information and Choice in the Airline Industry'' (in this section referred to as the ''Commission'').

(b) DUTIES.—

(1) STUDY.—The Commission shall undertake a study of—

(A) consumer access to information about the products and services of the airline industry;

(B) the effect on the marketplace of the emergence of new means of distributing such products and services;

(C) the effect on consumers of the declining financial condition of travel agents in the United States; and

(D) the impediments imposed by the airline industry on distributors of the industry's products and services, including travel agents and Internet-based distributors.

(2) POLICY RECOMMENDATIONS.—Based on the results of the study described in paragraph (1), the Commission shall recommend to the President and Congress policies necessary to—

(A) ensure full consumer access to complete information concerning airline fares, routes, and other services;

(B) ensure that the means of distributing the products and services of the airline industry, and of disseminating information about such products and services, is adequate to ensure that competitive information is available in the marketplace;

(C) ensure that distributors of the products and services of the airline industry have adequate relief from illegal, anticompetitive practices that occur in the marketplace; and

(D) foster healthy competition in the airline industry and the entry of new entrants.

(c) SPECIFIC MATTERS TO BE ADDRESSED.—In carrying out the study authorized under subsection (b)(1), the Commission shall specifically address the following:

(1) CONSUMER ACCESS TO INFORMATION.—With respect to consumer access to information regarding the services and products offered by the airline industry, the following:

(A) The state of such access.

(B) The effect in the 5-year period following the date of the study of the making of alliances in the airline industry.

(C) Whether and to what degree the trends regarding such access will produce benefits to consumers.

(2) MEANS OF DISTRIBUTION.—With respect to the means of distributing the products and services of the airline industry, the following:

(A) The state of such means of distribution.

(B) The roles played by travel agencies and Internet-based providers of travel information and services in distributing such products and services.

(C) Whether the policies of the United States promote the access of consumers to multiple means of distribution.

(3) AIRLINE RESERVATION SYSTEMS.—With respect to airline reservation systems, the following:

(A) The rules, regulations, policies, and practices of the industry governing such systems.

(B) How trends in such systems will affect consumers, including—

(i) the effect on consumer access to flight reservation information; and

(ii) the effect on consumers of the use by the airline industry of penalties and promotions to convince distributors to use such systems, and the degree of consumer awareness of such penalties and promotions.

(4) LEGAL IMPEDIMENTS TO DISTRIBUTORS SEEKING RELIEF FOR ANTICOMPETITIVE ACTIONS.—The policies of the United States with respect to the legal impediments to distributors seeking relief for anticompetitive actions, including—

(A) Federal preemption of civil actions against airlines; and

(B) the role of the Department of Transportation in enforcing rules against anticompetitive practices.

(d) MEMBERSHIP.—

(1) APPOINTMENT.—The Commission shall be composed of 15 voting members and 11 nonvoting members as follows:

(A) 5 voting members and 1 nonvoting member appointed by the President.

(B) 3 voting members and 3 nonvoting members appointed by the Speaker of the House of Representatives.

(C) 2 voting members and 2 nonvoting members appointed by the Minority Leader of the House of Representatives.

(D) 3 voting members and 3 nonvoting members appointed by the Majority Leader of the Senate.

(E) 2 voting members and 2 nonvoting members appointed by the Minority Leader of the Senate.

(2) QUALIFICATIONS.—Voting members appointed under paragraph (1) shall be appointed from among individuals who are experts in economics, service product distribution, or transportation, or any related discipline, and who can represent consumers, passengers, shippers, travel agents, airlines, or general aviation.

(3) TERMS.—Members shall be appointed for the life of the Commission.

(4) VACANCIES.—A vacancy in the Commission 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.

(6) CHAIRPERSON.—The President, in consultation with the Speaker of the House of Representatives and the Majority Leader of the Senate, shall designate the Chairperson of the Commission (referred to in this title as the ''Chairperson'') from among its voting members.

(e) COMMISSION PANELS.—The Chairperson shall establish such panels consisting of voting members of the Commission as the Chairperson determines appropriate to carry out the functions of the Commission.

(f) STAFF.—The Commission may appoint and fix the pay of such personnel as it considers appropriate.

(g) STAFF OF FEDERAL AGENCIES.—Upon request of the Commission, 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 Commission to assist it in carrying out its duties under this section.

(h) OTHER STAFF AND SUPPORT.—Upon the request of the Commission, or a panel of the Commission, the Secretary of Transportation shall provide the Commission or panel with professional and administrative staff and other support, on a reimbursable basis, to assist the Commission or panel in carrying out its responsibilities.

(i) OBTAINING OFFICIAL DATA.—The Commission 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 Commission to carry out its duties under this section. Upon request of the Commission, the head of that department or agency shall furnish such nonconfidential information to the Commission.

(j) REPORT.—Not later than 6 months after the date on which initial appointments of members to the Commission are completed, the Commission shall transmit to the President and Congress a report on the activities of the Commission, including recommendations made by the Commission under subsection (b)(2).

(k) TERMINATION.—The Commission shall terminate on the 30th day following the date of transmittal of the report under subsection (j). All records and papers of the Commission shall thereupon be delivered by the Administrator of General Services for deposit in the National Archives.

(l) APPLICABILITY OF THE FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

TITLE XIII—FEDERAL AVIATION RESEARCH, ENGINEERING, AND DEVELOPMENT

SEC. 1301. AUTHORIZATION OF APPROPRIATIONS.

Section 48102(a) of title 49, United States Code, is amended—

(1) by striking ''and'' at the end of paragraph (4)(J);

(2) by striking the period at the end of paragraph (5) and inserting in lieu thereof a semicolon; and

(3) by adding at the end the following:

''(6) $240,000,000 for fiscal year 2000;

''(7) $250,000,000 for fiscal year 2001; and

''(8) $260,000,000 for fiscal year 2002;''.

SEC. 1302. INTEGRATED NATIONAL AVIATION RESEARCH PLAN.

(a) IN GENERAL.—Section 44501(c) of title 49, United States Code, is amended—

(1) in paragraph (2)(B)—

(A) by striking ''and'' at the end of clause (iii);

(B) by striking the period at the end of clause (iv) and inserting in lieu thereof ''; and''; and

(C) by adding at the end the following new clause:

''(v) highlight the research and development technology transfer activities that promote technology sharing among government, industry, and academia through the Stevenson-Wydler Technology Innovation Act of 1980.''; and

(2) in paragraph (3), by inserting ''The report shall be prepared in accordance with requirements of section 1116 of title 31, United States Code.'' after ''effect for the prior fiscal year.''.

(b) REQUIREMENT.—Not later than March 1, 2000, the Administrator of the National Aeronautics and Space Administration and the Administrator of the Federal Aviation Administration shall jointly prepare and transmit to the Congress an integrated civil aviation research and development plan.

(c) CONTENTS.—The plan required by subsection (b) shall include—

(1) an identification of the respective research and development requirements, roles, and responsibilities of the National Aeronautics and Space Administration and the Federal Aviation Administration;

(2) formal mechanisms for the timely sharing of information between the National Aeronautics and Space Administration and the Federal Aviation Administration; and

(3) procedures for increased communication and coordination between the Federal Aviation Administration research advisory committee established under section 44508 of title 49, United States Code, and the NASA Aeronautics and Space Transportation Technology Advisory Committee.

SEC. 1303. INTERNET AVAILABILITY OF INFORMATION.

The Administrator of the Federal Aviation Administration shall make available through the Internet home page of the Federal Aviation Administration the abstracts relating to all research grants and awards made with funds authorized by the amendments made by this Act. Nothing in this section shall be construed to require or permit the release of any information prohibited by law or regulation from being released to the public.

SEC. 1304. RESEARCH ON NONSTRUCTURAL AIRCRAFT SYSTEMS.

Section 44504(b)(1) of title 49, United States Code, is amended by inserting '', including nonstructural aircraft systems,'' after ''life of aircraft''.

SEC. 1305. POST FREE FLIGHT PHASE I ACTIVITIES.

No later than May 1, 2000, the Administrator of the Federal Aviation Administration shall transmit to Congress a definitive plan for the continued implementation of Free Flight Phase I operational capabilities for fiscal years 2003 through 2005. The plan shall include and address the recommendations concerning operational capabilities for fiscal years 2003 through 2005 due to be made by the RTCA Free Flight Steering Committee in December 1999 that was established at the direction of the Federal Aviation Administration. The plan shall also include budget estimates for the implementation of these operational capabilities.

SEC. 1306. RESEARCH PROGRAM TO IMPROVE AIRFIELD PAVEMENTS.

The Administrator of the Federal Aviation Administration shall consider awards to nonprofit concrete pavement research foundations to improve the design, construction, rehabilitation, and repair of rigid concrete airfield pavements to aid in the development of safer, more cost-effective, and durable airfield pavements. The Administrator may use a grant or cooperative agreement for this purpose. Nothing in this section shall require the Administrator to prioritize an airfield payment research program above safety, security, Flight 21, environment, or energy research programs.

SEC. 1307. SENSE OF SENATE REGARDING PROTECTING THE FREQUENCY SPECTRUM USED FOR AVIATION COMMUNICATION.

It is the sense of the Senate that with the World Radio Communication Conference scheduled to begin in May, 2000, and the need to ensure that the frequency spectrum available for aviation communication and navigation is adequate, the Federal Aviation Administration should—

(1) give high priority to developing a national policy to protect the frequency spectrum used for the Global Positioning System that is critical to aviation communications and the safe operation of aircraft; and

(2) expedite the appointment of the United States Ambassador to the World Radio Communication Conference.

SEC. 1308. STUDY.

The Secretary shall conduct a study to evaluate the applicability of the techniques used to fund and administer research under the National Highway Cooperative Research Program and the National Transmit Research Program to the research needs of airports.

TITLE XIV—AIRLINE CUSTOMER SERVICE COMMITMENT

SEC. 1401. AIRLINE CUSTOMER SERVICE REPORTS.

(a) SECRETARY TO REPORT PLANS RECEIVED.—Each air carrier that provides scheduled passenger air transportation and that is a member of the Air Transport Association, all of which have entered into the voluntary customer service commitments established by the Association on June 17, 1999 (hereinafter referred to as the ''Airline Customer Service Commitment''), shall provide a copy of its individual customer service plan to the Secretary of Transportation by September 15, 1999. The Secretary, upon receipt of the individual plans, shall report to the Senate Committee on Commerce, Science, and Transportation and to the House of Representatives Committee on Transportation and Infrastructure the receipt of each such plan and transmit a copy of each plan.

(b) IMPLEMENTATION.—The Inspector General of the Department of Transportation shall monitor the implementation of any plan submitted to the Secretary under subsection (a) and evaluate the extent to which each such carrier has met its commitments under its plan. Each such carrier shall provide such information to the Inspector General as may be necessary for the Inspector General to prepare the report required by subsection (c).

(c) REPORTS TO THE CONGRESS.—

(1) INTERIM REPORT.—The Inspector General shall submit a report of the Inspector General's findings under subsection (a) to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure by June 15, 2000, that includes a status report on completion, publication, and implementation of the Airline Customer Service Commitment and the individual airline plans to carry it out. The report shall include a review of whether each air carrier has modified its contract of carriage or conditions of contract to reflect each item of the Airline Customer Service Commitment.

(2) FINAL REPORT; RECOMMENDATIONS.—

(A) IN GENERAL.—The Inspector General shall submit a final report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure by December 31, 2000, on the effectiveness of the Airline Customer Service Commitment and the individual airline plans to carry it out, including recommendations for improving accountability, enforcement, and consumer protections afforded to commercial air passengers.

(B) SPECIFIC CONTENT.—In the final report under subparagraph (A), the Inspector General shall—

(i) evaluate each carrier's plan for whether it is consistent with the voluntary commitments established by the Air Transport Association in the Airline Customer Service Commitment;

(ii) evaluate each carrier as to the extent to which, and the manner in which, it has performed in carrying out its plan;

(iii) identify, by air carrier, how it has implemented each commitment covered by its plan; and

(iv) provide an analysis, by air carrier, of the methods of meeting each commitment, and in such analysis provide information that allows consumers to make decisions on the quality of air transportation provided by such carriers.

SEC. 1402. INCREASED FINANCIAL RESPONSIBILITY FOR LOST BAGGAGE.

The Secretary of Transportation shall initiate a rule making within 30 days after the date of enactment of this Act to increase the domestic baggage liability limit in part 254 of title 14, Code of Federal Regulations.

SEC. 1403. INCREASED PENALTY FOR VIOLATION OF AVIATION CONSUMER PROTECTION LAWS.

Section 46301(a), as amended by section 407 of this Act, is amended by adding at the end thereof the following:

''(8) CONSUMER PROTECTION.—For a violation of sections 41310 and 41712, any rule or regulation promulgated thereunder, or any other rule or regulation promulgated by the Secretary of Transportation that is intended to afford protection to commercial air transportation consumers, the maximum civil penalty prescribed by subsection (a) may not exceed $2,500 for each violation.''.

SEC. 1404. COMPTROLLER GENERAL INVESTIGATION.

The Comptroller General of the United States shall study the potential effects on aviation consumers, including the impact on fares and service to small communities, of a requirement that air carriers permit a ticketed passenger to use any portion of a multiple-stop or round-trip air fare for transportation independent of any other portion without penalty. The Comptroller General shall submit a report, based on the study, to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure by June 15, 2000.

SEC. 1405. FUNDING OF ENFORCEMENT OF AIRLINE CONSUMER PROTECTIONS.

(a) IN GENERAL.—Chapter 481 is amended by adding at the end thereof the following:

''§ 48112. Consumer protection

''There are authorized to 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 for the purpose of ensuring compliance with, and enforcing, the rights of air travelers under sections 41310 and 41712 of this title—

''(1) $2,300,000 for fiscal year 2000;

''(2) $2,415,000 for fiscal year 2001;

''(3) $2,535,750 for fiscal year 2002; and

''(4) $2,662,500 for fiscal year 2003.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 481 is amended by adding at the end thereof the following:

''48112. Consumer protection.''.

TITLE XV—PENALTIES FOR UNRULY PASSENGERS

SEC. 1501. PENALTIES FOR UNRULY PASSENGERS.

(a) IN GENERAL.—Chapter 463 is amended by adding at the end the following:

''§ 46317. Interference with cabin or flight crew

''(a) GENERAL RULE.—An individual who physically assaults or threatens to physically assault a member of the flight crew or cabin crew of a civil aircraft or any other individual on the aircraft, or takes any action that poses an imminent threat to the safety of the aircraft or other individuals on the aircraft is liable to the United States Government for a civil penalty of not more than $25,000.

''(b) COMPROMISE AND SETOFF.—

''(1) COMPROMISE.—The Secretary may compromise the amount of a civil penalty imposed under this section.

''(2) SETOFF.—The United States Government may deduct the amount of a civil penalty imposed or compromised under this section from amounts the Government owes the person liable for the penalty.''.

(b) CONFORMING AMENDMENT.—The table of sections for chapter 463 is amended by adding at the end the following:

''46317. Interference with cabin or flight crew.''.

SEC. 1502. DEPUTIZING OF STATE AND LOCAL LAW ENFORCEMENT OFFICERS.

(a) DEFINITIONS.—In this section:

(1) AIRCRAFT.—The term ''aircraft'' has the meaning given that term in section 40102.

(2) AIR TRANSPORTATION.—The term ''air transportation'' has the meaning given that term in section 40102.

(3) ATTORNEY GENERAL.—The term ''Attorney General'' means the Attorney General of the United States.

(b) ESTABLISHMENT OF A PROGRAM TO DEPUTIZE LOCAL LAW ENFORCEMENT OFFICERS.—

(1) IN GENERAL.—The Attorney General may—

(A) establish a program under which the Attorney General may deputize State and local law enforcement officers having jurisdiction over airports and airport authorities as Deputy United States Marshals for the limited purpose of enforcing Federal laws that regulate security on board aircraft, including laws relating to violent, abusive, or disruptive behavior by passengers of air transportation; and

(B) encourage the participation of law enforcement officers of State and local governments in the program established under subparagraph (A).

(2) CONSULTATION.—In establishing the program under paragraph (1), the Attorney General shall consult with appropriate officials of—

(A) the Federal Government (including the Administrator of the Federal Aviation Administration or a designated representative of the Administrator); and

(B) State and local governments in any geographic area in which the program may operate.

(3) TRAINING AND BACKGROUND OF LAW ENFORCEMENT OFFICERS.—

(A) IN GENERAL.—Under the program established under this subsection, to qualify to serve as a Deputy United States Marshal under the program, a State or local law enforcement officer shall—

(i) meet the minimum background and training requirements for a law enforcement officer under part 107 of title 14, Code of Federal Regulations (or equivalent requirements established by the Attorney General); and

(ii) receive approval to participate in the program from the State or local law enforcement agency that is the employer of that law enforcement officer.

(B) TRAINING NOT FEDERAL RESPONSIBILITY.—The Federal Government shall not be responsible for providing to a State or local law enforcement officer the training required to meet the training requirements under subparagraph (A)(i). Nothing in this subsection may be construed to grant any such law enforcement officer the right to attend any institution of the Federal Government established to provide training to law enforcement officers of the Federal Government.

(c) POWERS AND STATUS OF DEPUTIZED LAW ENFORCEMENT OFFICERS.—

(1) IN GENERAL.—Subject to paragraph (2), a State or local law enforcement officer that is deputized as a Deputy United States Marshal under the program established under subsection (b) may arrest and apprehend an individual suspected of violating any Federal law described in subsection (b)(1)(A), including any individual who violates a provision subject to a civil penalty under section 46301 of title 49, United States Code, or section 46302, 46303, 46504, 46505, or 46507 of that title, or who commits an act described in section 46506 of that title.

(2) LIMITATION.—The powers granted to a State or local law enforcement officer deputized under the program established under subsection (b) shall be limited to enforcing Federal laws relating to security on board aircraft in flight.

(3) STATUS.—A State or local law enforcement officer that is deputized as a Deputy United States Marshal under the program established under subsection (b) shall not—

(A) be considered to be an employee of the Federal Government; or

(B) receive compensation from the Federal Government by reason of service as a Deputy United States Marshal in the program.

(d) STATUTORY CONSTRUCTION.—Nothing in this section may be construed to—

(1) grant a State or local law enforcement officer that is deputized under the program under subsection (b) the power to enforce any Federal law that is not described in subsection (c); or

(2) limit the authority that a State or local law enforcement officer may otherwise exercise in the capacity under any other applicable State or Federal law.

(e) REGULATIONS.—The Attorney General may promulgate such regulations as may be necessary to carry out this section.

SEC. 1503. STUDY AND REPORT ON AIRCRAFT NOISE.

Not later than December 31, 2002, the Secretary of Transportation shall conduct a study and report to Congress on—

(1) airport noise problems in the United States;

(2) the status of cooperative consultations and agreements between the Federal Aviation Administration and the International Civil Aviation Organization on stage 4 aircraft noise levels; and

(3) the feasibility of proceeding with the development and implementation of a timetable for air carrier compliance with stage 4 aircraft noise requirements.

TITLE XVI—AIRLINE COMMISSION

SEC. 1601. SHORT TITLE.

This title may be cited as the ''Improved Consumer Access to Travel Information Act''.

SEC. 1602. NATIONAL COMMISSION TO ENSURE CONSUMER INFORMATION AND CHOICE IN THE AIRLINE INDUSTRY.

(a) ESTABLISHMENT.—There is established a commission to be known as the ''National Commission to Ensure Consumer Information and Choice in the Airline Industry'' (in this section referred to as the ''Commission'').

(b) DUTIES.—

(1) STUDY.—The Commission shall undertake a study of—

(A) consumer access to information about the products and services of the airline industry;

(B) the effect on the marketplace of the emergence of new means of distributing such products and services;

(C) the effect on consumers of the declining financial condition of travel agents in the United States; and

(D) the impediments imposed by the airline industry on distributors of the industry's products and services, including travel agents and Internet-based distributors.

(2) POLICY RECOMMENDATIONS.—Based on the results of the study described in paragraph (1), the Commission shall recommend to the President and Congress policies necessary to—

(A) ensure full consumer access to complete information concerning airline fares, routes, and other services;

(B) ensure that the means of distributing the products and services of the airline industry, and of disseminating information about such products and services, is adequate to ensure that competitive information is available in the marketplace;

(C) ensure that distributors of the products and services of the airline industry have adequate relief from illegal, anticompetitive practices that occur in the marketplace; and

(D) foster healthy competition in the airline industry and the entry of new entrants.

(c) SPECIFIC MATTERS TO BE ADDRESSED.—In carrying out the study authorized under subsection (b)(1), the Commission shall specifically address the following:

(1) CONSUMER ACCESS TO INFORMATION.—With respect to consumer access to information regarding the services and products offered by the airline industry, the following:

(A) The state of such access.

(B) The effect in the 5-year period following the date of the study of the making of alliances in the airline industry.

(C) Whether and to what degree the trends regarding such access will produce benefits to consumers.

(2) MEANS OF DISTRIBUTION.—With respect to the means of distributing the products and services of the airline industry, the following:

(A) The state of such means of distribution.

(B) The roles played by travel agencies and Internet-based providers of travel information and services in distributing such products and services.

(C) Whether the policies of the United States promote the access of consumers to multiple means of distribution.

(3) AIRLINE RESERVATION SYSTEMS.—With respect to airline reservation systems, the following:

(A) The rules, regulations, policies, and practices of the industry governing such systems.

(B) How trends in such systems will affect consumers, including—

(i) the effect on consumer access to flight reservation information; and

(ii) the effect on consumers of the use by the airline industry of penalties and promotions to convince distributors to use such systems, and the degree of consumer awareness of such penalties and promotions.

(d) MEMBERSHIP.—

(1) APPOINTMENT.—The Commission shall be composed of 15 voting members and 11 nonvoting members as follows:

(A) 5 voting members and 1 nonvoting member appointed by the President.

(B) 3 voting members and 3 nonvoting members appointed by the Speaker of the House of Representatives.

(C) 2 voting members and 2 nonvoting members appointed by the minority leader of the House of Representatives.

(D) 3 voting members and 3 nonvoting members appointed by the majority leader of the Senate.

(E) 2 voting members and 2 nonvoting members appointed by the minority leader of the Senate

(2) QUALIFICATIONS.—Voting members appointed under paragraph (1) shall be appointed from among individuals who are experts in economics, service product distribution, or transportation, or any related discipline, and who can represent consumers, passengers, shippers, travel agents, airlines, or general aviation.

(3) TERMS.—Members shall be appointed for the life of the Commission.

(4) VACANCIES.—A vacancy in the Commission 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.

(6) CHAIRPERSON.—The President, in consultation with the Speaker of the House of Representatives and the majority leader of the Senate, shall designate the Chairperson of the Commission (referred to in this title as the ''Chairperson'') from among its voting members.

(e) COMMISSION PANELS.—The Chairperson shall establish such panels consisting of voting members of the Commission as the Chairperson determines appropriate to carry out the functions of the Commission.

(f) STAFF.—The Commission may appoint and fix the pay of such personnel as it considers appropriate.

(g) STAFF OF FEDERAL AGENCIES.—Upon request of the Commission, 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 Commission to assist it in carrying out its duties under this section.

(h) OTHER STAFF AND SUPPORT.—Upon the request of the Commission, or a panel of the Commission, the Secretary of Transportation shall provide the Commission or panel with professional and administrative staff and other support, on a reimbursable basis, to assist the Commission or panel in carrying out its responsibilities.

(i) OBTAINING OFFICIAL DATA.—The Commission 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 Commission to carry out its duties under this section. Upon request of the Commission, the head of that department or agency shall furnish such nonconfidential information to the Commission.

(j) REPORT.—Not later than 6 months after the date on which initial appointments of members to the Commission are completed, the Commission shall transmit to the President and Congress a report on the activities of the Commission, including recommendations made by the Commission under subsection (b)(2).

(k) TERMINATION.—The Commission shall terminate on the 30th day following the date of transmittal of the report under subsection (j). All records and papers of the Commission shall thereupon be delivered by the Administrator of General Services for deposit in the National Archives.

(l) APPLICABILITY OF THE FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

TITLE XVII—TRANSPORTATION OF ANIMALS

SEC. 1701. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the ''Safe Air Travel for Animals Act''.

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

Sec. 1701. Short title; table of contents.
Sec. 1702. Findings.
SUBTITLE A—ANIMAL WELFARE
Sec. 1711. Definition of transport.
Sec. 1712. Information on incidence of animals in air transport.
Sec. 1713. Reports by carriers on incidents involving animals during air transport.
Sec. 1714. Annual reports.
SUBTITLE B—TRANSPORTATION
Sec. 1721. Policies and procedures for transporting animals.
Sec. 1722. Civil penalties and compensation for loss, injury, or death of animals during air transport.
Sec. 1723. Cargo hold improvements to protect animal health and safety.

SEC. 1702. FINDINGS.

Congress finds that—

(1) animals are live, sentient creatures, with the ability to feel pain and suffer;

(2) it is inappropriate for animals transported by air to be treated as baggage;

(3) according to the Air Transport Association, over 500,000 animals are transported by air each year and as many as 5,000 of those animals are lost, injured, or killed;

(4) most injuries to animals traveling by airplane are due to mishandling by baggage personnel, severe temperature fluctuations, insufficient oxygen in cargo holds, or damage to kennels;

(5) there are no Federal requirements that airlines report incidents of animal loss, injury, or death;

(6) members of the public have no information to use in choosing an airline based on its record of safety with regard to transporting animals;

(7) the last congressional action on animals transported by air was conducted over 22 years ago; and

(8) the conditions of cargo holds of airplanes must be improved to protect the health, and ensure the safety, of transported animals.

Subtitle A—Animal Welfare

SEC. 1711. DEFINITION OF TRANSPORT.

Section 2 of the Animal Welfare Act (7 U.S.C. 2132) is amended by adding at the end the following:

''(p) TRANSPORT.—The term 'transport', when used with respect to the air transport of an animal by a carrier, means the transport of the animal during the period the animal is in the custody of the carrier, from check-in of the animal prior to departure until the animal is returned to the owner or guardian of the animal at the final destination of the animal.''.

SEC. 1712. INFORMATION ON INCIDENCE OF ANIMALS IN AIR TRANSPORT.

Section 6 of the Animal Welfare Act (7 U.S.C. 2136) is amended—

(1) by striking ''SEC. 6. Every'' and inserting the following:

''SEC. 6. REGISTRATION.

''(a) IN GENERAL.—Each''; and

(2) by adding at the end the following:

''(b) INFORMATION ON INCIDENCE OF ANIMALS IN AIR TRANSPORT.—Not later than 2 years after the date of enactment of this subsection, the Secretary shall require each airline carrier to—

''(1) submit to the Secretary real-time information (as the information becomes available, but at least 24 hours in advance of a departing flight) on each flight that will be carrying a live animal, including—

''(A) the flight number;

''(B) the arrival and departure points of the flight;

''(C) the date and times of the flight; and

''(D) a description of the number and types of animals aboard the flight; and

''(2) ensure that the flight crew of an aircraft is notified of the number and types of animals, if any, on each flight of the crew.''.

SEC. 1713. REPORTS BY CARRIERS ON INCIDENTS INVOLVING ANIMALS DURING AIR TRANSPORT.

Section 19 of the Animal Welfare Act (7 U.S.C. 2149) is amended by adding at the end the following:

''(e) REPORTS BY CARRIERS ON INCIDENTS INVOLVING ANIMALS DURING AIR TRANSPORT.—

''(1) IN GENERAL.—An airline carrier that causes, or is otherwise involved in or associated with, an incident involving the loss, injury, death or mishandling of an animal during air transport shall submit a report to the Secretary of Agriculture and the Secretary of Transportation that provides a complete description of the incident.

''(2) ADMINISTRATION.—Not later than 90 days after the date of enactment of this subsection, the Secretary of Agriculture, in consultation with the Secretary of Transportation, shall issue regulations that specify—

''(A) the type of information that shall be included in a report required under paragraph (1), including—

''(i) the date and time of an incident;

''(ii) the location and environmental conditions of the incident site;

''(iii) the probable cause of the incident; and

''(iv) the remedial action of the carrier; and

''(B) a mechanism for notifying the public concerning the incident.

''(3) CONSUMER INFORMATION.—The Secretary of Transportation shall include information received under paragraph (1) in the Air Travel Consumer Reports and other consumer publications of the Department of Transportation in a separate category of information.

''(4) CONSUMER COMPLAINTS.—Not later than 15 days after receiving a consumer complaint concerning the loss, injury, death or mishandling of an animal during air transport, the Secretary of Transportation shall provide a description of the complaint to the Secretary of Agriculture.''.

SEC. 1714. ANNUAL REPORTS.

Section 25 of the Animal Welfare Act (7 U.S.C. 2155) is amended in the first sentence—

(1) in paragraph (4), by striking ''and'' at the end;

(2) in paragraph (5), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(6) a summary of—

''(A) incidents involving the loss, injury, or death of animals transported by airline carriers; and

''(B) consumer complaints regarding the incidents.''.

Subtitle B—Transportation

SEC. 1721. POLICIES AND PROCEDURES FOR TRANSPORTING ANIMALS.

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

''§ 41716. Policies and procedures for transporting animals

''An air carrier shall establish and include in each contract of carriage under part 253 of title 14, Code of Federal Regulations (or any successor regulation) policies and procedures of the carrier for transporting animals safely, including—

''(1) training requirements for airline personnel in the proper treatment of animals being transported;

''(2) information on the risks associated with air travel for animals;

''(3) a description of the conditions under which animals are transported;

''(4) the safety record of the carrier with respect to transporting animals; and

''(5) plans for handling animals prior to and after flight, and when there are flight delays or other circumstances that may affect the health or safety of an animal during transport.''.

(b) TABLE OF CONTENTS.—The analysis for chapter 417 of title 49, United States Code, is amended by adding at the end of the items relating to subchapter I the following:

''41716. Policies and procedures for transporting animals.''.

SEC. 1722. CIVIL PENALTIES AND COMPENSATION FOR LOSS, INJURY, OR DEATH OF ANIMALS DURING AIR TRANSPORT.

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

"§ 46317. Civil penalties and compensation for loss, injury, or death of animals during air transport

''(a) DEFINITIONS.—In this section:

''(1) CARRIER.—The term 'carrier' means a person (including any employee, contractor, or agent of the person) operating an aircraft for the transportation of passengers or property for compensation.

''(2) TRANSPORT.—The term 'transport', when used with respect to the air transport of an animal by a carrier, means the transport of the animal during the period the animal is in the custody of a carrier, from check-in of the animal prior to departure until the animal is returned to the owner or guardian of the animal at the final destination of the animal.

''(b) CIVIL PENALTIES.—

''(1) IN GENERAL.—The Secretary may assess a civil penalty of not more than $5,000 for each violation on, or issue a cease and desist order against, any carrier that causes, or is otherwise involved in or associated with, the loss, injury, or death of an animal during air transport.

''(2) CEASE AND DESIST ORDERS.—A carrier who knowingly fails to obey a cease and desist order issued by the Secretary under this subsection shall be subject to a civil penalty of $1,500 for each offense.

''(3) SEPARATE OFFENSES.—For purposes of determining the amount of a penalty imposed under this subsection, each violation and each day during which a violation continues shall be a separate offense.

''(4) FACTORS.—In determining whether to assess a civil penalty under this subsection and the amount of the civil penalty, the Secretary shall consider—

''(A) the size and financial resources of the business of the carrier;

''(B) the gravity of the violation;

''(C) the good faith of the carrier; and

''(D) any history of previous violations by the carrier.

''(5) COLLECTION OF PENALTIES.—

''(A) IN GENERAL.—On the failure of a carrier to pay a civil penalty assessed by a final order under this section, the Secretary shall request the Attorney General to institute a civil action in a district court of the United States or other United States court for any district in which the carrier is found or resides or transacts business, to collect the penalty.

''(B) PENALTIES.—The court shall have jurisdiction to hear and decide an action brought under subparagraph (A).

''(c) COMPENSATION.—If an animal is lost, injured, or dies in transport by a carrier, unless the carrier proves that the carrier did not cause, and was not otherwise involved in or associated with, the loss, injury, or death of the animal, the owner of the animal shall be entitled to compensation from the carrier in an amount that—

''(1) is not less than 2 times any limitation established by the carrier for loss or damage to baggage under part 254 of title 14, Code of Federal Regulations (or any successor regulation); and

''(2) includes all veterinary and other related costs that are documented and initiated not later than 1 year after the incident that caused the loss, injury, or death of the animal.''.

(b) TABLE OF CONTENTS.—The analysis for chapter 463 of title 49, United States Code, is amended by adding at the end the following:

''46317. Civil penalties and compensation for loss, injury, or death of animals during air transport.''.

SEC. 1723. CARGO HOLD IMPROVEMENTS TO PROTECT ANIMAL HEALTH AND SAFETY.

(a) IN GENERAL.—To protect the health and safety of animals in transport, the Secretary of Transportation shall—

(1) in conjunction with requiring certain transport category airplanes used in passenger service to replace class D cargo or baggage compartments with class C cargo or baggage compartments under parts 25, 121, and 135 of title 14, Code of Federal Regulations, to install, to the maximum extent practicable, systems that permit positive airflow and heating and cooling for animals that are present in cargo or baggage compartments; and

(2) effective beginning January 1, 2001, prohibit the transport of an animal by any carrier in a cargo or baggage compartment that fails to include a system described in paragraph (1).

(b) REPORT.—Not later than March 31, 2002, the Secretary shall submit a report to Congress that describes actions that have been taken to carry out subsection (a).

REREFERRAL OF NOMINATION

Mr. WARNER. Mr. President, as in executive session, I ask unanimous consent that the nomination of Gregory A. Baer, of Virginia, to be an Assistant Secretary of the Treasury, vice Richard Scott Carnell, be discharged from the Committee on Finance and referred to the Committee on Banking, Housing, and Urban Affairs.

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

ORDERS FOR THURSDAY, OCTOBER 7, 1999

Mr. WARNER. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 9:30 a.m. on Thursday, October 7. I further ask consent that on Thursday, immediately following the prayer, 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, and the Senate then resume debate on the pending Abraham amendment to S. 1650, the Labor-HHS Appropriations bill.

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

PROGRAM

Mr. WARNER. For the information of all Senators, the Senate will resume consideration of the Labor-HHS Appropriations bill at 9:30 a.m. on Thursday. The pending amendment is the Abraham amendment regarding the needle exchange programs. It is hoped this amendment and the few remaining amendments can be debated and disposed of in a timely fashion so that action on the bill can be completed by tomorrow. I encourage continued cooperation from those Senators who have amendments remaining on the list so that time agreements can be made for their consideration. Rollcall votes will occur throughout the day. As usual, Senators will be notified as votes are scheduled. Following completion of the Labor-HHS Appropriations bill, it is the intention of the leader to resume debate on the Agriculture Appropriations conference report. The Senate may also consider any other conference reports available for action.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. WARNER. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:33 p.m., adjourned until Thursday, October 7, 1999, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate October 6, 1999:

DEPARTMENT OF DEFENSE

CORNELIUS P. O'LEARY, OF CONNECTICUT, TO BE A MEMBER OF THE NATIONAL SECURITY EDUCATION BOARD FOR A TERM OF FOUR YEARS, VICE ROGER HILSMAN, TERM EXPIRED.

DEPARTMENT OF STATE

DONALD STUART HAYS, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE UNITED NATIONS FOR U.N. MANAGEMENT AND REFORM, WITH THE RANK OF AMBASSADOR.

DEPARTMENT OF JUSTICE

DANIEL J. FRENCH, OF NEW YORK, TO BE UNITED STATES ATTORNEY FOR THE NORTHERN DISTRICT OF NEW YORK FOR THE TERM OF FOUR YEARS, VICE THOMAS JOSEPH MARONEY, TERM EXPIRED.

NOTE: IN THE RECORD OF OCTOBER 5, 1999, THE FOLLOWING NOMINATIONS WERE INADVERTENTLY SHOWN TO HAVE BEEN REPORTED BY THE COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY. THEY WERE NOT REPORTED. THE PERMANENT RECORD WILL BE CORRECTED ACCORDINGLY.

PAUL W. FIDDICK, OF TEXAS, TO BE AN ASSISTANT SECRETARY OF AGRICULTURE.

ANDREW C. FISH, OF VERMONT, TO BE AN ASSISTANT SECRETARY OF AGRICULTURE.