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Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable BENJAMIN L. CARDIN, a Senator from the State of Maryland.

PRAYER

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

Let us pray.

Father of life, we praise You and honor Your Holy Name. Awaken in us the joy of living this day, all new, in challenge and in hope. Lift our hearts amid the fathomless beauty of creation above all malice and indifference.

Use our Senators today to do Your bidding. May they fill these precious hours with redeeming radiance and substantive labor that will make a stronger nation and a better world. Turn their sorrow into joy and their sadness into singing. Give them courage that banishes fear and a gratitude worthy of Your grace.

We pray in Your worthy Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable BENJAMIN L. CARDIN led the Pledge of Allegiance, as follows:

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, April 30, 2008.

To the Senate:

Under the provisions of rule 1, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable BENJAMIN L. CARDIN, a Senator from the State of Maryland, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

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

RECOGNITION OF THE MAJORITY LEADER

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

SCHEDULE

Mr. REID. Mr. President, following my remarks and those of Mr. MCCONNELL, if he decides to make such remarks, the Senate will resume consideration of H.R. 2881, the Federal Aviation Administration Reauthorization Act. Senator DURBIN will be recognized to offer an amendment on his behalf and that of Senator KAY BAILEY HUTCHISON.

As a reminder, the joint meeting of Congress with the Prime Minister of Ireland, Bertie Ahern, is today at 11 a.m. Senators attending the meeting will gather in the Senate at 10:30 a.m. and proceed as a body to the Hall of the House at 10:40 a.m. In order to accommodate the joint meeting, the Senate will then be in recess from 10:40 until 12 noon.

Mr. President, the first amendment is a bipartisan amendment that will be offered, as I have indicated, by Senator DURBIN and Senator HUTCHISON. I am going to have another conversation with the distinguished Republican leader as soon as he completes his statement here today, to see if we can figure out an orderly way to proceed on this very important piece of legislation. I think the managers have a good feel of this legislation. They think it is something we can complete fairly quickly. We just have to make sure we legislate on the FAA aspect of what is going on in the world today and not other things that have no bearing on this issue. We will see what we can work out. Hopefully, we can have a good day today and, with a little bit of good fortune, finish this bill this week.

RECOGNITION OF THE REPUBLICAN LEADER

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

Mr. MCCONNELL. Mr. President, I apologize in advance for my pollen-ridden voice this morning. It makes it a bit of a challenge to speak.

TRIBUTE TO BILL KEIGHTLEY

Mr. MCCONNELL. Mr. President, I rise today to pay tribute to a man who was a fixture of Kentucky basketball, with a fervent passion for competition and a fast loyalty to his country, his State, and his beloved University of Kentucky Wildcats.

Bill Keightley, affectionately known as ''Mr. Wildcat,'' passed away recently at the age of 81. He embodied the spirit and tradition that is Kentucky basketball. Born William Bond Keightley in 1926, Mr. Keightley was an All-State center for the Kavanaugh High School basketball team in his hometown of Lawrenceburg, KY.

He later enlisted in the U.S. Marine Corps and bravely served his country during World War II. After the war, Mr. Keightley spent much of his young adulthood working as a mail carrier.

Then in 1962, his friend and fellow postman George Hukle asked him to help out washing jerseys and towels for the University of Kentucky men's basketball team. Over the next 4½ decades, he proved himself indispensable as the school's top cheerleader, ambassador of goodwill and confidante to players and coaches alike.

''Mr. Bill,'' as he was called by friends and family, witnessed three national championships, befriended six

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

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head coaches, and cared for hundreds of players over his long career.

Loved by fans and respected by opponents, he earned a permanent seat on the Kentucky bench at every game. In fact, Mr. Keightley attended more than 1,400 UK basketball games, nearly 60 percent of all games ever recorded. And former UK basketball coach Orlando ''Tubby'' Smith points out that ''it has been . . . us [coaches] sitting next to him, not him sitting next to us.''

Mr. Keightley often served as a father-like figure to the players, and many recall his talks with ''his boys'' on anything from Kentucky sports to lessons of integrity and pride. ''Players, coaches, and athletic directors come and go, but Bill Keightley was constant,'' says Kenny Walker, a friend and former UK player.

John Pelphrey, member of the ''Unforgettable'' 1992 Wildcats team and now head coach at Arkansas University, says:

> For 48 years, Mr. Bill looked over coaches and student-athletes with love and care that only a father could give . . . every time we had an encounter, there was a hearty hello, a hug, and a laugh, every single time, just like the first time.

In 1997, Mr. Bill's jersey was elevated into the rafters of Rupp Arena, making him one of only two people to receive this honor without having taken to the court to play the game.

In 2005, he was entered with the charter class into the UK Athletics Hall of Fame. The equipment room in Lexington's Memorial Coliseum was named in his honor, and he humbly presided over it until his unfortunate passing this past March 31.

Noted Lexington sportscaster and friend Dave Baker says of Mr. Keightley:

> He knew just when to lend a hand to the young man from Appalachia who was adjusting to the big city, or a young man who had been recruited from out-of-state and was getting accustomed to a brand new life in Kentucky. Mr. Keightley lived his life as a celebration.

Perhaps the most lasting tribute to Bill began in 2002, when the University of Kentucky athletic department presented its first Bill Keightley Award to the individual ''who exemplifies the pride, respect, and positive attributes'' associated with the University of Kentucky basketball program. They still present this award annually, to honor Mr. Bill.

UK followers and basketball lovers across the Commonwealth have lost the sport's No. 1 fan. And I know I speak for all of them when I say our prayers and best wishes of support go out to his family, including his wife, Hazel; and his daughter and son-in-law, Karen and Alden Marlowe.

UK President Lee Todd, Jr., best expressed what many Kentuckians are feeling when he said that we have ''lost someone who was not only the face of Kentucky Wildcat basketball, but the University itself.'' I second his words, and add to them my own: We will not soon forget the loyalty, passion, and dedication to excellence that Bill Keightley exemplified.

I yield the floor.

RESERVATION OF LEADER TIME

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

FAA REAUTHORIZATION ACT OF 2007

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of H.R. 2881 which the clerk will report.

The legislative clerk read as follows:

> A bill (H.R. 2881) to amend title 49, United States Code, to authorize appropriations for the Federal Aviation Administration for fiscal years 2008 through 2011, to improve aviation safety and capacity, to provide stable funding for the national aviation system, and for other purposes.

Pending:

> Rockefeller amendment No. 4585 in the nature of a substitute.

The ACTING PRESIDENT pro tempore. The assistant majority leader is recognized.

Mr. DURBIN. Mr. President, it is my understanding under the agreement that I can proffer an amendment at this time to the bill?

The ACTING PRESIDENT pro tempore. The Senator is correct.

AMENDMENT NO. 4587 TO AMENDMENT NO. 4585

Mr. DURBIN. I send an amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from Illinois [Mr. DURBIN], for himself and Mrs. HUTCHISON, Mr. BROWN, Mr. INHOFE, Mr. LAUTENBERG, Mr. VOINOVICH, Mr. NELSON of Florida, Mr. CORNYN, Mr. MENENDEZ, Mr. HARKIN, and Mr. BOND, proposes amendment numbered 4587 to amendment No. 4585.

The amendment is as follows:

> (Purpose: To strike the provision relating to required funding of new accruals under air carrier pension plans)
>
> Strike section 808.

Mr. DURBIN. Mr. President, if you sat down this morning to design a system that would offer American workers the most secure retirement possible, where would you start? If you are starting from scratch, what principles would guide you?

Here are a few I think you might begin with. First, you want to encourage companies to offer secure retirement benefits. That is obvious. Second, you want to ensure that companies keep their promises to their employees and retirees. That ought to be at the top of the list. Third, don't create circumstances under which employers decide they can't afford to keep offering decent retirement benefits without becoming uncompetitive as a business or insolvent. That is pretty sensible. Fourth, treat all the companies in an industry equally so as not to pick the winners and losers. Don't tip the scales.

There are many other goals you might set out to achieve. Of course, we are not starting from scratch this morning, and this is not primarily a pensions bill, it is a reauthorization bill for the Federal Aviation Administration. But the substitute amendment we are now considering contains one pension provision that I think violates the principles I just laid out. That is why I am offering an amendment with Senator HUTCHISON of Texas, with a lengthy list of bipartisan cosponsors, to strike that provision of the bill.

The impact of our amendment will be to provide retirement security for over 180,000 American workers and at the same time maintain air service for all of our constituents in over 300 cities in our Nation and around the world.

Who supports this amendment dealing with the pensions of workers? The workers themselves. It is supported by the 135,000-strong Transport Workers Union of the AFL/CIO, and it is supported by a long list, a bipartisan list of cosponsors starting with Senator HUTCHISON, who will be speaking a little later on this amendment this morning, as well as Senator BROWN of Ohio, Senator INHOFE of Oklahoma, Senator LAUTENBERG of New Jersey, Senator VOINOVICH of Ohio, Senator BILL NELSON of Florida, Senator JOHN CORNYN of Texas, Senator BOB MENENDEZ of New Jersey, and Senator TOM HARKIN of Iowa. As you can tell from this list, this is a very diverse sponsorship—both sides of the aisle, all over the country. We have the support of the workers whose pensions are being affected, and we have the support of Senators from both sides of the aisle in a bipartisan fashion to strike this section of the bill.

It is a little complicated, but for the record we need to get into the background of why we are here today.

In 2006, we passed the Pension Protection Act, which established new rules for defining which companies were meeting their obligations to their employees and retirees and which companies were not. All the companies in America were, in effect, given 7 years to catch up on any underfunded pension plan, and rules were established regarding how the underfunding was to be estimated. That is only right and sensible because if we are going to offer a pension to an employee and the employee can count on that pension, they have to make sure the pension plan is adequately funded so when they call on that plan at the time of retirement, the benefits will be there, the benefits that have been promised over the lifetime of a worker.

It affected all the companies in America except for airlines. We recognized at the time that the airlines were facing unique circumstances. They owed huge amounts of money to hundreds of thousands of workers and retirees, and yet they were facing a very

difficult struggle to profitability after 9/11. We all recall what happened. Airlines were shut down completely across the United States and then air travel was at least compromised if not inhibited for months and years afterward.

We understood the airline industry needed special consideration, so we gave the airlines a special arrangement when it came to funding their pension plans. We said airlines had 10 years to make their pensions whole instead of 7 years, which gave them a little longer period of time. We allowed the airlines to assume a rate of return on their investments of 6 percent instead of assuming a lower rate based on the formula that other companies were forced to use—all airlines, that is, except for two, Delta and Northwest. These airlines had frozen their defined benefit retirement plans.

What does that mean to freeze the benefit plan? It meant no new workers at those airlines could participate. It meant the workers then working were covered by their defined benefit pension plans; those new workers coming onboard at these airlines did not get that benefit; and no new benefits could be provided to existing workers and retirees. The current pension benefits were frozen, excluded new employees from coverage.

So, in a way, Delta and Northwest were given special treatment. They were allowed to deal with their retirees in a different fashion than any company in America, than any airline in America. These airlines were told they could take 17 years to catch up on the payments instead of 10 years, and they could assume a rate of return of not 6 percent but 8.85 percent. It was a very generous deal.

Let me restate that another way. Some airlines, but not all of them, could assume a far higher rate of return and spread their payments over a much longer period of time. What difference does it make? It meant those airlines, Delta and Northwest, had to set aside far less cash toward their pension plans each year than the other airlines with which they were competing.

In a very competitive industry such as air travel in this country, this created a huge advantage for these two airlines, Delta and Northwest. To make matters worse, we rewarded the airlines that froze their pensions. Let's compare that result then to the principles I laid out at the beginning of the statement.

Did we encourage, with this decision, companies to offer secure retirement benefits? No. It seems to me instead we encouraged companies to freeze their benefit plans.

Second, did we ensure that companies keep their promises to their employees and retirees? I do not know about that. Does allowing companies to take 17 years to adequately fund their obligations ensure that they keep their promise? It is a fair question.

Third, did we avoid creating circumstances under which employers might decide they could not afford to keep offering decent retirement benefits without becoming uncompetitive or even insolvent? I think trying to avoid this scenario was part of the rationale for giving airlines a bit more of a cushion. So perhaps we did.

Did we treat all companies in an industry equally, so as not to pick winners and losers and create a competitive advantage for some airlines over others? We most certainly did not.

Now, fast-forward to last year. On the first day of the new Congress, Senator KAY BAILEY HUTCHISON of Texas introduced legislation to bring more balance to pension rules for the airline industry. We passed this legislation as part of the Iraq supplemental last spring, and I supported Senator HUTCHISON.

What did the language do? It gave the airlines that have not frozen their pension plans—and let me be specific which airlines: American Airlines, Continental, Hawaiian, Alaskan, and US Airways—the opportunity to assume a better rate of return on their investments. They now can assume a rate of return of 8.25 percent.

Remember, Delta and Northwest, under the law that we passed, can assume a rate of return of 8.85 percent, whether that, in fact, takes place. So even under the existing law before the bill that we have before us, those two airlines are going to benefit. They get a better break, better treatment, Delta and Northwest, than all the other airlines, and they can smooth out these payments over 17 years, not 10 years.

So did the change in the law on pensions benefit those two airlines initially? Yes. Is their benefit compromised by what we are doing with this amendment today? No. But does it bring the other airlines in the country closer to the same treatment? Yes, it does. So we still have not provided all of the industry players with parity. Delta and Northwest still do much better. The airlines that are still trying to provide their workers secure retirements through defined benefit plans that are not frozen are still getting a much worse deal than the airlines that froze their plans, but it is a bit fairer.

So what was done years ago rewarded those airlines—struggling, I will concede—with better treatment in terms of funding their pension plans from a corporate point of view than other airlines. What we are doing today is lessening that advantage slightly but not at the expense of Delta and Northwest. In fact, what we are doing is maintaining what has been the law since last year. That brings us today to this substitute amendment which we are considering.

Section 808 of the substitute amendment would place new responsibilities on only those airlines that we tried to help last year. This section would once again widen the disparity between the rules that apply to some airlines versus the rules that apply to others. That does not make any sense. This section would require only the five airlines that I mentioned to fully fund all new pension obligations this year and every year going forward, only those five airlines.

Now, you might say, in a vacuum that seems reasonable, fully funding a pension. We want companies to pay their pension plans, right? Well, it is up to a reasonable point. There are three fundamental problems that I think are very important for my colleagues to understand. First, the provision in the bill which Senator HUTCHISON and I would strike penalizes the airlines that have worked the hardest to fully fund their pensions already. Don't we want companies to work hard to fully fund their pensions? If we do, why would we want this section of the bill which penalizes them for their effort to protect their workers and be fair in their pension plans?

Take American Airlines, for example. According to the rules, American Airlines' pensions are 116 percent funded. To put it another way, the management has put more money into their pension plans than they actually need to put in to make sure they make all of the payments promised, 16 percent more. It is not as if American is underfunding their pensions; they are overfunding their requirements. The assets on hand, after assuming the investment rate of return over time, are worth more than what American Airlines has promised its workers and retirees. How can we ask for anything more than that?

So why should American Airlines have to then fully fund all of its new obligations each year so it continually maintains 116 percent funding? Is not 100 percent enough?

Second, this provision unnecessarily pushes these five airlines closer to bankruptcy. Is it really in our Nation's best interest that these five airlines pay an additional $2 billion into their pension funds over the next 5 years when they simply do not have cash laying around?

As a national policy, is it better for us to have more airlines or fewer? Do we want more competition or less? Do we want fewer bankruptcies or more? And if we really care about the retirements of these hundreds of thousands of workers who are employed at these five major airlines, why would we push their companies closer to bankruptcy?

Do you know what happens when a company goes into bankruptcy? Ask the employees of United Airlines what happened? The first casualty is their pension plan. I have been there. They are based in Illinois; they are based in Chicago. It was painful. And if you push more airlines into bankruptcy, you are not helping their workers and their retirement, you are jeopardizing it.

If that sounds dramatic, I would like to show this chart to my colleagues who are following this debate. These are the bankrupt airlines, recent bankrupt airlines: Frontier Airlines filed for

bankruptcy, 6,000 employees were affected by that decision; ATA filed for bankruptcy, 2,230 employees affected; Skybus, 450 employees terminated; Aloha, 1,900 employees; EOS airlines, 450 employees.

This is the reality of the airline industry today. By my count, over 11,000 employees were affected by these bankruptcies. So why in the world would we put a provision in this bill which would require our airlines, these five airlines, to put dramatically more cash into these pensions, beyond what is required of other airlines, beyond what is required for 100 percent funding, and jeopardize them and endanger them so that they face bankruptcy?

Let's look at the losses recently reported for the first quarter by some of the largest domestic carriers, just in case those who are critical of this amendment believe these airlines are flush with cash. Look at what happened in the first quarter of this year: Delta Airlines' first quarter losses, $274 million; American Airlines, $328 million; and United, $537 million.

If there is someone who believes—and I do not know who it might be—that the airline industry is so flush with cash, that they are so strong they can handle this new pension requirement that is put in this bill, and it will not have a negative impact, they have not noticed the reports on the first quarter. In virtually every instance every airline in America has struggled and fallen behind because of jet fuel costs.

Now comes this bill, not providing these airlines a helping hand through one of their most difficult periods in history where bankruptcies are rampant and losses are at record levels. This bill imposes new regulations on airlines struggling to survive.

At a time where crude oil is threatening to reach $120 a barrel—it did last week—and jet fuel is pushing $160 a barrel, I do not think the airlines are in a position to add another $2 billion to their pensions which are already well funded.

Remember, Delta and Northwest were given a privileged position when it came to the treatment of their pension plans under the law. They did not have to put as much money into their pension plans. They were given a longer period of time to pay out or to fund them, 17 years, and the rest of the airlines were given circumstances which were more demanding of them. They had to put in more money.

What Senator HUTCHISON and I are trying to do is protect a difference but one that we think is reasonable. What the bill does is to push these airlines at exactly the wrong moment in America's business history into a position where they are going to have to surrender cash reserves and risk bankruptcy.

Now, is that in the best interests of the workers and the pilots of those airlines? Eleven thousand workers at airlines are already bankrupt or out of work. There are over 180,000 workers in America who stand to lose nearly everything if we push these airlines into bankruptcy, and the over 300 cities that could lose air service and face higher fares? Why? Why do we want this?

Third, and finally, this provision creates an even larger disparity between the way some airlines are treated and the way other airlines are treated. In this most competitive industry, why in the world are we trying to tip the scales to the advantage of some airlines and push others near bankruptcy? It does not sound right.

Why are we demanding these five airlines to follow rules that no other company in America must follow? Why are we demanding these five airlines follow rules that two of their competitors do not have to follow?

The amendment I have with Senator HUTCHISON and others would strike this provision from the bill and leave current law unchanged. I think this is important to all Senators. It is not just an issue for those of us whose home States entertain these airlines and have them as carriers. I urge every Member who is interested in providing equitable treatment under the law to all companies in a given industry to support our amendment.

Do this for 180,000 workers who have weighed in, whose pensions are at stake and strike section 808. It is a bad idea. And let me also say this on behalf of the largest carrier affected, American Airlines. This legacy carrier is the only one left—of the larger carriers, I should say—that has not gone through bankruptcy. They have made sacrifices. They have cut back. They have tried to protect their workers and provide quality service. It has not been easy.

Now they are facing recordbreaking jet fuel costs. That is a reality. They have tried to keep their word to their unionized workforce to keep them on the job, to pay them as promised, to give them the pension they promised. Why do we want to punish good conduct? Why do we want to punish an airline that has tried its level best to keep its word to its employees and retirees? That is a question not only asked by the management of American Airlines, it is being asked by the workers of American Airlines.

They oppose section 808. They think it could be the end of their airline. What a legacy we would leave at the end of the day if we pass a bill that is supposed to pass to make air travel safer and jeopardize the existence of five major airlines in the process. That is exactly what section 808 would do.

I urge every Member who is interested in giving their constituents as many options for flight travel as possible by keeping afloat as many airlines as we can to support our amendment. I thank the 135,000 members of the transport workers unions whose pensions are at issue with this amendment. They have stood up in what I think is the best interest not only of transportation workers today but those retirees. I thank Senators HUTCHISON, BROWN, INHOFE, LAUTENBERG, VOINOVICH, NELSON, CORNYN, MENENDEZ, and HARKIN for cosponsoring the amendment. I urge my colleagues to join us. Let's strip this section from the bill and then move forward to do what we need to do to make American air travel safe and to respect the companies and workers we count on every day.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I thank the Senator from Illinois for taking the lead on this very important amendment. He and I are in complete agreement. I have never seen a time or an amendment or an issue before our Senate that has shown the companies fighting so hard to do the right thing for their employees; the employees standing with them in total solidarity, saying: This is something we should be encouraging companies to do, not discouraging companies from doing; that is, to provide the very best pension plan.

These are huge corporations. American, Continental, US Air, these are big corporations. They are trying to do the very best. They are going the extra mile for their employees. Yet they can't rely on the Congress to make a law and then keep it.

Let's go back a little bit in history. First, we settled this issue in a very hard-fought negotiation last year. We had airlines that chose to keep their defined benefit plans, doing the very best for their employees they could, making added contributions based on the law as it was. So they got ahead in their backup payments because, under the law as it was, anything in excess of their backup payments would help them offset their going-forward payments. They were in relatively good shape, as good shape as an airline could be last year. They had extra money. They poured it right into their pension plans. They overfunded their past obligations or the obligations they had for their past pension deficits. They did that, thinking that if they got into a cashflow problem, they would be able to offset those overages, which is what the law has been.

Now, in an aviation modernization bill that is to modernize our air traffic control system, that will address the safety issues we want to make sure are the very best that we can provide for consumers and passengers, a bill that will provide a passenger bill of rights—when a passenger is in an airplane and it is delayed, there are going to be new rules; there will be plans that have to be submitted for airlines to take care of them—in a bill that has so much good, that came out of the Commerce Committee, of which I am the ranking member of the Aviation Subcommittee and Senator ROCKEFELLER is the chairman, it came out with complete bipartisan support. Now we have in the

package that is going to be put forward a rehash of long negotiations that were settled last year.

I will take a moment here to say that I had a very telling conversation with the CEO of a major international corporation based in America.

I said: Why are you opening plants overseas instead of America? Why are you sending jobs overseas instead of America?

This CEO said: Well, really, basically two things. One is, the regulatory environment is better overseas. And secondly, the regulatory laws are more stable.

I said: More stable? This is America. What do you mean? There is a country overseas that has more stable regulations?

He said: Absolutely. Because we can't count on the law being the law. We see time and time again Congress or a regulator coming in, after a law has been on the books, we have done things in compliance with the law, relying that it is the law, and Congress changes something that affects something that we have done in reliance on that law.

I said: If there is one thing that the United States should be able to do, it would be leading in stability in laws and regulations. Maybe there are too many laws and regulations. Maybe there are too many taxes. But at least we should be able to be stable. We are the greatest economy on Earth.

Yet here we have a prime example of a law that was passed, contributions were made from the company to these pension systems based on the law that was passed, thinking we had come to an agreement. It was hard fought. A deal is a deal.

Let's go back and look at that law. In 2006, Congress passed the Pension Protection Act. Included in that legislation was a change in funding rules for airlines that had chosen to freeze their defined benefit pension plans. I argued strongly at the time that the playing field should be leveled for those carriers that continued to meet their obligations. There was virtually unanimous support for this view in the Senate. But in conference, the chairman of the Committee on Ways and Means of the House, who is no longer a Member of Congress, refused a provision that would level that playing field. Accordingly, we reached agreement with the leadership of the Senate at the time that we would take the first available opportunity in the next Congress to rectify this inequity. That is why on January 4, 2007, my colleague from Texas, Senator CORNYN, and I introduced S. 191. This bill was referred to the Committee on Health, Education, Labor, and Pensions. My staff also provided it to Finance Committee staff and personally briefed them on the bill on January 26, 2007.

The bill, which was subsequently enacted into law, established funding rules that, while not as generous as those given to airlines that froze their plans, were at least more equitable and created a better unlevel playing field than we had seen in the 2006 bill. It was very clear, when we introduced this bill, that we had it out there for the purpose of everyone knowing that we intended to offer it when appropriate legislation came through. That is the way things work in the Senate.

The provision adopted by the Senate and agreed to by the House is the exact language we drafted in S. 191. It should be a surprise to no one that we would offer that bill at the first available opportunity, which was the last omnibus appropriations bill. There has been something said in writing in opposition to our amendment, that this was a big surprise that was crammed into the supplemental appropriations bill. It was not a surprise. It was out there in the open. All of the relevant committees had been briefed and knew this was a bill that was pending that would be available for amending a proper vehicle. The proper vehicle was the appropriations omnibus, because there was not anything else that was going through.

None of the airlines adversely affected by the proposed change in the pension laws has missed a pension payment under current law. The greatest risk to pensions is bankruptcy. I am not saying the proposal in the bill would necessarily result in bankruptcy of these carriers, although that has been brought up as one eventuality. But at the very best case, it is going to restrict their cash reserves precisely at a time when they need it the most. Jet fuel is now being sold at $160 a barrel. At these prices, it is a race against time for airlines to preserve their cash. For Congress to intervene now, undo a law that was passed and relied on by the airlines to restrict the flexibility of a few airlines that need the maximum flexibility to meet this crisis, would be irresponsible.

It is as if maybe some of our Senators who I think have very good motives are not realizing the situation today, which is 10 times worse than it was last year when this legislation was passed. Prices of oil have gone up. Every airline is on its knees. Everyone is struggling. We are seeing the beginning of mergers, which I don't like, but it is a free world, and I don't think we have the right to intervene. But I don't want to have fewer airlines. I want our airlines to be robust, compete, and do the best for their employees they can possibly do.

It is as if we are living in another world to think that this is not a crisis time for the airlines. I don't want to hurt the other airlines either. I have nothing against Delta and Northwest. I hope they survive. I hope they do very well, because the more airlines we have doing well, the better it is for consumers and passengers. But I want to make sure that airlines that have kept their defined benefit plans, that are trying to go the extra mile for their employees and do the very most they can, as they are at the same time struggling with the higher cost of fuel, especially, I don't think we ought to penalize them. I don't think we ought to retroactively change what they relied on and made contributions to their pension plans, relying that the law was the law, and that the Senate and the Congress was a body of intelligent people who could reasonably look at the economic news in the world and know this is not a time when we would destabilize and further hurt an industry that is so important to commerce and the overall viability of our country.

Let's put it on the table. In the past 5 years, American Airlines has made $1.7 billion in contributions to its pension plans, when—I may be wrong; I am not saying that I know exactly—in the last 5 years, I might remember two quarters, maybe three, where they have actually shown a profit. Maybe it has been 1 year out of 5. But every time I pick up the papers, I am not seeing airlines with robust profits being reported at the end of a quarter. Last year alone, as oil prices were going up—and jet fuel is even more expensive than gasoline—they made a contribution of $386 million, which is more than they needed to make to keep their obligations current. Under the rules in place today, before this change would take place, they are 115 percent funded.

Continental Airlines has made a $1.3 billion contribution to its defined benefit pension plan in the previous 5 years, including $336 million last year—significantly above the minimum funding required. So if there is anything our Senate ought to be able to do, it is, No. 1, when a law is passed and relied on, that we would not retroactively change that law to penalize one company in an industry. It is not the place of the Senate to pick winners and losers. We are the model of free enterprise in the world, and we must keep that stability.

Secondly, if the parts of the bill that are being added that are extraneous to the underlying FAA modernization bill stay in, it is going to bring down a great bill, a bipartisan bill, that my colleague, Senator ROCKEFELLER, and I have worked on very hard, along with Senator INOUYE and Senator STEVENS, the chairman and vice chairman of the committee.

We have all supported the bill that came out of Commerce almost unanimously. It has been a joy to work on a bill that provides a better consumer environment, a safer environment for passengers, that would modernize our air traffic control system even further, that would address the issues that have been raised in the last few months about passengers being held hostage on airplanes that are on the ground, and giving them rights, and requiring airlines to do right by them. It is a great bill.

But if we do not strike this pension plan—which I do not think is right in any sense of the word—if we do not strike this from the bill, and if we do not take out some of the other extraneous tax provisions we will deal with

later that do not have anything to do with aviation, it is going to do great damage to the flying public and to commerce in our country.

I urge my colleagues to look at the arguments and help us remain stable—as stable as an airline can be in this very volatile environment. Let's not change the rules. Let's not give advantages to one over another. Let's try to help all of the airlines make it, be profitable, be robust, provide competition, and, especially, give the very best benefits to their hard-working employees they can possibly do. And, please, let's do not penalize those that are going the extra mile and giving their employees what is becoming more and more rare in this country today, and that is defined benefits for their pension plans.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Montana.

Mr. BAUCUS. Mr. President, I yield myself such time as I might consume.

The ACTING PRESIDENT pro tempore. The Senator is recognized.

Mr. BAUCUS. Mr. President, on the surface, this is a complicated matter. Pension law is complicated. It gets into whether a company has a defined contribution plan, a defined benefit plan, issues such as: What is the assumed interest rate that applies to the pension plan? It is backwards: the higher the rate, frankly, the less of an obligation by the company to contribute to the plan. I think on the surface we would think it would be a little bit of the opposite. It gets into length of years, the time within which companies are required to contribute to their plan to fully fund their plan. It is very complicated on the surface.

It is very simple. This question we are dealing with here is very simple when you get down to what is going on around here. So I ask my colleagues to pay a lot of attention to the statistics and all the complexities at the surface, but pay more attention to what is going on here. After all the charts and all the statistics and all the stuff, what is going on here?

I think Senators and their staffs will find, when they do that, what is going on here is the question of—there are two questions here—do we want to keep the playing field level among the airlines? Airlines are going through some difficult times today, clearly. Fuel costs are high. There are other problems facing the airlines. But do we want the playing field to be level? The second question: Do we want to help provide adequate protection to the pension plans, to retirees? Those are the two basic questions.

So how did we get here? Back several years ago, after 9/11, and when the country was facing some economic difficulties, when pension plans were going belly up because companies, regrettably, were not adequately funding their pension plans—especially the defined benefit plans; to some degree, the defined contributions, but especially defined benefit plans—what did we do? We in the Congress exercised our responsibility to do something about all that. What did we do?

In 2006, we passed a pension bill. What did that provide? Well, we were kind of caught in the middle—Congress was—especially with respect to airlines because after 9/11, airlines were not doing well at all because people were not flying as much, and they were under significant stress and strain, and, at the same time, pension plans were not in good shape generally—not just airline pension plans but other companies' pension plans.

So we refined the law in 2006 to give much more protection to retirees in their pension plans because companies basically were not doing what they should have been doing back up to that time.

We had another little problem on the side, and that was airlines because they were under a lot more financial stress than other companies in the United States generally. So what did we do? We said: Well, we want to help the airlines. We do not want to hurt the airlines. We also want to protect the pension plans. So we raised the pension plan requirements that all companies must face.

But we gave a little break to the airlines. We gave a longer period of time in which they had to fully fund their plans. We said: For those that are in bankruptcy—there were a couple back then—you get a long time. You get 17 years. We will also give you a big, high interest rate. ''Big, high interest rate'' means it is computed at a greater rate of return on your assets so you do not have to contribute as much to the plan. We also gave a big break to the airlines that were not in bankruptcy. We gave them 10 years. The standard rule was 6 years for all other companies. We said: OK, you are in real stress. You get 17 years. If you are in some stress—not as much—you get 10 years. Those are companies that were not in as much stress. Those are companies that did not freeze their plans, whereas, those that had 17 years did freeze their plans. We said: OK, after 10 years and 17 years, the playing field will be back to level again.

A couple airlines with plans that were not frozen, that had the 10-year requirement—remember, the standard rule is 6 years, but they got the 10 years, not the 17 years—said: Wait a minute, you are helping those who are in bankruptcy too much at our expense. They said they were doing the right thing. So we said: OK—that is what this bill does—OK, we will give you virtually the same interest rate as the others. What does that mean? It means you do not have to contribute to your pension plan. You do not have to.

So we think that levels the playing field because now all companies will have to contribute to their plans, at least prospectively. We are saying to the other companies—the 10-year companies—you do not have to contribute to your plan up to today's date, up to 2008. You are free. You are off the hook.

So these arguments you hear on the floor that this underlying bill is putting financial stress on certain companies are not true because those companies will not have any obligation to contribute more to their pension plan for past liabilities, but they will currently.

We think that is a fair compromise. This is not a perfect world. But under our committee bill, it is clear it is basically a level playing field because all companies now will have the same computed interest rate to calculate what their assets are to indicate the degree to which they have to contribute to the plans.

Now the Durbin amendment says: No. No. We want to give a bigger break to the companies that do not freeze their plans that are not in bankruptcy. The effect of the Durbin amendment will be that those companies will not have to contribute to their pension plans. They have not, and they will not have to for a couple years in the future because the Durbin amendment gives a higher interest rate, which, in effect, means they will not have to contribute.

Well, if I am a retiree, and I work for one of these airlines, I would say: Wait a minute. I want to make sure I am protected too.

So, as I said, there are two questions here. Is the playing field level? And, are we going to protect the pension plans?

The effect of the committee bill is to level things off. It is not perfect, but it is almost perfect; where the effect of the Durbin amendment is to make it much less perfect and basically help a couple airlines that, as a consequence, will not have to contribute to their pension plans for past liabilities, and will not have to in the future either, because of the interest rate they provide for in their amendment, and other airlines will have to contribute into their plans.

I say the right answer here—airlines are squabbling among themselves over all this—the right answer is to keep it fair for everybody, have the same law essentially apply for everybody. The committee bill does that.

I might say also, we want to protect our pension plans because that was the whole purpose of the 2006 pension bill. The effect of the Durbin amendment is to say: No, these plans are not going to be protected as much under the Durbin amendment. That is not the right thing to do.

There are some who say: Gee, this is going to cause bankruptcies in the poor financial condition the country is in right now. That is a bogus argument. We are saying: Keep the playing field level. That is all we are saying in this committee bill. It is not going to affect the bottom line. Our committee bill will not affect the bottom line of these airlines because, basically, it is a cashflow issue because cash is transferrable between the plan and the

company. So it is not going to affect the bottom line of these airlines at all—the committee bill—nor will the Durbin amendment affect the bottom line. That is a bogus argument.

But the effect of the Durbin amendment is to give less protection to retirees—that is indisputable—less protection to retirees. And do not forget, under the 2006 pension bill, we were trying to give more protection to retirees.

Also, the second effect of the Durbin amendment is to unlevel the playing field. It favors certain airlines at the expense of others. I think the best policy is to protect pensioners and to protect retirees, and also to keep the playing field level. That is why I think it is better to not adopt the Durbin amendment.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Illinois.

Mr. DURBIN. Mr. President, I respect the Senator who is the chairman of the Finance Committee. It is one of the toughest assignments on Capitol Hill. He has adequately described what I think is the challenge of pension plans—how to make sure companies put the money in they promised, and to keep their promise to their retirees.

What I am saying is, the approach the Senator brings to the floor, in section 808, is opposed by the retirees and workers. They do not believe it is in their best interest. They certainly do not think it is in their best interest if their airline goes into bankruptcy. They know what has happened repeatedly. When an airline goes into bankruptcy, the first losers are the retirees and the pension benefits of current workers. They are worried, and they should be. Look at how precarious this industry is, with the jet fuel costs and the record losses these airlines are facing.

Secondly, I cannot quarrel with the chairman's premise about keeping the playing field level when it comes to airlines. But if that is the case, how can he explain to us that two airlines are treated so dramatically different than others? Delta and Northwest have 17 years to make their pension liability right. We assume they are going to earn 8.85 percent each year on their investments regardless of what they actually earn.

The airlines we are talking about have 10 years to make their pension liability right, and their assumption of interest is 8.25 percent. Doesn't sound like much. It has been dismissed a little bit here. But if you are talking about hundreds of millions of dollars that are being invested in pension funds, you can understand the impact this might have.

The last point I wish to make is this: Senator HUTCHISON and I wish to keep the status quo. The section 808 amendment we want to strike changes it. Under the current status, the largest airline affected, American Airlines, has 115 percent of funding—115 percent. They are not falling behind; they are keeping their word to their employees and their retirees. That is why I hope my colleagues will support our amendment to strike section 808.

Mr. President, I ask unanimous consent before yielding the floor that Senator BOND be added as a cosponsor of our amendment.

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

The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, I have some responses to the Senator from Illinois when we get back because they are bogus arguments.

I yield the floor.

JOINT MEETING OF THE TWO HOUSES—ADDRESS BY THE PRIME MINISTER OF IRELAND

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will stand in recess until 12 o'clock.

Thereupon, the Senate, at 10:31 a.m., recessed until 12 noon, and the Senate, preceded by the Secretary of the Senate, Nancy Erickson, and the Deputy Sergeant at Arms, Drew Willison, proceeded to the Hall of the House of Representatives to hear the address of the Prime Minister of Ireland, Bertie Ahern.

(The address delivered by the Prime Minister of Ireland to a joint meeting of the two Houses of Congress is printed in the Proceedings of the House of Representatives in today's RECORD.)

Whereupon, at 12 noon, the Senate, having returned to its Chamber, reassembled and was called to order by the Presiding Officer (Mr. CASEY).

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WEBB. Mr. President, I ask unanimous consent to speak for 10 minutes in morning business.

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

THE 33RD ANNIVERSARY OF THE FALL OF SOUTH VIETNAM

Mr. WEBB. Mr. President, today is the 33rd anniversary of the fall of South Vietnam, where the North Vietnamese offensive that had begun in the aftermath of a vote in this Congress to cut off supplemental funding to the Government of South Vietnam. This was combined with a massive refurbishment of the North Vietnamese Army that allowed an invasion to kick off at a time when our South Vietnamese allies were attempting to reorganize their positions in order to adapt to the reality that they were going to get markedly less funding from the United States in their effort to grow their incipient democracy.

I think it is important for us to look back on that event and to give credit where credit is due, and also to talk a little bit about the future of relations between our country and the present Government in Vietnam.

Too often in today's school systems and in the discussions that examine the Vietnam war, we are overwhelmed by mythology. In many cases, we tend to assume this was a war between the United States and Vietnam. Nothing could be further from the truth. This was an attempt by the United States to assist a government in the south that had been formed with the idea that it would evolve into a properly functioning democracy, in the same way that we assisted South Korea when it was divided from North Korea, in the same way that we very successfully assisted West Germany when the demarcation line at the end of World War II divided Germany between the Communist east and the free society in the west. We were not successful in that endeavor in Vietnam for a number of reasons. But it would be wrong to assume that this was an action by our country against the country of Vietnam. It was an attempt to actually assist that country.

There is a lot of talk about the domino theory and the heightened and unjustified warnings about what was going on in the rest of the region with respect to different efforts that were backed by the Soviet Union and Communist China at that point. But these were actually valid concerns at the time. Indonesia had suffered an attempted coup that was sponsored by the Chinese. We had a hot war in South Korea when North Korea invaded. This was a region in a great deal of turmoil, when you look back at the European powers that had colonies throughout Southeast Asia, which had largely pulled back after World War II because of the enormous costs of that war. It had shrunk back into their own national perimeters. The Japanese had colonized a good part of Southeast Asia, and after World War II they had withdrawn their forces. There was a good deal of turbulence, and there was a great deal of strategic justification for what we attempted to do.

The bottom line is 58,000 Americans were killed in action or died of hostile causes during the Vietnam war. We should remember them with the validity that their effort deserves. Mr. President, 245,000 South Vietnamese soldiers fought alongside us and perished; 1.4 million Communist soldiers died in that endeavor.

The events following the fall of Saigon on April 30, 1975, have never really been given the proper attention in terms of how we evaluate the history of what we attempted to do. One million of the cream of South Vietnam's leaders were sent into reeducation camps, and 240,000 of them remained in those camps for 4 years or longer; 56,000 of them died in the reeducation camps. This was the cream of South Vietnam's leadership—almost as many as we lost in the entire war. Two million Vietnamese were displaced, a million of them hitting the ocean, risking their

lives in order to try to reach a better life that would not be under the oppression of a government that had succeeded in conquering the south. Many of them came to the United States.

Many of the families whose fathers and, in some cases, mothers had been in reeducation camps were able to relocate here and begin a different life. A Stalinist system took over in the north. When I started going back to Vietnam in 1991, that system was very much in place.

We should look to the future. I believe there are two important things for us to keep in mind at this point in the evolution of our relations with Vietnam. First is that over a pretty rocky period of time, the Communist Government of Vietnam has made adjustments and positive contributions. This is not to say that we are in a perfectly beneficial relationship, but I have been pleased, since 1991, to participate in many of these endeavors to bring a more moderate society inside Vietnam and to assist in bringing in American businesses.

Vietnam and Thailand, in my view, are two of the most important countries in terms of how the United States should be looking at East Asia and Southeast Asia with the emergence of China, the emergence of India, and the evolution of Muslim fundamentalism that spills over in Southeast Asia into countries such as Indonesia, Malaysia, and the south Philippines. Vietnam and Thailand are very important to us, and the relationships evolving between Vietnam and the United States are healthy and in the long term are going to be successful.

The second thing we should remember is that there are many Vietnamese Americans in this country who suffered not only during the war, but after 1975. We tend to forget that with the reorganization of the society that occurred under Communist rule. I have spent a good bit of my life working to assist this refugee community in the United States. I also have been working to build a bridge between the overseas Vietnamese community and the ruling Government in Vietnam today. Through that bridge, we are going to have a much healthier society here and also a much more productive society in Vietnam.

Today, I wanted to do my small part in making sure we in this country remember not only a struggle that had a great deal of validity to it—even though it did not turn out the way many of us wanted it to—but also the positive aspects of our relations with Vietnam looking into the future.

With, I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. ROCKEFELLER. Mr. President, I honor, as always, the words and wisdom of the Senator from Virginia.

Mr. WEBB. I thank the Senator from West Virginia.

FAA REAUTHORIZATION ACT OF 2007—Continued

AMENDMENT NO. 4587

Mr. ROCKEFELLER. Mr. President, I rise in support of Senator DURBIN's amendment.

The debate is not about an arcane, technical pension funding rule. The issue before us is about whether thousands and thousands of airline employees are allowed to keep hard-earned defined benefit pensions or if we are going to regulate them or throw them out to the underfunded PBGC, which has so much debt that you cannot count the zeros. This issue is about whether we are going to send additional major carriers, who have so far avoided bankruptcy in these brutal financial circumstances, into a downward spiral. My premise is to hold the main carriers harmless. They are up against it, at the cliff. We should hold them harmless.

Adding this pension provision to the FAA bill would defeat the whole purpose of this compromise brokered by the Finance and the Commerce Committees, which was done with the underlying principle that we should hold the commercial airlines harmless during these turbulent economic times, which are expected to last. That is sacred. That is why it would be unwise to load up an additional liability on airlines trying to do the right thing for their employees.

It would be especially wrong to cause that result in a misguided effort to put the preservation of regular order before common sense—in other words, going around a committee. It happens. Airline employees will pay the unnecessary price for this change from current law. It cannot happen.

During these tough times of rising fuel prices and mounting financial losses, this is not the time to impose tougher, unrealistic pension funding requirements upon the airline industry. To do so would risk more bankruptcies and force carriers to dump their pensions into the woebegone PBGC. That would put in danger the economic security of workers who would prefer to stay employed and not have their pensions frozen.

In 2005, when the Senate was considering the Pension Protection Act on the Senate floor, we passed an amendment by voice vote that I cosponsored with Senator ISAKSON and Senator Lott. The amendment would have given all airline carriers substantial pension relief. The amendment did not pick winners or losers within the airline industry. It is not our business. Rather, it focused on keeping their defined benefit pension plans solvent.

Unfortunately, as Senator HUTCHISON pointed out, the final product that came out of conference in 2006 limited the pension relief the Senate sought to give all airlines. Led by—and I will say he is gone and I am not sad—the Ways and Means Committee chairman, Bill Thomas, the conference report chose winners and losers. It gave some carriers more pension relief than others, creating a competitive advantage for some carriers.

A number of Senators were not happy with the airline provisions bill, including Senators DURBIN, REID, OBAMA, HARKIN, MENENDEZ, LAUTENBERG, BILL NELSON, and a lot of the rest of us. They entered a colloquy on the floor arguing that this disparity needed to be dealt with.

That is why in last year's Iraq war supplemental appropriations legislation DICK DURBIN did the only thing that he had available to him to do, and with the strong support of Senator HUTCHISON, he sought to right this wrong and inserted a provision that brought the airlines up to par and gave them the necessary pension relief that they deserved. I understand this was perhaps not the best process. We are not a body known for our meticulous protocol. We are trying to get something in that is lifesaving for the Nation.

As a senior member of the Finance Committee myself, which has jurisdiction of pension legislation, I agree with Senator BAUCUS that it would have been more ideal to go through the regular order and have the Finance Committee review and vet the provision. The problem is that it wasn't going to happen.

However, airlines need and deserve pension relief. We cannot adopt the pension provision of the Finance Committee tax title and impose higher pension burdens upon five domestic airlines, which has been discussed by various people, during these tougher economic times.

Remember, hold legacy commercial airlines harmless. So we would be turning our backs on American, Continental, US Airways, Hawaiian, and Alaska Air. To do so would risk more bankruptcies and more job losses. I pointed out earlier that one out of every six jobs in the airline industry has been lost in the last 6 years.

In 2005, while we were debating the Isakson-Rockefeller-Lott amendment that brought all airlines equitable pension relief, I stated on the Senate floor that my goal was to protect the employees and retirees who worked so hard to earn retirement benefits, and that remains my goal today.

To deny disadvantaged airlines the relief they rightfully deserve in the Pension Protection Act and which the Senate voted to give them would be unfair.

I have the utmost respect for Senators BAUCUS and GRASSLEY. They are a superb team. They did their very best and did a very good job on the whole on the Pension Protection Act. But the Finance Committee in the Senate should not have received the dicta of the now thoroughly retired former Ways and Means Committee chairman. The former House majority succeeded with their desperate efforts to achieve questionable policy goals by holding long-awaited pension reform legislation hostage. But that was then and

this is now, and we should not give the former House majority the satisfaction of achieving their desired objective over a jurisdictional squabble, and that is all it is. It counts. I understand that. It counts. People lie on the floor to protect it, but in this case, we are dealing with something much larger.

We can do better, and that must begin by us stepping back and invoking the ''do no harm'' principle. America cannot afford another major bankruptcy to cripple our aviation system.

With all of my respect to the Finance Committee leadership, we just cannot do one more thing to jeopardize the health of our domestic aviation industry, particularly the commercial sector. The rest of it is doing very well. For that reason, I will support Senator DURBIN's amendment, and I urge my colleagues to do the same.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I take a view opposite what was just spoken by Senator ROCKEFELLER on the amendment that is before the Senate, the Durbin amendment, No. 1, because of a very carefully crafted compromise that was worked out when the pension reform bill was passed, and No. 2, the purpose of that legislation was to protect the pensions of the workers of the corporations of America, including the workers who work for our airlines.

What we are trying to do is stay within the realm of that compromise and the protection of workers' pensions. This effort detracts from it. I am trying to make sure workers' pensions are protected.

I am going to ask my colleagues to be against the Durbin-Hutchison amendment. The amendment before us seeks to keep in place a policy that is wrong from a pension policy standpoint. The amendment also would preserve a process followed against two committees with jurisdiction over pension policy—the Finance Committee and the Health, Education, Labor, and Pensions Committee. These two committees worked arm in arm for all of 2006 to get a pension reform bill together that would protect workers' pensions.

If the proponents of this amendment succeed in their effort, it will taint the legislative process with respect to one of the most important policy challenges before Congress, and this is strengthening retirement security.

The provision the proponents seek to strike is not only justified from a policy perspective—but the way in which the original provision of the Pension Protection Act was modified should raise the eyebrows of some of my Senate colleagues.

I would first like to walk my Senate colleagues through the yearlong conference negotiations of the Pension Act which occurred less than 2 years ago. But let me first remind my colleagues that the underlying intent of the Pension Act is to require defined benefit plan sponsors to fully fund their pension plans; in other words, keep their promise to their employees.

In nontechnical terms, the Pension Act makes sure plan sponsors are not digging a deeper hole by requiring plans to pay off their unfunded liabilities.

The Pension Act requires defined benefit plan sponsors to make contributions, one, to cover benefits accrued in the current year and, two, to pay off any unfunded pension liabilities or past liabilities over a 7-year period of time. A lot of people think we were not doing justice to the workers of America by giving these companies 7 years to pay off these past liabilities, but at least we have a plan in place that two committees of this Senate worked on that was a compromise that would bring us to the point where even after 7 years, workers' pensions would be protected.

There is an interest rate issue with a lot of pensions—the interest rate used to determine these past liabilities based on the yield curve of high-quality corporate bond rates. Currently, the corporate bond yield curve rate is approximately 6 percent. The Pension Act provided two exceptions to this general rule. The exceptions were specifically provided for certain commercial airline carriers that may have had difficulty meeting the general requirements within the bill. In other words, we were taking into consideration 2 years ago the very critical and—how would I say it—very unpredictable future of airlines. That is something that was legitimate at the time.

There were exceptions for these commercial airline carriers. Under the first exception, carriers that froze their pension plans were permitted to pay off any past pension liabilities over 17 years—that is instead of 7 years—and use in the process an 8.85-percent interest rate to calculate past liabilities. And that would be instead of current law, which is a 6-percent rate. Under the second exception, carriers that did not freeze their pension plans were permitted to pay off liabilities over 10 years instead of 17 years, if they chose the other course, and use the current 6-percent rate instead of the 8.85-percent interest rate.

During the Pension Act negotiations, those airline carriers freezing their plans were permitted to take advantage of the first exception. We were aware at that time that these carriers pledged to make new 401(k) contributions on behalf of current and new employees in their union negotiations.

Those airline carriers that did not freeze their plans did not need to make the same pledge for a 401(k)-type retirement because these carriers continued their pension plans. The workers for these carriers continued to accrue benefits under the pension plan.

The opponents of section 808 do not understand or maybe they choose to ignore that this was a carefully crafted compromise which was intended to place workers of each of these carriers in a similar position from a retirement perspective. Workers of carriers that did not freeze their plans continued to accrue their usual pension benefits. Workers of carriers that froze their plans received retirement benefits under 401(k) plans. Under each approach, the carriers remain obligated to pay their retirement benefits that accrue in the current year.

This was a proworker, proparticipant approach that recognized the financial distress the airline industry was experiencing. It also recognized the differences in the financial health of the carriers that froze their pension plans and the financial health of carriers that did not freeze their retirement plans.

The amendment's proponents are now saying they want the same set of rules that were offered to carriers that froze their plans.

What is on the books that we in the Finance Committee are trying to correct in this legislation is that we gave maximum flexibility to airlines to choose one plan or another, the one that fit, whether they wanted to freeze their pension plans or not freeze their pension plans. And if they froze their pension plans, they chose a future 401(k) for their employees. It was maximum flexibility because these union agreements were much different among the airlines and the financial conditions of the airlines were very much different. We wanted to give choice for flexibility for the financial management of the corporations to keep their promise to their workers, and we wanted to keep our promise that Congress made under our laws that workers' retirement ought to be protected. So there was maximum flexibility.

OK, everybody agreed to this, and then later on, people wanted to change the rules in the middle of the game to benefit one airline over another airline. So the proponents of the present law, the present distraction from our compromise that was made less than 2 years ago, will tell you that just before passage of the Pension Act, an agreement was reached with Senate leadership that the Senate would take the first available opportunity in the next Congress to offer the same set of rules to carriers who do not freeze their pension plans. If that is true, then why did we worry and try to make this compromise over a period of 7 months during 2006? We wouldn't have had to spend the time to do that.

On January 4, 2007, Senator HUTCHISON and Senator CORNYN introduced a bill that loosened the rules for those carriers that did not freeze their plans. The bill increased the current interest rate of 6 percent to 8.25 percent, which, in their view, is closer to the 8.85-percent rate given to frozen plans.

The bill was referred to the Health, Education, Labor, and Pensions Committee. I don't recall Chairman KENNEDY and Ranking Member ENZI considering the Hutchison-Cornyn bill in

the normal course of the committee process. I know for a fact that neither Chairman BAUCUS nor I considered the Hutchison-Cornyn bill in the Finance Committee.

Language that was identical to Hutchison-Cornyn was slipped into the war supplemental conference agreement. This action was taken without consideration by the two committees of jurisdiction over pensions, the very same two committees that worked for several months during 2006 to work out this carefully crafted compromise that took into consideration the financial conditions of the various airlines, the desire of some airlines to freeze their pensions and substitute 401(k)s and those airlines that wanted to keep their pension system going as was, without any consideration to the people who worked on this for so long.

It was slipped into the conference agreement of an appropriations bill. Isn't that the process we here in the Senate are trying to put an end to? No promises were broken. The promise to make the rules the same was taken up in this Congress. Specifically, the Senate Finance Committee included the provision we are debating today and the modification of the chairman's mark of the Federal Aviation Administration authorization bill. The mark was considered by the full Senate Finance Committee in September of last year. The full committee overwhelmingly supported that provision and favorably reported it out of committee. Proponents of this amendment cannot stand on the Senate floor and cannot in good conscience argue that promises made to them were not kept.

Let me remind my colleagues that we here in the Senate have a committee process which enables Members to debate and dispense with issues in an orderly process. Without this orderly process, the democratic process our Founding Fathers gave us breaks down. I didn't serve as chairman and now ranking member of the Finance Committee to let an orderly and democratic process break down, particularly considering the months of compromise the House and Senate took to work out what that pension bill was all about.

For my Senate colleagues to suggest that a provision that was not considered during the normal course of the committee process is making good on a promise that was made to them—I think that is not acceptable. For my Senate colleagues who, alternately, contend that the promises that were made to them were not kept, I ask them why they did not speak up during the full and open deliberation that occurred in the Finance Committee in September. Why are they now opposing a provision that was out there in the clear light of day for over 7 months and, if they had problems with the provisions, not speak to us about them? Or is it that the airline carriers that oppose this provision finally woke up? I don't know. Did they wake up to the fact that their blatant end run around the committee process would not go unnoticed and they wanted to find some way to undo the careful compromise of 2006? I am skeptical, of course. ''Skeptical'' is an understatement.

But let me turn to the policy in the Finance Committee bill. As we have established, opponents of that provision successfully increased the interest rate for nonfrozen plans to 8.25 percent. They say the 8.25-percent rate levels the playing field. I admit that and agree with them. But it only levels the playing field in the context of calculating past liabilities. So I agree it is equitable to allow all the carriers to use the more favorable interest rate to calculate past liabilities, but it is not equitable to allow carriers that did not freeze their plans to underfund benefits earned in the future and maybe get us back to the position we are still in somewhat, even regardless of the law that is now on the books. This is what is going to happen if we do not do something about it right now.

I would like to correct the manner in which my distinguished colleague from Illinois—and he is here on the floor—refers to the now infamous 8.25 percent, versus the 8.85 percent. These are not ''earnings rates.'' The rates are not used to determine the value of plan assets. Instead, the rates are discount rates that actuaries use to determine the present value of pension liabilities. Basically, the rates are used to determine how much a company has to contribute today to make good on the promised pension payments that would be due when an employee retires.

This is an important distinction because when a company uses a higher interest to project the present value, the company is able to understate—or I would use the word ''mask''—the promised pension payments. This understatement allows the company to contribute less money to the plan. Less money to the plan is an important distinction because we are talking about protecting workers and their pension rights.

Why would a worker support a policy that places the full value of their promised pension payments in jeopardy? My colleague from Illinois contends that the workers of the carriers in question support this practice and, of course, the Durbin-Hutchison amendment. Most workers I know ask for bigger payments or at least want to make sure they are secure in retirement. It is usually management that wants to short the worker. That is why we get into the trouble we are in and why the Pension Act of 2006 was necessary.

But let me get back to what the war supplemental actually accomplished. Carriers that are currently using the 8.25-percent interest rate are now permitted, No. 1, to mask the pension plan's unfunded liabilities and, No. 2, contribute less money to a pension plan. The greater extent to which a pension plan is underfunded, the greater the risks to the Pension Benefit Guaranty Corporation, the Federal insurer of the pension plans. Then, obviously, if that comes up short, the taxpayers pick up the bill.

Opponents of the Finance Committee provision argue that the most important risk factor for the Pension Benefit Guaranty Corporation is the financial health of a plan sponsor. This is not entirely true. Whether a plan is underfunded is an equally important risk factor. Specifically, if the company goes into bankruptcy and pushes the pension liabilities onto the PBGC, guess who is holding the bag for those unfunded liabilities—it is the PBGC. In the most extreme cases, then the taxpayers might be left holding the bag.

My opponents cannot tell half of the story. Yes, the financial health of the plan sponsor is important, but so is the funding status of the plan. What we have here is an issue of underfunding. I told you that from an actuarial perspective, higher interest rates mean lower plan liabilities. When a plan's sponsor uses a higher interest rate to determine its liability, the sponsor is effectively masking the plan's liabilities. In other words, the plan's liabilities are artificially understated. I want to emphasize the word ''artificial'' because what we have here is a case where the carriers that oppose the Finance Committee provision are trying to take advantage of a special funding rule based on an artificial funding status.

I went to great lengths to say to my colleagues during 2006 how we tried to take into consideration—between the two committees, the Labor Committee and the Finance Committee—considerations of the different financial conditions of the various air carriers and to give them some choice. Specifically, if a plan sponsor using the normal 6-percent rate is 100 percent funded, the plan sponsor is only required to contribute money to cover the current year's costs. If the plan is, say, 115 percent funded, the plan sponsor may use the excess to cover the current year liabilities. In some cases, the plan sponsor will not have to contribute any money because the excess would cover the current year costs. Carriers that are using the 8.25-percent are contending that, because their plan is 116 percent funded, they do not have to make the current year contribution. The problem here is that the 116-percent funding status is artificial. It is artificial because the 8.25 rate effectively masks the underfunding of the plan.

So I ask my Senate colleagues, should a plan that is artificially funded be permitted to avail itself of a rule that is only available to plans that are adequately funded? Or put another way—this is fuzzy funding math. It is fuzzy in the way it puts the plan at risk. Should plans that are artificially funded be allowed to skip making their current year contributions? In that case, are they not just digging the hole deeper?

The Finance Committee provision says that if these carriers use the 8.25-percent rate, which results in an artificial funding level, these carriers cannot skip their current year's contributions. So the Finance Committee provision makes good on the promise that was made to Senators during the year 2006; that is, that we are allowing carriers that did not freeze their plans to use a more favorable interest rate to determine their past liabilities—the same deal that was given to frozen plans. What we are also saying, however, is that if you are using the more favorable rate, you have to contribute the current year's cost. That is the grand compromise of 2006.

Again, the same deal was given to the other set of airlines and/or other corporations—to freeze their plan. To do otherwise would, No. 1, adversely affect active workers and, No. 2, allow these carriers to dig a deeper hole by allowing pension liabilities to continue to grow.

Moreover, taxpayers can end up being on the hook for these unfunded liabilities.

It all comes down to this bottom line: Workers, retirees, and taxpayers are in better shape if there is more money in the retirement plans. Workers, retirees, and taxpayers are in worse shape if there is less money in the retirement plans. Management wins if the company puts less money into the plan and workers, retirees, and taxpayers lose.

A vote for this amendment is a vote to put less money in the retirement plan. A vote against this amendment is a vote to put more money in.

Let me make sure I said that right. A vote for the amendment is a vote to put less money in the retirement plan. A vote against the amendment is a vote to put more money into the retirement plan. If you vote for the amendment, you are putting workers and retirees—and you ought to be concerned about taxpayers, most of all—at risk.

I hope my colleagues join me in opposing this amendment.

I yield the floor.

The PRESIDING OFFICER (Mr. MENENDEZ). The Senator from Illinois.

Mr. DURBIN. Mr. President, I greatly respect the Senator from Iowa. I know he may have to leave, but I do have to tell him I disagree with several things he said.

First, the point he raised: Why wasn't I in the Finance Committee stating my position? I am not a member of that committee and I do not know the procedure that was followed by the committee.

I will tell you, in this Federal Aviation Administration authorization bill, this is the only pension provision. To think this is a pension bill and we should have been forewarned that airline pensions would be part of the discussion about keeping America's skies safer and air travel safer came as somewhat of a surprise.

I learned of this amendment last week. I have known for a long time the position of the chairman and ranking member in opposition to my position on this issue, and I knew the day would come when we would revisit it.

But there are several things here which I think have to be said: First, freezing a pension plan might not sound like much unless you are a retiree. A frozen pension, which is what we are talking about with some airlines, would disqualify new workers from qualifying for the pension and restrict the airline from expanding any benefits under the retirement plan.

That is a frozen plan. That is what happened with several airlines as they faced and went into bankruptcy. They froze their plans. They said to their retirees: Times are tough. We cannot cover new employees. We cannot give you anything more; it is frozen.

Now, they were given pretty good treatment by the Finance Committee. In fact, they were given the most preferred treatment of any corporations in America. They were allowed to fund their pension plan over a longer period of time than any company in America, 17 years, and they started with an imputed assumption of 8.85 in terms of—as the Senator from Iowa called it the discount rate or others, the interest rate. But they were given this preferred position. It applied to two airlines, Northwest and Delta.

Now, what about the rest of the airlines? They were put in a different category. In their situations, airlines such as American Airlines did not freeze their pension plans; new workers came into their pension plans; benefits could be improved in their pension plans.

They were told: You will not be given the preferred treatment given to those that freeze their pension plans. It seems like it is upside down. You would think we would be benefitting those companies that are trying to do better by their employees. But, instead, we went the other way and said: We limit their catchup funding and liability to 10 years and the imputed interest to 8.25 percent, not as good a deal, and in the world of hundreds of millions of dollars, a very expensive difference between frozen pension plans and those that still have active defined benefit plans.

So now comes the argument with this new amendment in the Federal Aviation Administration authorization bill, that we have to freeze the current level of contributions being given by the airlines. Well, let me give you an example of what that means. In the instance of American Airlines, they have not only funded their liability to 100 percent, they have added more, despite the tough economic times.

Their funding level is 115 percent. It is not as if they are trying to pull anything over on their workers and retirees, they are putting more money in than they are required, even in these tough times.

The effect of this amendment, if it is not removed, is to hold them at that 115 percent contribution. What does it mean to the airlines such as American? It means $1 billion over 5 years. It means $200 million each year to keep the funding level way beyond the 100 percent that is necessary.

Now, if these were prosperous times, and these were companies that were making money, having record profits, you might be able to make that argument. I am not sure how, but you might be able to make it. But exactly the opposite is true.

I think the Senator from Iowa knows as well as I do how many airlines have gone bankrupt. The first time I met the Senator from Iowa, we were flying together on Ozark Airlines. That goes back a few years. Then we were flying together on TWA. That goes back a few years. And these airlines are gone. In the last few weeks, another five airlines are gone. This is a very risky business with the cost of jet fuel.

To say: Well, this will not hurt the airlines, another $200 million a year, just have them keep overfunding their pension liability is to ignore the obvious. As dangerous as it may be to have an unfunded pension plan, it is even more dangerous to be working at a company that goes into bankruptcy. I have been with companies that have gone through this PBGC. They do not always come out whole at the end of the day. There are limits on what the PBGC will pay, in terms of outstanding benefits to workers. They can end up with less.

So what we have is a circumstance where the Finance Committee is wanting to roll the dice. They want to bet that American airlines in general, not the American Airlines but American airlines in general, that do not have frozen benefits plans are going to start making a lot of money. They seem to think the price of a barrel of oil is going to go down; they think the cost of jet fuel is going to go down; they think these airlines are going to be flush with cash and be able to overfund their pensions.

Well, that is one possibility, but you would have to say, looking at what has happened over the last several weeks, not very likely; it is more likely that airlines will continue to face the pressure of increasing energy and fuel costs, more airlines will be flirting with bankruptcy, they will be struggling to meet the bottom line.

United Airlines laid off 1,000 workers last week, a $500 million loss in the first quarter. I think it is the largest they have ever sustained. Things do not look that rosy.

What Senator HUTCHISON and I are saying is be careful. Do not toy with the pensions of so many workers. Do not bet the farm, even an Iowa corn farm, on the possibility that things are going to get better for the airlines. Be conservative. Be careful. But protect the workers in the meantime. So as you listen to the Senator from Iowa close and say: Well, if you want to put more money in the pension system,

vote against this amendment. If you want to take money out, vote for it.

I would say to the Senator, there is only one problem with his argument: 150,000 of the 180,000 workers affected by your amendment support the Durbin-Hutchison amendment. They believe it is far better to maintain the current system of funding, not jeopardize these airlines so they might go into bankruptcy, have fair funding that makes sure these retirement benefits can continue to be paid. That is a fact.

When Senator BAUCUS, the chairman of the committee, came to the floor earlier, he said he wants to level the playing field. Well, the current law is already unfair. The field is far from level. And section 808 makes this inequity even worse, even worse.

It tips the playing field heavily on the side of Delta and Northwest at the expense of the other airlines, the five that would be hit by this. I urge my colleagues, if we are going to err, let's err on the side of caution. Caution tells us: Good funding of the pension liabilities in a difficult economic climate, with airlines going into bankruptcy, listen to the workers whose pensions are at stake and vote for the Durbin-Hutchison amendment.

I yield the floor.

The PRESIDING OFFICER (Mr. SALAZAR). The Senator from Texas.

Mr. CORNYN. Mr. President, I am proud to join Senator DURBIN and Senator HUTCHISON, the senior Senator from Texas, along with Senators BROWN, VOINOVICH, Senator BILL NELSON of Florida, and Senator LAUTENBERG from New Jersey in support of this amendment which would strike section 808 of the FAA reauthorization bill.

I would like to explain why. The 30,000-foot view is, if enacted, it would impose a significant and unfair burden on airlines that have done the most to provide for secure retirements for their former employees or their employees who will retire.

This amendment will make sure Congress does not jeopardize the pensions of 50,000 of my constituents in Texas who depend on the airline industry for their retirement, their nest egg, that they will retire on when they leave active duty.

Also, if this amendment is passed, it will relieve a significant competitive disadvantage some airlines, not coincidentally a couple headquartered in my State, American and Continental, would operate under, if the Finance Committee proposal would prevail.

That is why I support striking section 808 of the FAA authorization bill. Section 808 would undermine the ability of some airlines to maintain their commitments to their workers at a time when our economy is becoming softer and more questions than answers are apparent with regard to what our economic future, at least in the short term, is going to look like. It would reduce the financial flexibility of airlines, precisely at a time when they need it the most.

Now, I think a little refresher on recent history is important. Because what has actually happened is, in 2006, the Pension Protection Act was passed, and to be blunt about it, what happened is it benefitted airlines such as Delta and some others around the country, while American and Continental were basically told to wait, there will be an opportunity later on to come back to take care of your concerns and level the playing field and to eliminate the preferential treatment that was given to some other airlines during the Pension Protection Act of 2006.

So patiently we waited. Last year's supplemental appropriations bill was the vehicle we used to correct the inequitable treatment created for airlines such as Continental and American in the Pension Protection Act of 2006. The act included language that is in the supplemental appropriations bill, language out of S. 119, that I introduced with Senator HUTCHISON. As I said, it corrected the inequity that was earlier created in the Pension Protection Act of 2006.

But now, section 808 in the Finance Committee provision would simply undo the corrective action that Congress undertook in the supplemental appropriations bill I mentioned a moment ago. It should not be a part of the bill, I would also say, that is about improving and modernizing the air traffic control system in this country. Why would we be messing with the pensions of 50,000 Texans who depend on those two major airlines for their retirement benefits in this bill? It makes no sense.

I believe it is unfair and would reverse the corrective action we were able to accomplish in last year's supplemental appropriations bill. I have worked hard, along with my colleagues I mentioned, to make sure those folks who work in the airline industry will have a pension when they retire. I will continue to do so. I sincerely believe that passing the Finance Committee provision, section 808, would jeopardize their retirement benefits; could, in all probability, result in more airlines becoming bankrupt with tremendous uncertainty injected in terms of how their pensions would be protected.

At a time when airlines and their employees are facing enormous challenges, Congress should not pull the carpet out from under their feet and get in the business of picking winners and losers by giving some airlines preferential treatment over other airlines.

I wish to extend my gratitude to the Senator from Illinois, Mr. DURBIN, and my colleague, Senator HUTCHISON, for their leadership on this issue. I am proud to join them in this bipartisan amendment, which would strike section 808 of the FAA authorization bill, as I have described, and would, I think, make sure that what we do is keep the level playing field, not jeopardize the pensions of thousands of airline workers and would comport with fundamental fairness and equity.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. SANDERS. Mr. President, I ask unanimous consent to speak for 15 minutes as in morning business on the energy crisis taking place in our country.

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

ENERGY CRISIS

Mr. SANDERS. Mr. President, I think virtually everyone in America understands our country is in extremely difficult straits; that the middle class is collapsing; that poverty is increasing; and that one of the immediate factors that is driving so many Americans over the edge is outrageously high energy prices.

This impacts every community in America, but it especially impacts rural States such as the State of Vermont, where workers are forced to drive long distances to work and end up spending an inordinate amount of money at the gas tank.

It is not uncommon in my State for people to travel 100 miles a day to work and back. If you do the arithmetic, you will find that in many cases, as oil prices and gas price have risen, people today are paying $1,000 a year more than a year and a half ago to fill up their gas tanks.

If you are a worker earning $30,000 or $35,000 a year, and you got a 3-percent increase in your wages, that is pretty good; in some cases all of your wage increase is going down that gas tank. You have to pay higher health care costs, higher educational costs, higher property taxes, and you are in a lot of trouble, which is why the middle class in America is, in fact, shrinking significantly.

Not only is this a major crisis in terms of what is happening at the gas pump, there is also severe worry about what happens next winter when people have to fill up their home heating oil furnaces and stay warm in the winter in States such as Vermont.

I can tell you that all over my State, a lot of senior citizens and other people are extremely worried about how they are going to stay warm next winter with the price of home heating fuel soaring to the degree it is.

Meanwhile, while prices at the gas pump are soaring, while home heating oil and diesel fuel are soaring, the profits of huge oil companies are going up to recordbreaking levels; hedge fund managers make billions speculating on oil futures, and OPEC continues to function as a price-fixing cartel in violation of World Trade Organization rules.

The average price for a gallon of gas recently hit a record breaking $3.60 a gallon, which has more than doubled since President Bush has been in office. The price of diesel fuel is now averaging over $4.17 a gallon, which is a $1.36 more than a year ago, and the price of oil is well over $114 a barrel. These prices say it all. What they say is we have a national emergency on our

hands. It is absolutely imperative for the Congress to begin to act in order to lessen this onerous burden on tens of millions of families. These record-breaking oil and gas prices at the pump are impacting not only consumers of oil and gas but, obviously, our entire economy. They are impacting family farmers, small businesses, airlines, grocery stores, restaurants, tourism and, of course, the price of food. This national oil emergency demands both short-term and long-term solutions.

One of the issues that concerns me is, I hear people getting up and saying: Long term, we have to transform our energy system away from fossil fuel to energy efficiency and sustainable energy. There is nobody in the Senate who believes that more than I do. We are on the cusp of a major transformation of our energy system. We need an Apollo-type project to invest heavily in wind, solar, and geothermal energy efficiency. We can do that. In the process, we can create millions of good-paying jobs. We have made a start in that direction, but we have not gone far enough. But to say we must focus on long-term solutions does not mean we can ignore the immediate crisis. Yes, we have to break our dependency on fossil fuel, but that is not going to solve the problem for a worker in Vermont who is paying $3.50 for a gallon of gas today. We have to address his and her problem as well. So it is not either/or. Yes, we break our dependency on fossil fuel and move to sustainable energy, but we also address the crisis of today. We tell workers all over this country that we understand they cannot afford to pay outrageous prices for gas.

There have been literally dozens of ideas from both sides of the aisle, good ideas, an understanding of the crisis as to why oil prices are soaring and also good ideas as to how we might solve the problem. I applaud all of those Senators who have come up with ideas. But it seems to me if we are going to be successful in helping the average American, we have to come forward with a comprehensive package. It is not good enough to say: I have an amendment in this bill and I have some language in that bill which may come about in 2 years or may never come about, and I have something over there. What we need is a comprehensive piece of legislation which understands the cause of this crisis is not just one thing—it is a multipronged problem which is causing oil prices to soar, and we will not solve this crisis through one simple action. We need a series of actions, but we have to bring our solutions together in a comprehensive package which says to the American people if that package is passed, oil and gas prices are going down. That is what we need to do.

I have been working with a number of my colleagues in order to do that. Let me briefly talk about what I believe should be in that package. It is about four provisions that could play a major role in lowering gas prices today. First, we need to impose an excise tax on the profits of the oil and gas industry. The American people simply do not understand why they are paying record-breaking prices at the pump while ExxonMobil has made more profits than any company in history in the last 2 years. Last year alone, ExxonMobil made $40 billion in profits, and they rewarded their CEO with a $21 million package in total compensation. A couple of years ago, they rewarded their former CEO, Lee Raymond, with a retirement package of $400 million. But it is not ExxonMobil alone. We have seen BP come in the other day with a 63-percent increase in their profits. Shell made a huge increase in their profits.

Since President Bush has been President, the five largest oil companies have made over $595 billion in profits, and that number is only going to go up as the oil companies report last quarter's profits. Last year alone, the major oil companies made over $155 billion in profits. People are sitting at home saying: I can't afford to fill up my gas tank to go to work, and ExxonMobil and Conoco and Shell, all the big oil companies, are making huge profits. What is the Congress doing about it?

Well, up to now, the truth is, the Congress is doing nothing about it. Obviously, the President is not doing anything about it. But I think most people understand the President and Vice President are never going to do anything to represent the interests of ordinary Americans. The question is, what do we do about it? The time is now that we should move forward with an excise profits tax. If we enacted a 23-percent excise tax on oil company profits, that would bring in about $35 billion this year. That sum of money would be enough to provide a 6-month suspension in Federal gas and diesel taxes and would also allow States to suspend all or part of their gas and diesel taxes as well. In other words, we are not just talking about Federal taxes; we are talking about State taxes. That would lower gas prices at the pump by almost 37 cents a gallon and up to 48.8 cents for diesel during the next 6 months. Is that going to solve all of the problems? No. But if you can't afford to get to work right now, it will help. Having an excise profits tax on the oil companies is only one of the things we should be doing.

Congress has to also address another area where there is strong evidence that speculators, both in hedge funds and in other financial institutions, are driving the price of oil to outrageously high levels. What we have to address is undoing the so-called Enron loophole. This loophole was created in 2000, as part of the Commodities Futures Modernization Act. At the behest of Enron lobbyists, a provision in that bill was inserted in the dark of night with no congressional hearings. Specifically, the Enron loophole exempts electronic energy trading from Federal commodities laws. Virtually overnight the loophole freed over-the-counter energy trading from Federal oversight requirements, opening the door to excessive speculation and energy price manipulation. Of course, nobody knows exactly what the impact of the Enron loophole is. But we do know huge amounts of money are being made, not simply in the production of oil but in driving oil futures prices up.

Let me quote Stephen Simon, a senior vice president of ExxonMobil, on April 1, 2008, in recent testimony before the House:

> The price of oil should be about $50 to $55 per barrel.

Right now it is more than double that. He attributes the addition, the almost doubling of the price, to speculation that is taking place.

Closing the Enron loophole would subject electronic energy markets to proper regulatory oversight by the Commodity Futures Trading Commission to prevent price manipulation and excessive speculation. I applaud Senators LEVIN, FEINSTEIN, DORGAN, and others who have focused on this issue. In addition to an excise profits tax on the oil companies, we must go after the speculation on the part of people within hedge funds and in the financial institutions industry who are simply playing games, making money, and driving the price of oil up. Those are two important steps we must take to lower the price of gas and oil.

Thirdly, the Bush administration must stop the flow of oil into the Strategic Petroleum Reserve and, in fact, release oil from this Federal stockpile. At a time of record-breaking prices, it makes no sense to continue to take oil off the market and put it into the Strategic Petroleum Reserve. This is not just my opinion. We have seen staff at the Strategic Petroleum Reserve recommend against buying more oil for the SPR in the spring of 2002. This is not a new idea. The truth is, this is an idea that has been used before under Democratic and Republican administrations. For example, when President Clinton ordered the release of 30 million barrels of crude oil from the SPR in 2000, the price of gas fell by 14 cents a gallon in 2 weeks. When the first President Bush released 13 million barrels of crude oil from SPR in 1991, crude oil prices dropped by over $10 a barrel. This is an approach which has been used in the past. It has worked in the past, and it is something we should do right now. That is the third provision I believe we should undertake.

Further, and in terms of where I think the comprehensive package should be, we must begin to address the OPEC cartel. I hear a lot of folks around here talk about the wonders of the free market and capitalism and free enterprise. But every single Member of the Senate understands that by definition, OPEC is a cartel. That is what they are. They are a group of oil-producing nations that come together

to control oil production, to limit oil production, and, therefore, to artificially raise the price of oil. That is what a cartel is, and that is what OPEC is doing.

In that regard, we have to do two things. No. 1, the President must file a complaint with the World Trade Organization. The truth is, OPEC itself is a violation of the rules of the WTO which is presumably about creating the free flow of goods and free trade. On the surface, OPEC is in violation of those rules and agreements. The second thing we must do is to tell people in Saudi Arabia, Kuwait, people whom American soldiers died for in 1991, when Saddam Hussein invaded Kuwait: Friendship is a two-way street. We protected you in 1991. Now the United States economy and much of the world's economy is in serious trouble. What you, Saudi Arabia, have to do is increase the production of oil.

My understanding is that right now Saudi Arabia is producing less oil than they did 2 years ago. There are experts who believe Saudi Arabia can produce almost 2 million barrels a day of oil more than they are currently producing.

So that is where we are. Where we are right now is, we have a national crisis. We have working people suffering and wondering about how they are going to be able to afford to get to work or keep warm in the wintertime, at the same time as oil companies are enjoying recordbreaking profits, and at the same time as speculators are making billions and billions of dollars in profits.

Now, it is no secret—everybody knows—that the oil and gas industry is enormously powerful. Everybody understands these people have spent hundreds of millions of dollars in the last 10 years on lobbying, and we know their lobbyists are hard at work at this very moment. We know those people have contributed hundreds of millions of dollars in campaign contributions. That is the reality and that is the American political system. That is the way it is. It is a system we have to change, but that is the way it is.

I think the time is now for the Congress and for the Senate to begin to stand up to these very powerful special interests. I think we need a comprehensive energy approach, and I have outlined it. I think we need a long-term approach moving away from fossil fuels to sustainable energy. I think we need a short-term approach, and I have outlined the four provisions I believe should be in it.

Let me conclude by saying this: The crisis we are facing as a nation is not just an energy crisis. It is a crisis as to whether the American people have faith in their own Government, in the people they elect. It is no secret that the President's approval ratings are perhaps as low as any President in American history, and the approval ratings of this Congress are even lower. That is the simple reality.

We are a democratic society. When people have problems, they look to their elected officials to respond to those problems and, hopefully, to address them. If we cannot do that, I am not quite sure why we are here. If the oil companies and the gas companies are so powerful with all of their money and their lobbyists and their campaign contributions that we cannot address the crisis facing working Americans, well, maybe we should rethink about what we do here.

But I think we can do something, and I have outlined what I think is a series of ideas that, if passed, would address, in a very significant way, this crisis. I look forward to working with my colleagues to do just that.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mrs. MURRAY. Mr. President, I ask unanimous consent to speak as in morning business for 10 minutes.

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

FORECLOSURE CRISIS

Mrs. MURRAY. Thank you, Mr. President.

Mr. President, as I come to the floor to speak this afternoon, millions of Americans are struggling to hold on to their homes in the wake of the foreclosure crisis. Thousands of them have lost their jobs, just in the last couple of months. Millions more are finding it harder just to get by because sky-high oil prices are forcing many of our families to pay more at the pump, more at the grocery store, and more in their power bills.

Yet while all of these working families are scrimping so hard today, the economic downturn has not even registered for one segment of America—big oil. The major oil companies reported their profits this week, and they are seeing record increases.

ConocoPhillips reported first quarter profits of $4.1 billion. That beats their previous record by $600 million. Shell and BP are also reporting huge gains.

Americans do not have to look very hard to figure out where the responsibility lies—why oil companies are seeing their profits soar—while working families are watching their bank accounts bottom out. Over the last 7½ years, Republicans have backed an energy policy that does very little but gives big oil companies tax breaks and special favors. Meanwhile, our middle-class families today are paying the price, and they know it.

In the first month of the Bush administration, oil prices averaged $29.50 a barrel. Almost 8 years later, that price has quadrupled. It is almost $120 a barrel this week.

When President Bush first took office, Americans were paying just $1.46 a gallon to fill their gas tanks. Last week, gas prices averaged a whopping $3.60 a gallon.

I went home last week—like I always do—to Washington State, where drivers are paying even more. A gallon of gas in Seattle, WA, costs $3.70; up in Bellingham, near the Canadian border, $3.80.

Families across my State are telling me they are cutting back on everything from shopping errands to summer vacations, and they are pretty angry they have to pinch their pennies while oil companies are making record profits.

When I travel around my State, gas prices are one of the first things people come up and talk to me about. They have written me countless letters about this.

For example, there is a stay-at-home mom from Yakima, WA, who wrote me that she worries every single day because her husband now has started riding a motorcycle to work instead of his car in order to save money on their gas bill. She wrote to me, and I want to read to you what she said. She said:

> It is unnerving to think of him riding his motorcycle after working a 10-plus hour shift. . . . It does not seem fair that my middle class family has to choose between paying the doctor—or putting gas in [our] car—while oil companies are making record profits.

High gas prices are not just affecting our drivers. Industries from shipping to trucking to commercial fishing in my State are all hurting. Our farmers in Washington State are especially concerned. We have thousands of farmers in Washington State. They grow everything from apples to wheat. They have to plow their fields and harvest their crops. Cutting back is not an option for them. They have no choice but to absorb the cost of fuel.

One woman—from the southern Washington farming community of Goldendale—just wrote to me that she and her husband are finding it hard to pay for groceries. I want to quote what she said:

> We, the little people, are struggling. Meanwhile, the gas companies are still netting billions. When is it going to stop? Something needs to be done to stop the nonsense.

That is how a farmer's wife from southwest Washington sees it.

Republicans have supported the energy policy of tax breaks for the oil companies because, they say, oil prices would be higher without them. But even President Bush said that was not true. In April of 2006, he said:

> Congress has got to understand that these energy companies don't need unnecessary tax breaks like the write-offs of certain geological and geophysical expenditures—or the use of taxpayers' monies to subsidize energy companies' research into deep-water drilling.

That was President Bush.

The reality is, not only have Republicans allowed oil companies to make record profits while gas prices have soared, but their policies have made us

more dependent on foreign oil than ever before. That has put our economy and our national security at risk. The amount of money we have sent to OPEC countries, such as Saudi Arabia, has skyrocketed from $41 billion to $140 billion since 2001. Just this week, the president of OPEC said oil prices could go as high as $200 a barrel.

Now, I come to the floor to talk about this today because over the last several days we have seen a parade of Republican Senators coming to the floor complaining about high gas prices. In many cases, they have been blaming Democrats for failing to address this crisis over the past 16 months. They are bringing out charts that show the price of gas when Democrats took over in Congress and the price now, and they ask all of us to simply forget the real reason for this crisis; that is, the misguided energy policy this administration has pursued for over 6 years.

But I have to tell you, the people in my State and the American people are not going to forget. They are not going to forget it was this administration that asked oil and gas companies to write that energy plan. They are not going to forget that the only real idea coming from the other side is to drill our way out of this problem. And they will not forget this is an administration closer to the oil and gas industry than any in U.S. history.

Now, we are not going to forget either, and that is why we are fighting for change. We have already won higher fuel economy standards and new investments in renewable energy sources. We all know we need to do more. We know that Americans cannot rely on big oil to solve our energy problems.

People in my home State of Washington are worried. They are worried about the future. They want to be sure their kids are going to have economic security. They want a solution to our energy problems that is going to keep us safe and protect our environment for the long term. Democrats have been fighting for policies that will help cut our gas prices, help to create jobs, and help keep our air and our water clean and, importantly, our Nation secure. We are going to keep up that fight. We know it is not going to be easy. The oil companies and those who support them are not going to give up on the status quo. Still, I hope our friends on the other side of the aisle will see what I see when I go home: Americans have had enough. I hope they will join us in investing in America's future and putting our working families first again.

Thank you, Mr. President.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

(The remarks of Mr. KENNEDY are located in today's RECORD under ''Morning Business.'')

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

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

The Senator from New York is recognized.

Mr. SCHUMER. Mr. President, I ask you to let me know when I have spoken for 10 minutes.

The ACTING PRESIDENT pro tempore. The Chair will advise.

ENERGY

Mr. SCHUMER. Mr. President, I rise today to address a serious issue and that is the dramatically rising cost of energy and its impact on American families. The problem with rising gas prices compounds the pain felt in the American economy. Today we learned the economy had stalled to a paltry .6-percent growth rate. If you factor out the highest 10 percent in income, the remaining 90 percent of Americans are clearly experiencing a recession. Only people at the very high end—the wealthiest, the best educated, by and large—are experiencing significant increases in income, and when you factor that out, everybody else is experiencing decreases in income. The vast majority of Americans are already in a recession, and they do not need any statistic to tell them that.

It is also obvious from today's data that the entire economy has stalled. The last time we had two significant quarters such as this, we were battling a recession in the 1990s. Americans are being squeezed at every possible pressure point—at the gas pump—I am going to talk about this issue later—the grocery store, by their mortgage company, and by their employers. Just because President Bush will not say the word does not mean Americans are not feeling like we are in a recession. If we look at income numbers for most Americans, that is absolutely true.

It is long past time for the President to work with the Congress to help get this economy and American families back on track. If President Bush simply gives speeches and brings out the same old saws, we know he does not want to work with us. He is simply trying to say: I am out here talking about this, but there is no real solution. Imagine, the solution to the oil crisis is ANWR, the Alaskan oil reserve, which has been defeated even in a Republican-controlled Congress, which would not produce a drop of oil for 10 years and would bring no relief to the American driver. But I guess it is better than saying nothing, at least if you are the President of the United States.

With regular gasoline prices in States such as mine already over $3.75 a gallon—over $4 a gallon in many other States—and with the entire national average threatening to surpass $4 a gallon this summer, it is no surprise Americans are outraged as they hear about record profits for both the big oil companies and OPEC. Sometimes I wonder if there is any difference because OPEC and the big oil companies are almost always in cahoots.

Gas prices are 63 cents higher than last year, more than double in the time since President Bush took office, and they show no intention of slowing down. Shockingly, our very own President responded with a surprise to a question at the end of February about the likelihood of $4-a-gallon gasoline by saying:

> That's interesting. I hadn't heard that.

Well, Mr. President, I hope you hear us now because gas is at $4 a gallon already in many places in America, and it is only going higher. The only people who are happy about $4-a-gallon gasoline are big oil companies and OPEC in the Middle East.

We know the reason prices keep going up, of course, is in good part, world demand is increasing. We know, too, in the long run, we will not be able to reverse this price increase if we do not have a real energy policy. In fact, we have had no energy policy since President Bush took office. If you think it is energy policy to say let the oil companies do what they want, you are sadly mistaken. That is why we have $4-a-gallon gasoline.

This administration's energy policy is simply of, by, and for big oil and OPEC, of course, their partners, their buddies benefit. So in the long run, we need a comprehensive plan. We need conservation—that is the cheapest and easiest way to get lower prices—and we need new production of alternatives and also, in a reasonable and sound environmental way, new production of fossil fuels in America.

But we are also looking for some short-term ways to reduce the price of gasoline because even should we embark on a long-term energy policy that makes sense—and I am hopeful under the next administration, the new President, she or he, will make sure that happens—there are things we can at least attempt to do in the short term because people cannot wait 4, 5, 6 years to begin reducing the price. Even if tomorrow we were to implement a comprehensive policy, it would not be enough, it would not happen quickly enough.

So what can be done in the short term? One of the most important things that could be done quickly in the short term is to increase supply in existing reserves. The one country that has ample supply and has held back is our good ''ally''—and I use that word in quotes—the Saudis. The Saudis should

begin to understand that their relationship with America is a two-way street. They want our weapons, they want our troops to provide them with protection, but then they rake us over the coals when it comes to the price of oil.

The Saudis and big oil are in cahoots, and this administration has coddled both of them for far too long. There is no better evidence of this cozy cooperation than BP and Shell reporting record earnings this week and ExxonMobil and others on deck to do the same.

The bottom line—the sad bottom line—is the whole Bush tax cut for middle-class families this year will line the pockets of OPEC. Let me repeat that. The whole Bush tax cut for middle-class families this year will line the pockets of OPEC. People will pay out more because of the increase in energy prices than they got back on any tax rebate. The stimulus checks we are all so proud people are receiving, the stimulus checks families will receive in the mail next month will, in all likelihood, go to paying eye-popping gas and grocery bills this summer and end up in the coffers of countries such as Saudi Arabia. Therefore, people will pay more for gasoline this year than they will receive from their stimulus checks. It is galling to think our stimulus checks will be lining the pockets of OPEC.

Yet despite all this, last week, Saudi Arabia's Oil Minister said there was no need to increase supplies by even one barrel of oil. However, as they are saying no, no, no to U.S. consumers, the Saudis are planning to double oil production for China.

Despite record billion-dollar profits, it seems the big oil producers, such as Saudi Arabia, the United Arab Emirates, and Kuwait, are willing to turn a blind eye to the supply demands and leave Americans with skyrocketing prices at the pump. In Saudi's case, they have not produced as much oil in the last 2 years as they did in 2005.

I urge my colleagues to take a look at this chart when they get a chance because it says it all. Here is Saudi oil production in 2005. It is lower in 2006 and lower still in 2007. This is not new production they have to explore for, this is not something where they have to change things around. They can order the new production and we could have millions of extra barrels of oil a day out there in the markets within a month or two, and the price would come down significantly.

The countries are putting profits straight into their pockets. So that is why I, along with four others of my colleagues, have demanded the Bush administration stipulate that Saudi Arabia, the United Arab Emirates, and Kuwait must increase their oil production or risk that Congress will block their lucrative arms deals while they stick it to American consumers at the gas pump.

The administration has proposed selling roughly $14 billion in arms to gulf countries that are members of OPEC, and it is clear to us that without pressure from this administration, oil prices will continue to rise as countries such as Saudi Arabia will continue to reap the reward of high prices.

It is terrible that this administration, after making the American taxpayer foot the bill for its war in Iraq, is now rewarding the very countries that are driving up the price of oil.

Congress has the authority to block these arms deals, and we want to put the administration on notice that if they fail to deal aggressively with OPEC countries that are not producing at their full capacity, we will seriously consider blocking this and other arms deals.

On their face, I question the merit of these deals, $14 billion in arms, but it is particularly egregious when Americans are paying through the nose to put money in the pockets of the administration's friends in the Middle East. OPEC nations may have to protect themselves with these weapons systems, but American consumers and our economy also need protection from high oil prices, exacerbated by OPEC's stranglehold on supply.

The administration needs to use all the leverage it has to influence the OPEC cartel to stop manipulating the world's oil supply to its member nations.

Again, to those who say we cannot do anything in the short term to reduce prices, look again at this chart. Saudi production in 2005, Saudi production in 2006, Saudi production in the last full year we have numbers for, 2007, it is lower and lower. The Saudis have not kept the supply flat; they have decreased it at a time when the world is thirsty for oil.

At a time when the world is thirsty for oil, we know they are driving down supply, increasing the price. Yesterday, President Bush said there is not much you can do about the price of oil. Mr. President, we beg to differ. Get your friends, the Saudis, get your close buddy, the King of Saudi Arabia, to begin producing more oil. If they produce half a million more barrels of oil a day, the price would come down a very significant amount and at the same time it would stop the speculation that keeps driving up the price of oil. We would get a double benefit.

We need to ask ourselves what the economic consequences are for our Nation—not only from the long and expensive war in Iraq but from this administration's cozy relationship with the only international organization he seems to have any high regard for—OPEC.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Texas is recognized.

Mrs. HUTCHISON. Mr. President, we have been talking about the Durbin-Hutchison amendment during most of the day. I have heard some of the debate going back and forth. I want to address some of the issues raised in the debate, trying to stop our amendment from going forward.

First, let me say I so appreciate Senator DURBIN joining with me to make sure we have a bipartisan effort that stands for the companies that are trying desperately to keep their defined benefit plans for pensions for their employees.

These airlines that are doing this are doing it at the same time that the price of jet fuel has gone up exponentially. For instance, since January 2007, a little bit more than 1 year ago, the price of jet fuel has increased 107 percent. Continental Airlines' year-over-year increase in fuel costs is approaching $2 billion. This year, American Airlines' fuel bill is going to be $9.3 billion. Everybody who is driving an automobile to their job or to pick up their children from school knows how much it costs to fill up the tank of a car. Just multiply that for an airline whose entire business is flying back and forth across the country and across the globe. You can imagine what that does to the bottom line of a business.

Here we are, looking at actually three airlines that are trying to make their benefits the most generous they can be while they are looking at rising fuel prices that are about to sink them. They are all showing unprofitable months and quarters. Now we have legislation coming forward that would take away a law that was passed last year that attempted to equalize the airlines that have benefit plans that are defined benefits and plans that are defined contributions, which are 401(k)s. We want to keep the playing field as level as we can. If you put on top of that the fact that the timing of this could not be worse because of the rising fuel costs, it is just impossible to imagine that the Senate will do this.

The underlying provision, it has been suggested, would have no effect on the bottom line. Of course it is going to have an effect on the bottom line. It requires full funding of pension obligations, irrespective of past overfunding. In plain English, the carrier must come up with more cash, even if they have overpaid. According to one carrier, the new cash demand would be $1 billion over the next 3 years. Where are we going to find that amount of cash?

Domestic fare increases are not even covering the rising cost of fuel. As compared to January 2007, the price of jet fuel was 65 percent higher and domestic average fares have risen 9 percent. You are beginning to see they are not going to be able to recover this at the fare box. But if we pass this legislation requiring one airline, instead of putting in $80 million, to put in $350 million, how is it going to offset those higher costs? There is only one way, and that is higher ticket prices. Are we going to pass a law that is going to raise ticket prices at a time when the airlines—and every American—are feeling the pinch of this economy? I cannot even imagine we would do that.

I have also heard it argued that the provision in the bill that we are trying to eliminate is fair. The truth is the current law is equitable and fair. Changing the current law in the manner suggested would treat two carriers differently from the other carriers that do not have defined benefit plans. We had the equity debate. The current law is the product of that debate. Ask the carriers if they think the current law is equitable. They will say yes.

The carriers that are not affected by this have told me they are agnostic on this issue. They are not pushing for a competitive advantage because I think all the carriers know that this is not the time that anybody wants to go into bankruptcy and they do not even want their competitors to go into bankruptcy because we can't handle the commerce in this country without the airlines we have operating without a disruption.

We settled this debate. We settled it in 2006. It was undone. We settled it again in 2007. The law we passed must be adhered to because these businesses made decisions based on the law.

The employees of these airlines will be the biggest losers if this bill is allowed to stand with this provision in it. Senator DURBIN and I are trying to take this provision out to protect the employees and to, hopefully, keep the airlines from having a hit they cannot take right now.

I have heard the argument on this floor that the amendment we are putting forth would mean less money to employee pensions. It is exactly the opposite. The carriers that are hurt by this provision are trying to do the right thing by maintaining their pensions and providing their employees with strong retirement benefits. In fact, these impacted carriers have been prepaying their pension obligations in good years, showing their employees they are committed to these benefits. The excess contributions helped ensure that, in tough times, if cash becomes tight, the pensions of these hard-working employees are protected and funded. If the pension rules are changed to disallow the flexibility of using past excess contributions, they will actually discourage overfunding of pensions. The carriers will only provide the minimum contributions in order to preserve cash in difficult times.

Some have challenged this claim on the belief that cash contributed to pensions can be pulled out in tough times, so they wouldn't be in any way discouraged from overcontributing to pensions. But this is not true. Once cash is contributed to the pension plans, it cannot be taken out. In fact, that is one of the reasons the current law allows companies to offset ongoing pension costs with previous overfunding. If they couldn't do it, a company would never put extra cash into pension funds. Instead, they would put it in a bank account where they could get it out. In the end, a carrier would never contribute in excess to the plan because they just couldn't do it.

Employees are at risk with the underlying provision we are trying to take out. The cash demands this language places on the carrier trying to secure solid pension benefits for its employees will simply be too high. If we destabilize this environment, we could very well jeopardize the ability of these carriers to weather the current storm, and the outcome would be devastating to employees. Bankruptcy is not kind to employees. Ask any person who has worked for a company that has gone into bankruptcy. Whether it is their present livelihood or their pensions, the employees would lose. That is why they support striking this provision with our amendment.

The current pension laws for air carriers are fair and equitable. They do not need changes. They especially do not need changes retroactively, after they have made decisions to overfund pension plans based on the law as it is today. The change could lead to disastrous consequences for impacted carriers and especially for their employees.

Why would we take such a risk? We should be doing everything to help these companies during difficult operating environments, not destabilizing them, not giving advantages to some in the industry.

No one in the industry is asking for this. This is something that has come up seemingly because there were process arguments about what bill the fix went into. The bill that the fix went into was the only available bill where you could put an amendment, and the amendment had been given to all of the relevant committees, so they knew what we were trying to do. There was nothing hidden. There was nothing sudden. Everybody knew we were going to try to correct the inequities, as we have all negotiated at the table to do. If you ask any of the carriers I have spoken to, no one is asking for this to be retroactively fixed in a different way from the present law, a law that has been relied on.

The bottom line is some airlines have overfunded their pension obligations because they had cash and that is where they wanted to put it, to assure employees of a safe and sound pension system, more than the law required. American Airlines is 115 percent funded. But that was always done because, under the present law, you had the flexibility to just catch up with the current obligations with a credit for the overobligation as these airlines are working out their pension plans according to the law we passed last year and the year before.

I hope we can get a vote on the Durbin-Hutchison amendment. The members of the committee who have worked on this—the Commerce Committee, Senator ROCKEFELLER, the chairman of the Aviation Committee—have been very supportive of us having our bill, which we worked so hard in a bipartisan way to produce, which has such good effects for the aviation industry, not to be hobbled by an extraneous issue that has been put in by another committee that does not have the aviation jurisdiction but is a tax committee.

I hope we will keep the underlying bill, which is very solid. Senator ROCKEFELLER and I, Senator INOUYE, and Senator STEVENS have worked very hard. We have a great bill. It is a bill that will fund more safety measures. It will put more inspectors in the FAA. It is a bill that has a passengers bill of rights—Senator BOXER has worked on this for a long time. It will assure that passengers who are stranded in a plane that cannot take off will have accommodations for comfort or they will be able to get off the airplane—something we have never had before.

It is a bill that will modernize the traffic control system so we will have more service in our country. This bill has so many good features. I hope we can pass the Durbin-Hutchison amendment that will keep the bill intact that was hammered out by the Commerce Committee and not have it taken down by a tax bill, most of which has nothing to do with aviation at all.

The aviation part of the bill is great. It is a good, solid compromise. But the pension and the extraneous provisions are going to sink this bill, and it will be a sad day for the consumers in the aviation system in this country if that happens.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

The Senator from West Virginia is recognized.

MISSION ACCOMPLISHED

Mr. BYRD. Mr. President, tomorrow we mark the fifth anniversary of the now infamous ''Mission Accomplished'' speech which was delivered by President Bush on the deck of the USS *Abraham Lincoln* on May 1, 2003.

Five years ago, I took issue with the President's choreographed political theatrics because I believed then that our military forces deserved to be treated with respect and dignity, and not used as stage props to embellish a Presidential speech.

The President's declaration of ''Mission Accomplished'' and the ''end of major combat operations'' proved wildly premature and dangerously naive. The complete lack of foresight and planning by the President for what lay ahead became tragically clear in short order. Our Nation continues to pay the price every single day. More than 97 percent of the more than 4,000 Americans killed in Iraq lost their lives after

the President's flashy declaration of victory.

Years from now, I expect that history books will feature the sorry ''Mission Accomplished'' episode as the epitome of this administration's reckless and arrogant foreign policy, which has reaped disastrous consequences for our Nation and the world. We have seen a President who is eager to use American troops for a political backdrop, yet who is seemingly indifferent when it comes to providing those same American troops with the equipment they need, quality health care, or a real plan for ending this terrible war.

President Bush has said that history will judge him on his decision to go to war in Iraq. I say that history is already delivering its verdict. It is evident in the strains of the long and multiple deployments that are wearing down our mighty military, and in the sufferings of the American people as they bury their fallen heroes. It is evident in the fear and distrust with which the rest of the world views us, and in the instability wracking the Middle East, Iraq, and Afghanistan as a result of the Bush policies.

President Bush has recklessly squandered more than 200 years of American leadership, American good will, and prosperity. If that is what he was aiming for when he took office, then he can claim ''Mission Accomplished.'' That is his legacy. As we write the next chapter in our Nation's history, let us commit to building a new legacy that restores the promise of America, both at home and around the world.

Mr. President, I yield the floor.

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

The PRESIDING OFFICER (Mrs. MCCASKILL). The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. ROCKEFELLER. Madam President, I wish to inform the Presiding Officer of a quandary. We have in front of us a bill which would come close to rescuing the aviation industry of the United States of America. It is a bill that the aviation industry supports. It is a bill that the general aviation community supports. But it is not supported by a couple of Senators, with their reasons, and we find ourselves, therefore, in a position not to be able to move forward in the short term. It is one of those situations when the more you wait, or the greater the disagreement, the more people dig in.

I wish to offer my feelings which are that in a big bill such as this, which I think would be the biggest policy bill this Congress has passed this year if we were to do it, there are always areas of disagreement. The trick is to work out those areas of disagreement. That is what the floor of the Senate is for. That is what negotiations are for.

But I do want people to understand that in the interests of protecting certain prerogatives, protocols, our aviation industry as a whole is being ignored and thereby threatened. If we were to put up some purportedly helpful amendments, we have no idea at this point how they might turn out. So there are really a couple of people who control this entire situation. As long as they remain negative, there is very little we can do that we can count on turning into success.

The aviation industry, just in my State, as I have explained a number of times, is a $3.4 billion industry that employs 51,000 people. That is something almost nobody does in a State as small as West Virginia. But we have to work this through. Everybody can't come out an exact winner. If I were to line up one side versus another side, I think having an aviation industry, giving them the confidence to go forward, the passing of this bill would be like an increase in their bond rating, certainly psychologically, and it would give them the confidence that we are trying to do the right thing by them.

In doing that, we have held all of the commercial aviation airlines harmless so they will not have to pay any more fuel tax than they do today, which is about $10.7 billion, and adding a small portion of fuel tax on to the general aviation industry so they would be paying about a billion dollars.

We found a mechanism, being clever but correct, to actually raise $400 million a year for the life of this bill. Of course, there would have to be other bills to get us on our way to building a $20 billion to $30 billion to $40 billion air traffic control system which is sufficient for the needs of the aviation industry. I know the Presiding Officer has an amendment which I would support, and there are others who have—they just don't want to—I don't know how to put it, but they just don't want to lose their position in all of this.

So the question is, What do we do? I am just here to report that we are hard at work. Everybody is working feverishly in back rooms—that is in a good sense—the Democratic and Republican cloakrooms. Senator HUTCHISON and I are in precise agreement on all of this, and it is a bipartisan bill. It has enormous consequences to the economy of America, to the passengers who are held hostage by delays and maintenance problems. Sixty-eight rural States have had airports entirely removed from service which were previously served. It is very painful if you are from a rural State. It sort of defines the meaning of being cut off from the rest of the world. That is not important to some people, but it is very important to those of us who come from a rural State, and to be quite frank, every one of us comes from a rural State in some part.

So what I am saying is, the stakes are extraordinarily high. It is, in my judgment, and on a bipartisan basis, an amazingly one-sided case. You protect your legacies; that is, your commercial airlines, you get the support of the general aviation community which has an enormous number of airplanes with millions more to come, and you get the financing to start on an air traffic control system which is behind that of, as I have said today several times, Mongolia. Landing aircraft by ground radio and x-rays is not really the way to run a safe system. We have had so many close collisions that have been averted only at the last moment by air traffic control folks and very quick-witted pilots. Hundreds and hundreds of deaths could have easily resulted.

So I think it is a choice of the people doing the negotiating or the people who want to block the people who are doing the negotiating to think in very clear terms about what is important. Is it pride? Is it the future of the aviation industry? We haven't passed any bills in Congress on our side, and this would be a major accomplishment. But that is not important. The importance is it would save an aviation industry, and they believe that because the bill carries on for a number of years. They would begin to get their safe landing system.

So people must be wondering what is going on, and I just wanted to report that people are at work, hopefully in good faith, trying to get a parliamentary situation or an amendment situation or whatever that works our way through this crisis.

In the meantime, we are on hold. I wanted to make that report to the Senate.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. MENENDEZ. Madam President, our Nation depends on our system of air travel to do business, to visit family and friends, to connect us with the world. We depend on the Federal Government to keep an eye on that system and to make sure air travel is as safe as humanly possible. But over the last 7 years, the American people's trust in the Federal Aviation Administration has come crashing down. When we learned that the FAA had allowed hundreds of flights on planes with cracks in them, that was just the latest abuse of our trust.

It seems as if we are finding new regulatory problems in American aviation every day. With every new headline and every whistleblower who comes forward, we learn that something else has gone wrong—something that could inconvenience us, at best and, at worst, claim human lives. Meanwhile, the FAA is enveloped in a cloud of cronyism and neglect. Whether we are

talking about managing delays, maintaining safety, or managing its employee relations, the FAA has constantly let us all down and put us all at risk.

Last month, we found out that Southwest Airlines was allowing dozens of planes to take off without inspection. We found out American Airlines was flying planes for weeks that had potentially dangerous wiring problems. When the news got out, thousands of Americans saw their flights canceled while airlines scrambled to comply with safety guidelines they should have been following all along.

Why did it take so long for the FAA to notice?

A few weeks ago, one FAA employee testified before Congress that when he found out these planes were flying with cracks and complained about it, Southwest contacted the FAA, and he was removed—removed—from his role of overseeing the airline. Other employees who complained were encouraged to transfer or removed from their posts.

Now, what is the FAA—the Federal Aviation Administration—supposed to be doing? Job 1, it seems to me, is to ensure the safety of the flying public. I know they have this dual mission. I have always wondered about that dual mission of safety and promoting the industry—the other mission. But safety is job 1—job 1.

When they take employees who come forward and say: Look, there are cracks, maybe we should not let this airplane take off, or a series of airplanes take off, and because the company objects, it gets them hauled off of the job, or when others come forth and they are told: Well, maybe you should consider transferring, it simply undermines the very essence of what is job 1. The message that was sent is: If you are an inspector, don't do your job too well or you will lose it.

Those are not the only safety concerns. The people of my home State of New Jersey have reason to be worried about safety at our airports. We just learned that Teterboro Airport, which is one of the small but one of the busiest airports we have in the region, has one of the highest numbers of near-misses in the country. A few months ago, at Newark Airport, two planes came within seconds of crashing into each other. There was a similar incident in December and three near-misses last May. How many serious close calls do we have to live through before the FAA takes this problem seriously?

Not only is the FAA failing to do due diligence on behalf of the people in the air, they have risked the well-being of people on the ground as well.

A while back, the FAA decided to redesign the airspace around some New Jersey, New York, and Pennsylvania airports. Now, I have been a big supporter of airspace redesign since when I was first in the House on the Transportation Committee. We live in the most congested airspace in the Nation. We are in somewhat of a straitjacket. But the redesign should have been done in such a way that not only did we do something about delays, which this redesign does not do very much about, but it should not have the pounding decibels of noise upon communities that this new redesign does.

They decided to change the flightpaths—and it is fair to do that every now and then—but they forgot one thing: They forgot to listen to the people who are going to be flown over. When they rearranged the flightpaths, the FAA simply did not account for air noise and how it affects people's lives. I am not talking about simply being bothered by a little noise. I am talking about the pounding and pounding and pounding of decibel levels that actually affect hearing.

Some of the communities have populations that are least likely to be able to be in a position to do something about it. They forgot about people such as Ray Bennett, who lives in Westville, NJ. He has lived there for nearly 40 years. In all those years, he could not remember a single plane flying directly overhead, especially at low altitudes. Now, since the FAA rushed to implement this plan, not only is there noise, but it is noise that causes his windows to vibrate and keeps him up at night. Imagine that. In the comfort of your own home, in a place where you should be able to find your own peace and quiet with your family, one day the Government decides to turn the volume level way up by running jet planes over your house regularly. Ray has seriously thought about moving out of his home, and it is hard to blame him. This is not a case of one or two isolated households. Planes are now flying directly over the center of the city of Elizabeth, NJ, affecting tens of thousands of people.

The effects go beyond annoyance. It can cost people money by reducing property values. In the midst of a nationwide housing crisis, in a time when far too many New Jerseyans are facing foreclosure, skyrocketing electricity and home heating costs, and the specter of $4 per gallon gasoline, the last thing they need is for air noise to bring down their property values.

It is almost no wonder that we are seeing this agency become so out of touch, considering how toxic the working environment there has been. In addition to the FAA's questionable safety record, there is also the issue of its hostile relationship with its own employees. Experienced air traffic controllers are leaving their jobs at an alarming rate, and the FAA is struggling to attract, train, and keep new ones. But instead of trying to work with the unions to try to finally implement a contract, they fan the flames by publicly suggesting that if the controllers do not like working for the FAA, they should reconsider their line of work. With this kind of working environment, it is no wonder we have a shortage of experienced controllers working to keep our skies safe.

We are talking about increasingly—and I fly, obviously, quite a bit, certainly to my home State of New Jersey through Newark International. But in the whole region, and across the country, where we have controllers—trainees, I should say. They are still not fully controllers. It takes about 5 years to fully train a controller. Trainees can only do part of the segment necessary, whether it be on takeoffs, whether it be on landings, or whether it be about controlling the airspace, as delays take place and aircraft are made to be put in holding patterns.

So imagine you and your family are up in an airplane and you are dealing with, increasingly, individuals who do not have the full certification to do all of these elements together, which is what we would like to see—for them to have the expertise. Because we can spend all the money in the world—and I appreciate the bill does move us forward in modernization and technology, and that is critically important—but at the end of the day, we can have the best technology in the world, but if, in fact, we do not have the human capital to make that technology work successfully, then, in fact, we have failed. That human capital happens to be the air traffic controllers. At the end of the day, all the technology in the world will be used by those individuals. Human capital in this regard is incredibly important. The FAA has disdain for them. I believe they are the critical nexus to the safety of the flying public. So you are seeing a system that is on a path to becoming slower and less safe because experienced personnel are colliding with management.

When you have problems that are so widespread and an institutional culture that shows no sense of urgency, it is not just about one employee or another, it is about a lack of leadership. That is why Senator LAUTENBERG, my colleague from New Jersey, and I have placed a hold on the nomination of Robert Sturgell as the FAA Administrator, and we will continue the hold until the FAA truly addresses these and other concerns.

We have no choice but to use every tool at our disposal to make this unresponsive bureaucracy do what is right for the well-being of the American public. If the public's concerns are not being addressed at the FAA, we will have to make sure they are addressed in Congress.

Which brings me to this bill. We have an opportunity—and I salute Senator ROCKEFELLER and the members of the Commerce Committee who have worked with him to bring this bill to the floor—we have a tremendous opportunity with this authorization bill to set some things right.

This bill makes smart investments to make air traffic safer. It upgrades our aging airport infrastructure.

The bill improves the oversight of airlines and the FAA. This legislation makes great strides in making air travel safer not only in the skies, but on the runways.

But I also believe the base bill can have some improvements, so at the appropriate time—I want to talk about a few of them now—I will be offering some amendments to it. The first is to strengthen the provision with reference to the revolving door between the FAA and the airline industry and end the cozy relationship between safety inspectors and the airline industry. We have to have faith and confidence in the people who are critical to making sure that when we fly, we are flying in airplanes that are as safe as safe can be; that they are not compromised. I appreciate what the committee did in the bill, but I think there are some elements of it that can be strengthened.

The second amendment will require the FAA to monitor the air noise impacts of the air space redesign and simply provide that data to the public. I don't even understand why the FAA has no intention—no intention whatsoever—of monitoring air noise as a result of the redesign. I think the public has a right to know what health consequences there are in that redesign, and that is a minimal—a minimal—amount of information and transparency that we should be allowing the flying public to have and the communities that are affected to know.

The third will help local communities coordinate with nearby airports to plan compatible land use and mitigate air noise and to receive grants from the FAA to do so. This is incredibly important. There are several communities, I am sure, across the Nation, but in our State in the city of Elizabeth, which is the third largest city in the State, it is pounded, pounded, pounded away—schools have actually held a press conference at one of the schools. I don't know how students learn at that school, because all you hear is one constant drone of jet noise. I can imagine a teacher in the classroom having to overcome that challenge day in and day out to keep the attention of the students. We should have the ability to make sure that in fact there is mitigation money for that noise, and we look forward to being able to offer that.

The last amendment we are considering is to address the growing problem of low fuel landings. We have had a whole host of low fuel landings at Newark International. That means you are sitting on an airplane and because the industry is trying to save money, they have less fuel in the aircraft and now, because you have been put in delays and holding patterns, it gets pretty low, maybe dangerously low. We want to know what is the level of that and what is the reporting of that so we can make judgments—and certainly so the FAA can make judgments—along the way. We think that is incredibly important.

Finally, one of the worst casualties of the Bush administration is how much trust the public has lost in their Government. We lost trust when the administration flew us into Iraq on the wings of a lie. We lost trust when millions of dollars in tax breaks were given to those with million-dollar bank accounts while the middle class saw their economic situation get worse. And at the very least, at the very least, we should be able to trust our Government to keep us safe when we take to the skies. That is the core mission of the Federal Aviation Administration. It is time for them to put that mission ahead of the financial interests of the industry they regulate. It is time for them to put that mission and our safety first. This bill goes an enormous way to making that happen.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. ALEXANDER. Madam President, I ask unanimous consent to speak as in morning business.

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

ENERGY INDEPENDENCE

Mr. ALEXANDER. Madam President, in 1942 President Franklin D. Roosevelt summoned a bipartisan group of congressional leaders to the White House. He outlined with them a secret plan to win World War II. At the conclusion of the briefing, the President asked Kenneth McKellar of Tennessee, who chaired the Appropriations Committee in the Senate, if the Senator could hide $2 billion in the appropriations bill for this project to win the war. Senator McKellar replied:

> That will be no problem, Mr. President, but I have one question: Just where in Tennessee do you want me to hide the $2 billion?

That place in Tennessee turned out to be Oak Ridge, one of the three secret cities, along with Hanford in Washington and Los Alamos in New Mexico, that became the principal sites for the Manhattan Project.

The purpose of the Manhattan Project was to end the war by finding a way to split the atom and build a bomb before Germany could. Nearly 200,000 people worked secretly in 30 different sites in three countries. President Roosevelt's $2 billion appropriation equaled $24 billion in today's dollars.

Less than 3 years later, after that conversation between President Roosevelt and Senator McKellar, the project succeeded when on August 6 and 9, 1945, the first atomic bombs were dropped on Hiroshima and Nagasaki. On August 14, Japan surrendered unconditionally.

According to New York Times science reporter William Laurence, who watched the Nagasaki bombing:

> Into its design went millions of man-hours of what is without doubt the most concentrated intellectual effort in history.

On Friday, May 9, I will go to one of those secret cities—Oak Ridge—to propose that the United States launch a new Manhattan Project: A 5-year project to put America firmly on the path to clean energy independence. Instead of ending a war, the goal will be clean energy independence so we can deal with rising gasoline prices, electricity prices, clean air, climate change, and national security—for our country first, and—because other countries have the same urgent needs and therefore will adopt our ideas—for the rest of the world.

By independence, I do not mean the United States would never buy oil from Mexico or from Canada or from Saudi Arabia. By independence I do mean the United States could never be held hostage by any country for our energy supplies.

In 1942, many were afraid that the first country to build an atomic bomb could blackmail the rest of the world. The overwhelming challenge in the Manhattan Project veteran George Cowan's words was:

> the prospect of a Fascist world and the need to build a weapon so powerful that it would quickly guarantee victory.

Today, countries that supply oil and natural gas can blackmail the rest of the world. Today's need is to create clean energy independence to quickly guarantee victory over that kind of extortion.

Such a concentration of brain power directed toward an urgent national need is not a new idea, but it is a good idea, and it fits the goal of clean energy independence.

The Apollo project to send men to the Moon in the 1960s was a kind of Manhattan Project. Senator SUSAN COLLINS of Maine has suggested an energy independence by 2020 project, comparable to the goal of putting a man on the Moon. Others such as Senator KIT BOND of Missouri and Congressman RANDY FORBES of Virginia have suggested a Manhattan Project for clean energy or energy independence. As part of their ongoing Presidential campaigns, both Senator JOHN MCCAIN and Senator BARACK OBAMA have called for a Manhattan Project for new energy sources. Likewise, former House Speaker Newt Gingrich and Democratic National Committee Chairman Howard Dean have said a Manhattan Project-type program is needed to develop technologies to free us from oil dependence.

All throughout the 2 years of discussion that led to the passage by this Congress of the America COMPETES Act, several participants suggested that we should focus on energy—believing that solving the energy challenges would force the kind of investments in the physical sciences and research and teaching that the America COMPETES Act seeks to encourage.

The Manhattan Project in 1942 was in response to an overwhelming challenge: the prospect that Germany would build a bomb and win the war before America did.

In his address on Monday to the annual meeting of the National Academy of Sciences, Academy President Ralph Cicerone described today's overwhelming challenge, and that is the need to discover ways to satisfy the human demand and use of energy in an

environmentally satisfactory and affordable way so we are not overly dependent on overseas sources. According to Cicerone, this year Americans will pay nearly $500 billion overseas for oil—that is $1,600 for each one of us—some of it to nations that are hostile to us or even trying to kill us by bankrolling terrorists. That weakens our dollar. It is half our trade deficit. It forces gasoline prices toward $4 a gallon, and it is crushing family budgets.

Then there are the environmental consequences. If worldwide energy usage continues to grow as projected and fossil fuels continue to supply over 80 percent of that energy, humans would inject as much CO_2 into the air from fossil fuel burning between 2000 and 2030 as they did between 1850 and 2000. We have plenty of coal to help achieve our energy independence, but we have no commercial way yet to capture the carbon from the coal, and we have not finished the job of controlling sulfur, nitrogen, and mercury emissions.

So instead of finding a way to build a bomb to win a war, the new goal would be to find ways to help our country, which consumes 25 percent of all the energy in the world, to achieve clean energy independence, and to do it at a price the family budget can afford, with the hope that the rest of the world will follow our lead.

In addition to the need to meet an overwhelming challenge, other characteristics of the Manhattan Project are suited to the challenge of a new Manhattan Project. First, it will require what Harris Mayer has called meta-engineering. Next, it needs to proceed as fast as possible along several tracks to reach the goal.

According to Don Gillespie, a young engineer in Los Alamos during World War II:

> The entire project was being conducted using a shotgun approach, trying all possible approaches simultaneously, without regard to cost, to speed toward a conclusion.

Next, it needs Presidential focus and it needs bipartisan support in Congress. It needs the kind of centralized, gruff leadership that Gen. Leslie R. Groves of the Army Corps of Engineers gave the first Manhattan Project. A new Manhattan Project needs to put aside old biases and subsidies and instead break the mold. As Dr. J. Robert Oppenheimer said in a speech to Los Alamos scientists in November of 1945 about the atomic bomb, the challenge of clean energy independence is ''too revolutionary to consider in the framework of old ideas.''

Most important, in the words of George Cowan as reported in a book on the Manhattan Project edited by Cynthia C. Kelly:

> The first Manhattan Project wouldn't have come into existence at all without initial concepts that were spelled out by a small number of extraordinary people. . . . The Manhattan Project model starts with a small, diverse group of great minds.

As I said to the various National Academies when we first asked for their help in the American competitiveness project in 2005:

> In Washington, DC, most ideas fail for lack of the idea. We need ideas from the best minds we have.

I said it then about American competitiveness, and I say it now about clean energy independence.

I addressed a meeting earlier this week of about 500 men and women from all over America who were here to encourage the Congress to fully fund the America COMPETES Act that we passed into law in 2007. The President has asked for an 18-percent increase in funding for the Department of Energy's Office of Science, which is the money for our national laboratories. He has asked for a 13-percent increase in funding for the National Science Foundation. Both of those would put us on the road to doubling funding for the physical sciences so we can keep our brain power advantage so we can keep our jobs from going overseas.

That was the recommendation of the small, diverse group of great minds whom we asked 3 years ago to tell us what we need to do to keep our brain power advantage. Most of the speakers at that meeting this week were talking about the need to come persuade the Senator from New York or the Senator from Tennessee or the Senator from some other State to fully fund the America COMPETES Act.

I see the Senator from New York here. He was very active in that legislation, especially with a project from New York that helped focus on better ways of teaching mathematics to young people. Almost all of us here have felt some sense of ownership of the America COMPETES legislation: The majority leader and the minority leader were the principal sponsors, and 70 of us cosponsored it. So we saw the need for it. Now we need to apply even more focus and discipline on a different goal, which is clean energy independence. That is why I am going to Oak Ridge on May 9 to propose a second Manhattan Project for clean energy independence.

I believe the work we did during the America COMPETES Act over the last 3 years has important lessons for how we solve the energy challenge.

Let's remember how America COMPETES happened. Three years ago, in May of 2005, a bipartisan group of us asked the National Academies to tell Congress in priority order the 10 most important steps we could take to keep America's brain power advantage. Basically, we were asking for the antidote to the problems set out in Tom Friedman's book, ''The World is Flat.''

By October 2005, the academies had assembled what might be called a ''small diverse group of great minds,'' chaired by Norm Augustine, a member of the Academy of Engineering, which presented to the Congress and the President 20 specific recommendations in a report called ''Rising Above the Gathering Storm.''

We worked with the Bush administration in a number of ''homework sessions'' to refine the proposals, and we considered a number of other very good proposals by different competitiveness commissions.

Then, in January of 2006, President Bush outlined his American Competitiveness Initiative to double over 10 years basic research for the physical sciences and engineering, and he included money to do that in his budgets that he proposed 2 years ago, 1 year ago, and this year.

As I mentioned earlier, the Republican and Democratic leaders of the Senate became the principal sponsors of the legislation. That didn't change even when the Senate changed from Republican to Democrat.

Last week, I telephoned Ralph Cicerone, the president of the National Academy of Sciences. I told him about my proposed May 9 Oak Ridge speech. He told me about an address he made this past Monday before the annual meeting of the National Academy of Sciences on America's energy future. That study will be completed in 2010.

Mr. President, I ask unanimous consent that, following my remarks, the remarks of Ralph Cicerone be printed in the RECORD from the 145th annual meeting of the Academy of Sciences on Monday.

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

(See Exhibit 1.)

Mr. ALEXANDER. Mr. President, I told Dr. Cicerone that what I will be proposing at Oak Ridge will require more specific and quicker action than what the National Academies already have underway. I hope that within the next few weeks, a bipartisan group of us from the Congress could meet with the National Academies and see what concrete proposals we might offer the new President and the new Congress, and that we complete that work this year.

Democrat BART GORDON, a Congressman from Tennessee and chairman of the Science Committee in the House of Representatives, was—along with Senator BINGAMAN, myself, and then-Congressman Sherwood Boehlert—one of the four original signers of the 2005 request to the National Academies that led to the America COMPETES Act. Congressman GORDON will join me in Oak Ridge on May 9, and he will address those who are there about clean energy independence. Also there—and cohost for the meeting, along with the Director of the Oak Ridge National Laboratory—will be Congressman ZACH WAMP, a senior Member of the House Appropriations Committee in whose district we will be. I have talked this week with our leaders in the Senate on energy, Senator BINGAMAN and Senator DOMENICI—both of New Mexico—who have played such a large role in the America COMPETES Act over the last 3 years. I talked with Senator MURKOWSKI, who likely will succeed Senator DOMENICI as the senior Republican

on the Energy Committee when Senator DOMENICI retires at the end of this year.

I know this is a Presidential election year. I have no illusions about the difficulty of bipartisan congressional action. But I also know that gasoline is nearing $4, and that the electricity produced by America today is not clean enough for our country. I also know that, on our present course, we permit other countries in the world to whom we are paying $500 billion a year the possibility of blackmailing us, or other countries, because of their ownership of oil assets. I believe now is the best possible time for Members of Congress and candidates for President of the United States to address the clean energy independence goal.

Let us compete to see who can come up with the best ideas and compare them with one another, knowing that in the end—especially in the Senate—it will take the kind of bipartisan cooperation we had with the America COMPETES Act to get a result. After all, the people didn't elect us to take a vacation this year just because there is a Presidential election.

This country of ours is a remarkable place. While enduring this economic slowdown, this year we will produce about 30 percent of all the wealth in the world for 5 percent of those of us who live here. We have 30 percent of the wealth in the world, but we are just 5 percent of all the people in the world.

Despite the ''gathering storm'' of concern about American competitiveness, no other country approaches our brain power advantage—the collection of research universities we have, the national laboratories we have, the private sector companies that exist in the United States. And this United States is still the only country where people can say with a straight face that anything is possible—and believe it.

These are precisely the ingredients America needs during the next 5 years to place ourselves firmly on a path to clean energy independence and, in doing so, we can make our jobs more secure, help balance the family budget, make our air cleaner and our planet safer and healthier, and lead the world to do the same by our example.

I yield the floor.

EXHIBIT 1

ENERGY CHALLENGES

(Presented to the 145th Annual Meeting of the National Academy of Sciences, Ralph J. Cicerone, President, Apr. 28, 2008)

As I stand before the members of the NAS, I feel as each of you would in my place—that it is a great honor and a rare opportunity to address you here in our historic NAS building. As you know, we are planning a major restoration of the building which will be discussed further in tomorrow's business meeting.

I want to recognize NAS Presidents-Emeritus Frank Press and Bruce Alberts who are here with us today. Each of them led the Academy with distinction and continues to represent us well.

The past year has been a very busy one, reflecting the importance of science and technology in contemporary society. One project, the revision and updating of our 1984 and 1999 booklets on science and creationism, was completed when the new booklet, Science, Evolution and Creationism was released in January. This project was initiated and supported by the NAS Council. For this third edition, we invited the Institute of Medicine to join the NAS.

The authoring committee is shown here. I ask each of the authors who is here today to stand.

Today I want to use the opportunity to draw your attention to a major issue of today, human demand for and usage of energy, a topic that has become progressively more serious, one that will take years to address and which requires scientific efforts of many kinds.

In the past fifty or sixty years there have been other transforming issues that have dominated national and international attention and which required science and technology for any successful outcome, but these earlier cases have not been numerous. One can recall the nuclear arms race, the polio outbreaks of the 1950's, and the very rapid increases of human populations of the 1950's and 1960's. Science made possible the cessation of nuclear weapons testing through demonstrated capability to detect the detonation of even relatively small weapons, while computational methods enabled stockpile stewardship. Similarly, through medical immunology, scientists came to understand the cause of polio and created preventive vaccines; and the Green Revolution made it possible to feed many more people. Two other major issues in which public attention was focused on science and technology were the launching of early Earth-orbiting satellites (and placing a man on the Moon), and the capabilities that emerged in the early 1970's from molecular biology for safe laboratory DNA-transfer experiments.

Now in 2008, we see that human demand and usage of energy is a pervasive issue. The issue has multiple dimensions and constraints. It is both national and worldwide. Enormous in scale, it will remain serious for the foreseeable future, and science and engineering are essential for progress.

MAIN POINTS

My main points today are:

Our energy-intensive way of life, population growth and worldwide economic progress combine to create large and growing demand for energy.

Our options to meet this large demand with types of energy now available to us are seriously constrained. We must assure access to energy and geopolitical security, overcome the financial impact of high costs, deal with climate change, other environmental impacts, nuclear safety and wastes. There is no simple single solution and some attractive options are mutually incompatible.

Science and technology and scientists are essential to meeting this pervasive challenge.

ENERGY USAGE AND DEMAND

The scale of human energy usage today is large and projections of future demands are even larger. Let me begin by outlining current energy usage in the United States.

We consume 100 Quadrillion BTU (one Quad is 10^{15} BTU) per year as a nation, or 3.3×10^8 BTU per person annually. There are many ways to disaggregate these figures. For example. we can examine end usage by economic sector or by function. One such cut reveals that 28 percent of U.S. energy usage is for transportation (burning gasoline, diesel and jet fuel) and 39 percent is used in buildings for lighting, heating, cooling, appliances and office equipment.

What are the sources of our primary energy? For the U.S., 85 percent comes from the burning of fossil fuels: 23 percent from natural gas, 23 percent from coal and 40 percent from petroleum (using rounded numbers). Eight percent is derived from nuclear power and six percent from renewable sources like hydropower (3 percent), biomass (3 percent), geothermal sources, wind, and solar.

Two key factors are liquid fuels for transportation and coal burning to generate electricity. Slide 5 shows growth in U. S. imports and consumption of petroleum.

Net imports grew from 3 million barrels per day in 1970 and surpassed domestic ''production'' in 1996. Today, we import approximately twelve million barrels of oil daily, most of it for transportation, and we consume about six million barrels of oil more each day for running our automobiles and trucks than is produced (extracted, to be more precise) domestically.

A related figure is the fraction 41 percent of primary energy consumption that goes into producing electricity.

Annually, the U.S. consumes about 3800 billion kWh of electricity, with an average instantaneous consumption rate of 440 million kW, or 1.47 kW per person. Because of considerable inefficiency in the conversion of primary energy into electricity during generation and losses in its distribution, the electrical energy received by the end user is only about one-third of the primary energy invested in generating it.

Our electricity is generated in several ways but the major pathways are from coal burning (52 percent), nuclear power (20 percent), natural gas (19 percent) and renewable energy including hydropower (8.5 percent). While still small, electricity generated from wind power grew by over 25 percent compounded annually from 2001–2005.

Slide 7 shows world energy consumption 1970–2005 and projected usage to 2030, developed & developing countries. Worldwide energy consumption was about 447 quadrillion BTU in 2004. This figure grew from approximately 207 quadrillion BTU in 1970; it doubled in 30–32 years. World average energy consumption is approximately 6.2×10^7 BTU/person, or only one-fifth as much as for Americans. The fraction of total world energy usage from fossil-fuel sources was about 87 percent in 2004, slightly higher than the corresponding U.S. figure. The fraction of world electricity from nuclear power was only six percent as opposed to eight percent in the U.S. although it is well known that France's electricity is generated primarily (70 percent) from nuclear power, and of course, there are other nations that employ no nuclear power at all. Recently, Germany has emerged as a world leader in capturing wind energy and in the manufacturing of photovoltaic cells for the direct conversion of sunlight to electricity, as is Japan.

World energy consumption is projected to grow to approximately 700 quadrillion BTU in 2030, another doubling from its early 1990's value. Much of this projected growth is likely to occur in developing, or emerging market countries, where there is great demand for energy usage per capita to grow, while slower growth is projected for mature market countries like those of advanced developed countries. One projection is for non-OECD countries (including China and India) to increase energy usage by over three percent annually, more than doubling between 2004 and 2030 while U.S. energy growth is projected to be one percent annually. This differential growth will continue trends observed from 1999–2005 when China and India increased their energy usage by 80 percent and 25 percent, respectively.

The dynamics and impacts of this differential growth are extremely important to analyze. For example, we must understand what

is driving this increased demand (electrification, pumping water for irrigation and for manufacturing and consumer uses, population growth . . .). We must also anticipate impacts on world prices and availability and on world geopolitics, environment and climate. A recent report from the Inter-Academy Council is a rich source of data on growing demand and strategies for satisfying it worldwide.

IMPACTS OF ENERGY USAGE AND CONSTRAINTS

For many years there have been concerns over the stability of energy supplies or the cost of energy or the consequences of too much dependence on overseas sources or over various environmental impacts. Now all of these concerns are operative at once and they are seen as long term as opposed to temporary.

For example, as U.S. consumption of petroleum, mostly for transportation, has grown, and costs have risen to over $100 per barrel, the net flow of dollars to oil-exporting countries has ballooned to between $450 to $500 billion annually, as noted recently by former CIA Director James Woolsey. Let me note that even at the now past price of $65 per barrel, 300 million Americans send $1000 each overseas for oil annually. At our NAS/NAE energy symposium on March 14, former Secretary of Energy and Secretary of Defense James Schlesinger said that our dependence on foreign oil is allowing some hostile oil-exporting countries to accumulate dollars, resulting in diminished U.S. influence not only toward them but also with our allies. He stated that ''we cannot ensure energy security, only mitigate energy insecurity''.

Predicting future energy costs is perilous and certainly not a talent of mine. Personally, I did not predict that gasoline would cost $3.5 to $4 per gallon as it is now. However, there is general consensus that the era of low cost energy is over, largely due to increasing demand from developing countries. Thus, one can expect U.S. purchases of oil to continue and world prices to remain high enough to cause difficulties for poorer countries. Worldwide fleets of car and trucks demand oil as does the growing commercial airline sector. High costs of energy are being felt by individuals, families, businesses, universities, governments, and hospitals, for example. High energy costs are now beginning to be blamed for rising grain costs and food shortages in some countries.

The imperative for access to secure energy supplies prompts some regions and countries to turn to coal or to nuclear power. For example, the U.S., China, South Africa and India have substantial domestic coal supplies. Environmental and climatic impacts must be dealt with. Inadvertent emissions of soot, sulfur, nitrogen oxides and mercury, historical challenges which have been met in some selected regions, remain major problems elsewhere and due to the scale of coal usage, they are increasingly serious problems, as are deleterious effects of coal mining on land surfaces and ground water. In each of the last several years, a large number of coal-fired power plants have been built in China; total generating capacity from these plants has increased annually by approximately 95 Gwatts (adding approximately the entire capacity of France or Germany).

In recent years it has become clearer that the global climate is changing in response to increased atmospheric concentrations of carbon dioxide from fossil-fuel burning. Current atmospheric concentration of CO_2 is over 380 ppm, compared to a pre-industrial level of 280 ppm. Climate change is being observed in elevated air and sea temperatures, losses of ice, rising sea level and several other variables, and it is judged mostly due to greenhouse gases, including carbon dioxide, from human activities. While some climate change can be accommodated, there is increasing evidence and concern that dangerous changes can also occur. ''Dangerous'' here is defined as irreversible changes such as sea-level rise and loss of biodiversity, and generally other physical variables whose rates of change exceed the rates at which we can adapt to them. Large or prolonged changes in regional water supplies can destabilize entire nations.

While it might be intuitive to guess that we could stabilize worldwide atmospheric carbon dioxide amounts by holding worldwide emissions constant, the natural uptake of atmospheric CO_2 by the global carbon cycle is only about 40 percent of current emissions; this figure has been derived by decades of research, much of it by NAS members. Current annual emissions are nearly seven billion tons of C as CO_2. The eventual steady-state atmospheric concentration of CO_2 from current emissions would be over 650 ppm. Thus, a specified carbon constraint such as preventing atmospheric CO_2 from rising above say 450 parts per million, is difficult to satisfy: it would require reducing emissions by more than four billion tons (C) from current levels. Several examples show how difficult it will be. Reducing emissions by just one billion tons C per year would require a fleet of two billion cars to achieve 60 mpg instead of 30 mpg, or replacing 700 one GW coal-burning power plants with nuclear plants, or replacing coal-burning plants with one million 2 MWe (peak) wind turbines or 2,000 1-GWe (peak) photovoltaic power plants.

Instead, if worldwide energy usage continues to grow as projected and fossil fuels continue to supply over 80% of that energy, worldwide CO_2 emissions would grow to over ten B tons C annually by 2030, just 22 years from now. At such a rate of fossil-fuel burning, humans would inject as much CO_2 into the air from fossil-fuel burning between 2000 and 2030 as they did between 1850 and 2000.

In addition to climatic change from carbon dioxide, we expect the world's oceans to become acidified by the CO_2 added from the atmosphere. Research on the biological effects of this acidification is in its early stages and there are many questions surrounding the ability of calcifying marine organisms to make shells, for example.

The view that emerges is of a carbon-constrained world. Taking into account the fact that coal is relatively plentiful and that its supplies are secure within several large countries, and recognizing the carbon constraint gives rise to the need for research on carbon capture and storage (CCS) and to other means to tap into coal's energy without releasing CO_2 to the atmosphere and oceans.

Even if coal, for example with effective CCS, could be used even more intensively to generate electricity, one must realize that to use today's fleets of cars and trucks and airplanes, one requires liquid fuels, presumably from oil. While coal yields less energy per unit of CO_2 released, carbon constraints apply to oil and natural gas as well as to coal.

The constraints of energy supply, dependence on foreign sources and atmospheric carbon dioxide cause us to consider wider usage of nuclear power. Nuclear power plants, currently based on nuclear fission processes, offer several advantages in that their operation does not emit carbon dioxide nor are supplies of nuclear fuel thought to be seriously limited physically or immediately. Widespread utilization of nuclear power is limited instead by concerns over safety of operation and over waste handling, storage and disposal. Strongly related is the need to prevent the misappropriation of nuclear wastes to produce nuclear weapons or conventional bombs spiked with radioactivity (dirty bombs). In addition, costs of electrical power from current nuclear plants exceed those for coal and from natural gas; capital costs of nuclear plants are much higher. These concerns have virtually stopped the building of new and replacement nuclear power plants in many countries since approximately 1980.

For nuclear power to satisfy large parts of current and future world demand for electrical energy would require the siting, construction and operation of large numbers of new and replacement nuclear power plants such as a tripling or quadrupling of the number of such plants now in service. Local limitations on volumes and temperatures of cooling water will tighten as tensions grow over water supplies and heat waves intensify. Even if successful, we would not have satisfied much of world demand for energy to drive transportation, now supplied by petroleum, with today's fleet of automobiles and trucks.

AGENDA FOR SCIENTISTS, THE NATIONAL ACADEMY OF SCIENCES AND THE NATIONAL RESEARCH COUNCIL

The constraints placed on energy choices for the United States and for the world today can appear to be intractable. For example, large U.S. domestic coal reserves, much of our existing infrastructure and the goal of energy security all argue for more dependence on coal. However, we are pushed in the opposite direction by the pressing need to reduce CO_2 emissions to the atmosphere so as to limit climate change, and by several other environmental impacts including ocean acidification. In a democracy there are many different voices representing people with differing values and interests, such as protecting or advancing locally based industries, and also with differing weighting factors for addressing the various constraints.

All of these challenges place scientists and engineers in an essential position—we can:

Perform research relevant to energy supplies and usage,

Formulate and analyze options for decisionmakers,

Inform the public about research and policy options,

Advise and help government officials and business leaders,

Develop scientific and engineering human resources.

We must address each of these needed roles with complementary skills. Along with creating specialized processes and strategies, we need big-picture synthesis. For example, achieving increased energy efficiency can relax all of these constraints but implementing this goal requires great attention to detail.

The NAS and the NAE, working through the NRC, are conducting a study, America's Energy Future, and it will be published in less than a year from now. This report will present objective, quantitative data and estimates of contributions to our energy supply from various energy technologies, including energy-efficiency technologies, along with their costs. Many NAS and NAE members and other experts are involved on this project. It is led by economist Harold Shapiro, President-emeritus of Princeton University (and an IOM member). This report will lay a foundation for much more work to follow on energy research, energy-policy options and worldwide cases. It is intended to provide what Benjamin Franklin aptly described as ''useful knowledge'' to individuals and groups in business and government and the general public as they consider how to transition to the energy trajectories that are needed.

We are also beginning a new suite of studies on climate change, focusing on how to benefit from and extend the scientific understanding of climate change and also how to mitigate it and adapt to it.

Scientific research, as always, offers possibilities for improvements in how we extract, convert, store, distribute and consume energy. Indeed, research can lead to major changes which could revolutionize our current systems and which could dodge some of the constraints that now bind us. Opportunities for this research to create new technologies with worldwide business potential are enormous.

There are numerous fascinating research topics in physical and biological sciences which could dramatically transform the energy landscape or which could at least improve our options. Photovoltaic devices based on new materials to convert sunlight into electricity and chemical means to convert sunlight into chemical fuels offer great opportunities. Photosynthesis-based designs are beginning to receive some attention. Energy-storage devices with high energy and power densities could enable much wider use of solar, wind and nuclear energy, for example, in electric-drive vehicles.

Alternative energy sources for transportation must match or overcome a large advantage of liquid hydrocarbons; the oxidizer for their combustion does not have to be carried along with the fuel. A major goal is to derive petroleum substitutes from plant matter other than food crops which would be approximately carbon-neutral. Microbiological processes enhanced by molecular biology comprise many potential advanced pathways toward creating liquid biofuels such as alcohols. In such advanced processes, efficient use of normally recalcitrant material like plant cellulose and lignins must be made. Progress from this laboratory-based biological research is needed to obtain higher biofuel yields which justify inputs of energy, fertilizer, water and land. These input/output ratios themselves and corresponding tradeoffs require research to clarify the value of this option.

Wider usage of nuclear power to generate much larger amounts of electricity could displace some fossil-fuel usage but it requires safe and efficient handling of wastes which in turn require secure geological and geochemical storage. Similarly, economical and safe waste-to-fuel reprocessing represent research and engineering challenges and opportunities, and some materials problems with reactors remain.

As has been the case for too many years, nuclear fusion remains a distant but tantalizing pathway toward plentiful energy, with almost no radioactive waste, but very difficult problems in confining high-temperature plasmas have impeded progress.

A host of other research frontiers must be explored, for example, can carbon dioxide be effectively captured and stored in geological reservoirs in amounts measured in tens of billions of tons and for centuries? Can transmission lines be vastly improved through superconductivity or by using direct current transmission instead of AC, with better system analysis and control? If so, solar and wind energy can be distributed in ways to match generation and demand time functions better.

Scientific research on climate change is essential to enable us to predict how climate will change in smaller geographical areas and shorter time intervals than is now possible so as to guide our efforts in mitigating the changes and in adapting to changes that do transpire. Economic science and social phenomena must be incorporated in this endeavor, and as is the case in all of the topics mentioned here, computational science has become essential.

In deciding how to deal with the constraints placed on us by U.S. and global energy usage, governments, businesses, NGO's and individuals want to know what options they have. An important role for us as individuals and through National Research Council committees is to help to formulate and analyze options that can illuminate the consequences of various proposed actions. This work can consist of focused analyses of specific energy sources or pathways and respective technologies, or on comparisons of many alternatives. Variables include physical, chemical and biological principles, costs, readiness for deployment, social acceptance and time frames. In many cases, those who will make decisions amongst the options will be political or business leaders who have little or no scientific background, so scientists' communications skills will be tested. In these interactions centered on formulation and analysis of options, scientists must be prepared to interact with such decisionmakers in iterative ways. It is likely that some overall pathways to a more secure, safe and robust energy strategy will involve short-term options in preparation for transitions to a longer term.

More broadly, scientists can inform the public about research prospects and goals and about policy options. The pervasive nature of our challenges with energy requires wide public awareness and consensus, and arriving at consensus will be challenging. Whether deciding how to locate solar collector arrays, nuclear power plants or wind farms or how to gauge the benefits of various biofuels or automobile fuel efficiency, and how to invest their own resources or public funds, people must appreciate the constraints and the goals to choose the best options and to avoid costly mistakes and ineffective actions. Scientists who are effective communicators should present public talks and/or help other scientists and journalists who are even more effective. In our NAS communications with the general public, we plan to emphasize energy topics in several ways.

We depend on many structures and institutions to govern us. Agencies of the U.S. Government which support science research, set standards, monitor and regulate trade, products and pollutants need qualified people to serve in them and they need external counsel through advisory committees, for example. Each of us should serve when invited, and we should prepare thoroughly for each assignment. Important roles in advising the government are carried out by the National Research Council. State and local governments have many significant energy issues in front of them so the need for scientific advice is even larger. Scientists can also help each other when one is called to advise.

Education of the current and future generations of students is a high priority. All of the needs listed above require an educated public to recognize our options, to understand their consequences, and to exploit opportunities. Students who will go on into business and government will have big roles just as future scientists will. We must develop human resources, both broadly and in specific scientific endeavors, from microbiology and molecular biology to nuclear science and engineering. Our university curricula for science and for non-science students must create awareness of challenges and opportunities surrounding energy usage, efficiency and related research. As always, research opportunities for students are especially important.

CONCLUSION

We must change the trajectories of our energy usage and energy sources. World peace, economic development for much of the world, continuing prosperity for the developed countries and a stable climate require us to do so. To create and analyze options, and to educate and inform people about the work ahead, scientists and engineers are critical.

There is no single action or individual technology that will take us to this goal. (The glass(es) are partly filled and partly empty. The baseball is just for fun!)

Rather we must explore all sources and pathways and discover, invent and optimize in each case. While it might disappoint some people that there is no single pathway to success, a world in which many energy sources and solutions are integral to the whole will be more stable and less susceptible to disruption. Our enthusiasm and efforts must be broad as we seek to discover and disseminate useful knowledge.

A great deal of innovative and determined work is needed by scientists and engineers in the years ahead. It is our privilege and our responsibility to rise to these energy challenges. Let's get going; there is a lot of useful knowledge to be gained.

The PRESIDING OFFICER (Mr. SCHUMER). The Senator from Maryland is recognized.

Mr. CARDIN. Mr. President, first, I welcome the bipartisan support for programs that will move us toward energy independence. I agree with my colleague from Tennessee that we need to do a Manhattan-type project, with the same type of commitment we made when putting a person on the Moon, to become energy independent. We have the technology. We know how to get it done. If we have the will, this Nation can do anything it wants to do.

I think there is a growing awareness among Members of this body, as well as on the other side of the Capitol, that we need to take immediate steps so this Nation can become energy independent. So I welcome the comments that have been made.

I come to the floor because the people of Maryland and throughout the Nation are hurting today. The most recent assault on their pocketbooks has been filling up their cars with gasoline. The costs are prohibitive for families—gasoline prices. Quite frankly, I think the administration is doing virtually nothing to help those who are trying to afford energy costs today—whether it is their electricity bills in their homes, or whether it is running the family automobile, or whether it is a business that requires them to use an automobile. This administration has done very little to help deal with the escalating costs of energy. Instead, they look for additional tax breaks for oil companies, or they want to extend tax cuts for millionaires. They don't come forward with energy policies that would try to make energy much more affordable.

I believe we need to have a strong energy legislation in this Congress. Let me give you some of the statistics that people in my State of Maryland are confronting on energy costs. Electricity rates went up 72 percent in 2007. Gasoline prices in Maryland are now $3.49, on average, for regular gasoline, and $3.80 for high test. That is a 150-percent increase since President Bush took office.

Let me try to translate this as to how it affects the average family in my State. When you take a look at what household costs have gone up, just for gasoline for your automobile, since President Bush took office, for a typical household it has increased $2,731 for the people of Maryland. If that household has children, it is an increase of $3,414 a year. If they have a teenager also operating a car, it has gone up over $4,000. To me, that is a shocking increase in just 7 years on the cost of gasoline that we put into our automobiles.

I recently had a conversation with small business owners in Maryland. Sixty-two percent of small business owners use a vehicle in their business. They need automobiles. They have to fill these tanks with gasoline. The majority drive over 50 miles a day in their automobiles to operate their businesses. So the statistics show that small businesses—and all of us talk about helping small businesses—spend more than their competitors that are large companies on energy costs. It can cost up to three times as much for a small business person for their energy cost to deliver a product to the market than for larger companies. I am sure you are aware that small businesses don't have the same availability of capital in order to buy equipment or the same availability of capital in order to keep their businesses afloat. Many small business owners are mortgaging their homes in order to keep their businesses going. Many are using credit cards with the highest possible interest rates to keep afloat. Now they have additional energy costs. So, yes, we need to take action on the energy problem.

I must tell you that the first thing we need is a national energy policy. We have had bills that have been submitted on this floor. I appreciate my colleagues on both sides of the aisle coming forward in support of a national energy policy for energy independence. But if you remember when we voted on the renewable energy portfolio, we didn't seem to get the votes we needed from the Republican side of the aisle. It is time to take action on a national energy policy—one that will truly make this Nation energy independent—whether you call it a Manhattan-type project or an Apollo-type project, we can do it. We can do it by using less energy and by developing alternative and renewable energy sources. We can do it in a way that will be good for America.

We should not be dependent for oil upon any country halfway around the world, that disagrees with our policies. We have to eliminate our dependency on imported oil. We need to do that for the security of America. Our national security should come first. If for no other reason, we should do it for national security. Also, let's do it for the environment. I listened to my friend talk about green energy. We have a chance to do that. We have a bill in the Environment and Public Works Committee that Senator BOXER provided tremendous leadership on, along with Senators LIEBERMAN and WARNER, that would cap our carbon emissions. That would energize our economy to produce green jobs and would help us to become energy independent. It would reduce greenhouse gases and would help our environment. We need to become energy independent because of our national security and because of our environment.

My friends who are talking about energy independence, we have a chance to move forward on that. Let's bring out the Lieberman-Warner legislation and move it on the floor. We are trying to do that, and if we had more help on the Republican side of the aisle, we could get that done this year and move toward energy independence.

There is a third reason we need an energy policy, and that is our economy. I don't need a clearer message about how important it is to be independent for our economy than to fill up my tank with gasoline. Go to any of your neighborhood gasoline stations and look at the price. We don't have control over our energy costs. If we were energy independent, we would. So we need an energy policy that is good for this Nation. We should not be financing other countries. That is what you do every time you fill up a tank with gas—financing other countries, and actually we are borrowing money to do that.

So we need a policy that is good for this Nation. What have the oil companies done to help us in this regard? They are doing quite well. We have businesses that are hurting. We are in a recession. We are not doing well in economic growth. But in the last year, the five major oil companies had profits of $103 billion, and 2008 is going to be a better year than 2007 for the oil companies.

These are excessive profits. We need to do something about them. The administration says let's continue tax breaks for the oil companies; let's create some new ones. We should be using these tax breaks to develop alternative energy sources. That is what we should be doing to help the people in our communities. We should be using these tax breaks to generate green jobs. We can do that if we energize the American economy to develop the alternative technologies that can solve our energy crisis as well as our environmental challenges.

We need to use these tax breaks so we have less reliance on foreign energy sources—alternative fuels. I wish to underscore that we need to get this administration, if they are really serious about trying to make this Nation energy independent, to refocus the tools we are using. Every time we try to do that—we try to take these tax credits and target it to the alternative energy sources rather than just giving them to the oil companies—we get a veto threat from the President.

I can tell you, Mr. President, people in Maryland desperately need leadership on energy. They need immediate help. One of the suggestions that has been made that I think we should move forward—again, the President said he is not going to do this—is the Strategic Petroleum Reserve. It is 95 percent filled. Let me explain to my constituents what this is about. Our Government is in the market every day buying 70,000 gallons of oil to put in the Strategic Petroleum Reserve. As a result, the cost to the consumers in filling up their automobiles' tanks is higher. It is supply and demand. The Government is there every day first at the gas pumps taking 70,000 gallons of fuel that otherwise could be available for consumers, and with supply and demand, the more fuel we have available, the lower the cost will be. This is something we can do immediately to try to reduce the cost of gasoline to the people of this Nation.

We need immediate action. We need immediate action to help the middle-income families in America and the small businesses that are literally being strangled by the high cost of gasoline and the high cost of energy. They need immediate relief. They need an administration that is going to take action to make more supply available. If the administration does not, the Congress should take action to do that. The American people need us to take action for immediate relief. But they also understand we cannot continue decade after decade to be dependent on foreign energy sources. It is way past time that this Nation become energy independent. We can get there.

As I hear my colleagues speak on both sides of the aisle, let's come together for the sake of our Nation, for the sake of our national security, for the sake of our environment, for the sake of our economy, and let's act together to pass laws so at last America can become energy independent and control its own destiny, be a good citizen of the world on the environment, and do much better for the growth of our economy. I am convinced we can do this if we act together in the best interest of our country.

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

The PRESIDING OFFICER (Mr. WHITEHOUSE). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CRAIG. 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. CRAIG. Mr. President, I ask unanimous consent that I be allowed to speak as in morning business.

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

TRIBUTE TO CHARLTON HESTON

Mr. CRAIG. Mr. President, over the last few weeks, I have taken note of the tributes that have been made about

a great American who passed away on April 5, 2008. That American is Charlton Heston. This Senate even joined in those tributes, and I was pleased to cosponsor a resolution offered by my colleague, Senator JIM DEMINT, officially honoring Mr. Heston's life and extending the sympathies of the Senate to the Heston family.

Charlton Heston's significance was more than his distinguished career as an actor. In his lifetime, he became undeniably an American icon. But there is an aspect of his life that has not received the attention that I believe it deserves—his truly admirable record of public service. That is why I rise this afternoon to comment about his contributions to our Nation.

This was not a man who only recited patriotic speeches; he put his words into action and put his reputation and career on the line for the causes he supported. This was especially true in an area that people seem to have forgotten: his work on civil rights.

Charlton Heston freely allowed his fame to be used to draw attention and support to the cause of civil rights, and he did so at a time when it wasn't the popular thing for Hollywood stars to do. In fact, according to his autobiography, some of his associates warned him that his activism could harm his career and his financial success. But he pursued it anyway.

He told the story of demonstrating outside some Oklahoma City restaurants that refused to serve black Americans in 1961, and while he modestly acknowledged this was a small effort that ''made no more than a ripple in the wider world''—those are his words, not mine—the restaurants did change their practices, and the episode was a significant personal milestone for him.

His civil rights activism took him further. He was an admirer of Dr. Martin Luther King Jr., and wrote ''Many men who knew him better than I have written about Martin Luther King. I can't match their eloquence; I can confirm what they've written: He was a special man, put on Earth, I do believe, to be a twentieth-century Moses for his people. Dr. King sought him out to discuss how to integrate certain segments of the film industry. Mr. Heston was supportive but had doubts that it could be done; he was surprised and impressed when Dr. King accomplished that goal.

Later in 1963, when Martin Luther King famously marched on Washington Charlton Heston was not only part of the march but helped organize and lead a contingent from the American arts community in participating. Their job was to help draw press attention to the cause but Mr. Heston characterized the role he played as essentially an ''extra'' at the event. Even so, he said of the march on Washington: ''In a long life of activism in support of some good causes, I'm proudest of having stood in the sun behind that man, that morning.''

I think many people fail to appreciate the importance of Mr. Heston's involvement in supporting the cause of civil rights at that particular time. It was a turning point in our Nation's history. His position put him at odds with many in his industry, not to mention the mainstream America that existed in those days. It was no small thing for Charlton Heston to commit his energies and his name to advancing a cause that was deeply controversial.

Today, some have forgotten what those times were like and the risk he took. I would even argue that some prefer to overlook or rewrite the record of his civil rights activism because they disagree with other causes he took up later in his life.

Maybe it just doesn't sit right with the predominately liberal majority in the media and Hollywood that Mr. Heston could both march with Dr. King and later publicly denounce the violent, pornographic lyrics of rapper Ice-T. Maybe they don't understand how the same man who picketed against racism could criticize the Screen Actors Guild—an organization he presided over for six terms—for practicing reverse discrimination.

Or maybe they just don't understand the common denominator between his fight for civil rights and his fight for the Second Amendment. When he took the helm of the National Rifle Association for an unprecedented three terms Americans' firearms rights were under attack as never before. I met with him and encouraged his participation, as others did. Mr. Heston did participate and brought for formidable energy to the defense of this fundamental civil right of the law-abiding American citizen.

It was my great privilege to work with him in those days. I came to know him as an unabashed patriot and a friend. He was amazingly modest about his accomplishments when he told me about his past involvement in policy and political issues, but it was from him I learned about his early work on behalf of civil rights.

Charlton Heston is remembered by countless Americans around the world for the great roles he played and the characters he created, as only he could do. That legacy will live forever. As his movies are discovered by new audiences in the future, a new life for that memory will emerge.

But Americans should also be aware and celebrate and treasure another legacy he left behind—his simple and quiet service to our Nation. Let the record show Charlton Heston did not sit safely on the sidelines. He strode boldly into the arena of public affairs and took on all the risks of fighting in that arena. He worked to make this Nation a better place through his activism in promoting civil rights and individual liberties, a legacy that will have an even more lasting impact on our lives and the lives of our fellow citizens.

Goodbye, Charlton Heston. America misses you.

I yield the floor.

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

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

FARM POLICY

Mr. CRAIG. Mr. President, I am going to address, very briefly, an action that will come before us this evening in a 2-week extension of current farm policy that will be sought by Chairman HARKIN, as they work out, I understand, the final details of a new farm policy for our country.

As my colleagues know, over the last several weeks, I have come to the floor to speak out about the urgency at hand of getting a new farm policy before American agriculture as we move into the spring season and before the early harvest in the grain belt of our country, which starts very soon in Oklahoma and northern Texas.

As most of my colleagues know, both the House and Senate passed new farm policy last year, but because of their differences, we were simply not able to work out a compromise in conference. In fact, the House waited months to appoint conferees. Then the Speaker openly spoke out about being unwilling to provide the tax package to finance the necessary new policy.

I began to object. After 6 months and 4 extensions, finally, last week on the floor I did object. But out of that we began to work together and worked out a compromise, and I must say to all the conferees on the House and the Senate side that their diligence appears to have paid off. In talking with my colleague and the ranking member of the Senate Agriculture Committee, Senator Saxby Chambliss, today, their work in large part is done. It is a matter of simply putting it in final form, bringing it to print and, of course, then bringing the conference report to the floor of the House and the Senate. Apparently, the White House has also signed off on that and their work is largely complete.

It is with that understanding that I will not object this evening to a unanimous consent request to extend the current farm policy for another 2 weeks while they work out and put to print their final effort.

Let me thank them all for the sense of urgency that has developed over the last 2 weeks and the work in completing it. Obviously, the finance committee in the House, the House Ways and Means Committee and Senate Finance Committee had to bring about the necessary package. Senator Max Baucus and Congressman RANGEL, apparently working with the Republican side, have solved those problems and put the appropriate finance package together.

There are very important policies, new policies inside this farm bill. We are hearing for the first time, at least in my memory, a question about food shortages or at least some commodity shortages because of new demands we put on the production of American agriculture as it relates to the production of energy. There is no other time more important in our country to have farm policy in place and operative than right now, to say to the American people we can get our work done in a timely fashion—and that work is now complete; to say to American agriculture: Here is your policy for the next 5 years, whether it is nutritional policy for America's poor, whether it is production policy for America's farmland, whether it is conservation policy or energy policy; in large part all that is embodied.

I thank my colleagues for the work they have done. I hope their sense of reality and their finishing the product and getting it before us meets that timing. With that in mind, I will not object tonight to an extension. But I am on the floor to personally thank them for the work they have accomplished in getting it completed in the next 2 weeks and getting it before us as soon as possible so we can say to American agriculture: The work is done. Here is agricultural policy for the next 5 years.

I yield the floor.

The PRESIDING OFFICER. The Senator from Washington State.

Ms. CANTWELL. Mr. President, I ask unanimous consent to speak as in morning business.

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

ENERGY MARKET

Ms. CANTWELL. Mr. President, I have been to the floor now a couple of times already to talk about the high price of gasoline and what is going on in the oil markets. I want to take a few minutes this evening and talk about this issue as it relates to the futures market and what is happening to the day-to-day price of gasoline.

I know my constituents are outraged over this price. I know they are frustrated. It is impacting our economy. They want to see results. They want to see us take action. I think it is very important for us to keep delving into the details of what is causing this problem; that is, the price of gas increasing over 100 percent in about a year's time.

The first thing that is important for us to remember is how dependent the United States is on foreign oil; that we are, at 20 million barrels per day, the highest user of a country dependent on oil. And when you look at other countries and where they are on this issue, you can see that 20, almost 21 million barrels a day of foreign oil really means the United States, given the high oil prices we are seeing in the world market, is more impacted than any other economy.

So that means the United States has to step up and deal with this issue. I am not saying other economies, such as China, Japan, and Germany, are not impacted, but we are five times more impacted, and that is why we need to be aggressive and act on this legislation.

Now, we know where oil has been. In fact, I made this chart a few days ago to show how oil prices have tripled since 2002. I said oil was at $118 a barrel. Well, that changed. It went to $120. Now I think it is back down maybe to $116 today. I have not seen where it has closed. But that means we have seen gas go from $3.50 to $3.60. We have seen diesel at $4.22.

The important point is that oil futures; that is, the future price of oil, people are already purchasing oil and oil contracts into the future, and they are paying $100 or more for the next several years. That means those contracts that people are purchasing in oil futures help set the price for the commodity we purchase today.

If people are saying: I will buy oil into many years from now, 7, 8 years from now, and pay over $100 a barrel, it makes it very hard to have oil purchased in the physical market for a cheaper price than that.

Now, I have spent many hours on the Senate floor talking about supply and demand. The reason I have done that is because when you have a normal market, you have supply and demand, it works pretty well. My concern is, when you look at the statistics and the numbers, and here is a particular example, that world supply basically since 1988 has increased 33 percent and world demand has increased in that same time period 33 percent.

I showed a chart the other day that basically showed these two lines in parallel. This is not about supply and demand. This is not about a major market disruption and thereby not having a lot of supply and thereby causing a shortage and an increase, a spike in price. Now, yes, we have had some anomalies in the marketplace. We have had situations like Katrina, but they have been small instances, nothing that would cause a 100-percent increase in a 1-year period of time in the price of oil.

So that leads you to say simply: What is going on in this marketplace if it is not supply and demand, if the market is not functioning?

Well, one thing I know about this futures price that I described to you is that we have had a lot of testimony before the Energy Committee, before the Commerce Committee. I am sure some of my colleagues with oversight of the CFTC have had hearings.

But one thing we heard from a professor from the University of Maryland was, with those selling or buying commodities in the spot markets, they rely on the future price to judge the amount they are going to pay for the delivery of those commodities.

So I am reinforcing what I said earlier; that is, if people are already buying future contracts, and those future contracts are saying: We are definitely going to pay more than $100 a barrel for oil, That is going to affect the spot market. And the spot market is the market in which people buy the commodity today and what price they will pay.

So if you are sitting there thinking: How much am I going to pay for oil, and people are going to pay over $100 a barrel for it over the next several years, it is certainly going to affect the day-to-day price of oil.

Now, why is this so important? Well, it is so important because the futures market, in my mind, is out of control as it relates to the price of oil. It is out of control in the sense that it is not regulated in the same way other futures commodities are regulated. It is not regulated the same way cattle futures are, for example. They have reporting requirements. They have trading requirements. They have oversight by the CFTC. They are not exchanged on an international exchange to which we do not have access. There is no loophole, but for oil there is. That is the futures market, and the futures market impacts the spot price market.

So let's look at what happened. In fact, one of the analyses that was done on these hedge funds and how they are impacting the futures market—because I know a lot of people think crude oil is produced and an oil company either has that supply and then delivers it to its regional retailers throughout the United States or maybe to other countries and that is how it works. But what is happening is major investors are buying that product.

In fact, hedge funds are taking an ever-larger bet in the futures market because it is smaller than the stock market or the bond market, which means you can have more influence. The funds are using borrowed money to maximize their bets, magnifying their impact on the energy markets and prices.

So this is a reporter reporting about what is happening in the futures market and how hedge funds are playing this large role of moving in and having an impact on what the futures price is. Now, the reason I mention this is because we know this is causing problems. We have a very big example of a hedge fund gone wrong; that is, a hedge fund that was involved in rogue trading and used its power in the futures markets to disrupt the market as it related to natural gas.

So many people probably read about Amaranth; they have seen it in the paper. But what happened is, Amaranth sold large volumes of the next month's gas delivery in the last 30 minutes of the market. So they took a huge amount of supply and basically did what was called ''crashing the close,'' basically to benefit their position.

Now what this did is it cost consumers $9 billion more in the cost of natural gas. That is what this hedge fund did in disrupting the natural gas

markets. And, thank God, we had passed a law in 2005 saying this kind of activity was manipulative and it ought to be outlawed. The FERC is working on enforcement penalties of $291 million against Amaranth in this case.

But this is an example of how a hedge fund has come into the system and had a significant impact. Now, the Chairman of the FERC is saying these futures market prices impact the physical market price, and these manipulative schemes that were used like in Amaranth were designed to lower the prices in the futures market in order to benefit positions held in the physical market.

It is that kind of activity that we do not have enough insight into in the oil markets. You are saying: Well, how do we know about this? This was a natural gas market. And post-Enron we passed a law and said: We need to make this clear, a bright line that this kind of market manipulation is against the law.

We did that, and this is what the policeman on the beat, the FERC, has been doing to stop bad actors. And it is a very bright line. But what we need to do now is to do the same thing with the oil markets because after the Amaranth case, after it collapsed, lo and behold, what happened? What happened? Well, the futures price dropped to the lowest level for that contract in 2.5 years. So, basically, after Amaranth got out of the situation, and throughout this period thereafter, the market fundamentals of supply and demand basically have been unchanged.

This was an investigation that was done by our Permanent Committee on Investigations of the natural gas market. So once Amaranth was out of the market and their activities, guess what. We saw a stabilization in price. That is what we want. We want policing of the market. And that is why we want the FTC to do its job. We want the FTC to do the aggressive job that FERC is now doing in policing the electricity and natural gas market.

This body, this Congress, this President, signed into law language saying that the oil markets should also have a very bright line and should not tolerate market manipulation. That was signed into law last December. For the law to take effect, we need the Federal Trade Commission to actually implement the rule, to say how they are going to use this law, and to focus on catching the bad actors.

I want to reiterate the things that we need to do. We need to close the Enron loophole. The Enron loophole allows for online trading to be exempt from the regulations that other futures commodities comply with.

We need to require oversight of all oil futures markets. We cannot be held, in the United States with that 21 million barrels of oil, to having a blind spot on how the market is being impacted because the FTC does not have any insight into bad actors who might be manipulating it like Amaranth did.

We need the FTC to implement these new market rules. The FTC needs to be clear. They need to publish these rules and implement them as soon as possible.

I believe we need the Department of Justice to step in and help because we have seen, in the Enron case, when the Department of Justice and the CFTC and the FERC and various agencies worked together to piece this puzzle together with their authority, more enforcement mechanisms were used to catch bad actors.

I am sure we will have time again to talk about how 28 States have already implemented statutes to make price gouging illegal. I believe that is some authority that we should give the President.

So these are the things that we should be doing to protect consumers. I know it might seem to some of my colleagues that the oil futures market is complex and might not be the subject of something we should be dealing with on the floor of the Senate. But I will guarantee you, if we do not have a policeman on the beat for the oil markets, we are going to see a continuation of these incredible prices that are not based on market fundamentals.

I know whether you are an oil company or a hedge fund or whether you are someone in the supply chain, no one wants manipulation. Everybody wants markets to function based on supply and demand and basic fundamentals. Everybody should be for transparency of these markets, and they should be for strong Federal statutes implemented by the FTC, and they should be in support of having a very aggressive policeman on the beat to make sure we send a very strong message that these kind of practices will not be tolerated.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAUCUS. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Ms. CANTWELL). Without objection, it is so ordered.

DEFENDERS OF FREEDOM FELLOWSHIP

Mr. BAUCUS. Madam President, John F. Kennedy once said:

> As we express our gratitude, we must never forget that the highest appreciation is not to utter words, but to live by them.

I rise today to express my gratitude to the Montanans who have served our country in uniform. Montana is home to over 100,000 veterans. Many others gave the ultimate sacrifice in service of our Nation. Twenty-four Montanans have given their lives in combat in Iraq and Afghanistan. We owe these brave warriors a debt of gratitude that can never be fully repaid, and it is an honor to call myself one of their countrymen.

These veterans embody everything that is great about this Nation. They are tough. They are smart. They work hard. No matter the task, they get the job done. But the highest appreciation deserves more than just words. In honor of all Montanans who have served this great Nation, I am launching the Defenders of Freedom Fellowship. The Defenders of Freedom Fellowship offers professional experience in the U.S. Senate for Montana veterans. Each fellow will work in my personal office on veterans issues. The fellow will research issues and correspond with constituents, attend congressional hearings, and work on new legislation. The fellow will gain a rare insight into how the American Government works. The fellow will serve our Nation's veterans and all the people of Montana.

The fellowship has three goals. First, the fellowship aims to help involve more veterans in public service. A veteran's patriotism and love of service is a valuable asset to any public office.

Second, the fellowship will take advantage of all the experience a veteran has to offer. Many of these young men and women have experience well beyond their years. We have much to learn from what they have seen and done. We will gain a new perspective on tough problems we are working to solve.

Last, the fellowship is a humble way to say thank you to Montana's veterans, humble because it is an invitation for a veteran to come to Washington to work. However, this fellowship can also offer a gift. Some fellows will find a love for public service that will last a lifetime. This passion for public service has propelled many to greatness. It is this spirit that has inspired our Nation's greatest leaders.

I am excited about this—very excited. I am very excited about this fellowship and the opportunity I will have to work with some of Montana's veterans. To all Montana veterans and their families, I offer my gratitude for your service and for your sacrifice. To the future Defenders of Freedom fellows, I look forward to working with you soon. I thank you in advance for your efforts. I am confident you will find your service very rewarding.

Madam President, I yield the floor.

Mr. SPECTER. Mr. President, I wish to speak to an amendment to the pending legislation, H.R. 2881, the FAA Reauthorization bill, which would require the FAA to more effectively address flight delays that are caused by airline overscheduling.

Airlines continually schedule more flights than airports can physically handle. Schedules are made to reduce operating costs and maximize airline profits without regard for airport capacity. Since only a certain number of flights can be accommodated within a specified time period, overscheduling triggers built-in delays which can take the air traffic system hours to recover from. Responsible scheduling of flights within airport capacity limits will go a long way towards alleviating delays.

Many interested parties point out that airport capacity needs to be expanded to match existing schedules. This is true. We do need to ultimately expand airport capacity to accommodate passenger demand, but projects to expand capacity can take years to develop and millions of dollars to construct. In the nearterm, we should ensure that there is some rationality to flight schedules so that passengers can trust that their flight has a reasonable chance of being accommodated.

This amendment, on its own, would not cap or reduce peak hour flights at any airport. It would simply direct the Federal Aviation Administration to intervene in cases where overscheduling is causing significant delays.

Specifically, it would require the FAA Administrator to convene a meeting of airlines to discuss voluntary flight schedule reductions at any airport where flights exceed the maximum hourly departure and arrival rates set by the FAA, provided that such excess flights are likely to have a significant adverse effect on the national or regional airspace system. In other words, if the excess flights were deemed not likely to have an adverse effect, no action would be taken. If an agreement cannot be reached on voluntary flight schedule reductions, then the Administrator, working with the affected airport, would be required to take such action as is necessary to ensure that flight schedule reductions are implemented. This gives the FAA and the local airport the flexibility to decide how best to bring their schedules within capacity. Additionally, the Administrator would be required to submit a report to Congress every 3 months on flight scheduling at the Nation's 35 busiest airports.

This amendment is supported by the Airports Council International-North America as a measure that will force the FAA to more effectively deal with delays. Accordingly, I urge my colleagues to adopt it.

Mr. President, on December 19, 2007, the Federal Aviation Administration, FAA, ordered air traffic controllers at Philadelphia International Airport, PHL, to use new dispersal departure headings, sending aircraft at low altitudes over residential portions of Pennsylvania, Delaware and New Jersey.

These new flight paths, a component of the FAA's New York/New Jersey/Philadelphia metropolitan area airspace redesign, have been met with enormous fury in local communities, prompting 12 lawsuits against the FAA. They also prompted air traffic controllers at PHL to file an ''Unsatisfactory Condition Report,'' claiming that mandatory use of dispersal headings unnecessarily complicates departure procedures.

The FAA has always touted this project as a congestion relief initiative, and it is vitally important to address airspace congestion in the northeast. However, they are not sending planes over residential areas as a relief option. According to air traffic controllers, these dispersal headings are being used as a primary option from 9–11AM and 2–7PM, resulting in overflights even when there are no other planes waiting to take off at PHL.

At an April 25, 2008, field hearing that I chaired in Philadelphia under the auspices of the Transportation and Housing and Urban Development Appropriations Subcommittee, FAA Administrator Robert Sturgell confirmed that overflights are occurring when less than 10 planes are waiting to depart at PHL.

This runs counter to prior commitments the FAA had made to only use the headings during moderate to heavy traffic periods at PHL, when 10 or more aircraft were waiting to depart. The FAA has been unwilling to honor its commitment by limiting use of the headings to only those times when 10 or more aircraft are waiting because they claim that doing so would require them to conduct a reevaluation and analysis. I would argue that a reevaluation and analysis are in order if it would provide relief to the communities surrounding PHL, but I am more interested in seeing to it that the FAA honors its commitments.

Since they have not been willing to do so on their own, this amendment would force them to honor their commitment by prohibiting the use of dispersal departure headings at PHL unless 10 or more aircraft are waiting to depart. It will ensure that communities are not frivolously disrupted by overflights but still give air traffic controllers the option of using dispersal headings as a relief option when the airport is most congested.

It is important to note that the FAA is limiting overflights from Newark Airport to times when 10 or more aircraft are waiting, so this is not a policy that is unprecedented or impossible to implement. Accordingly, I urge my colleagues to adopt this amendment.

AMENDMENT NO. 4585 WITHDRAWN

Mr. ROCKEFELLER. Madam President, I withdraw my amendment No. 4585.

The PRESIDING OFFICER. The amendment is withdrawn.

AMENDMENT NO. 4627

(Purpose: In the nature of a substitute)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. ROCKEFELLER] proposes an amendment numbered 4627.

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

The PRESIDING OFFICER. The majority leader is recognized.

AMENDMENT NO. 4628 TO AMENDMENT NO. 4627

Mr. REID. Madam President, I have a perfecting amendment to the substitute at the desk, and I ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 4628 to amendment No. 4627.

Mr. REID. Madam 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:

At the end add the following:

The provisions shall become effective 5 days after enactment.

Mr. REID. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mrs. HUTCHISON. Madam President, parliamentary inquiry: Could I ask what the amendment is?

Mr. REID. Madam President, it is a change of date.

Mrs. HUTCHISON. Just a date change.

Could I ask, on the amendment that was offered by the Senator from West Virginia, is that the bill that has been discussed that has already been on the table without the pension provision? Is that the new substitute that was just put forward?

Mr. REID. That is our understanding.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 4629 TO AMENDMENT NO. 4628

Mr. REID. Madam President, I have a second-degree amendment at the desk and I ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 4629 to amendment No. 4628.

Mr. REID. Madam 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 the amendment, strike ''5'' and insert ''4''.

AMENDMENT NO. 4630

Mr. REID. Madam President, I have an amendment to the bill at the desk and I ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 4630 to the language proposed to be stricken by amendment No. 4627.

Mr. REID. Madam 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:

At the end of the bill, add the following:

''The provision shall become effective 3 days upon enactment.''

Mr. REID. Madam President, I 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.

AMENDMENT NO. 4631 TO AMENDMENT NO. 4630

Mr. REID. Madam President, I have a second-degree amendment at the desk, and I ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 4631 to amendment No. 4630.

The amendment is as follows:

In the amendment, strike ''3'' and insert ''2''.

Mr. REID. Madam President, to all the Senators who are on the floor, and those within the sound of my voice, there has been a new substitute filed. The purpose of that is to eliminate the provision we have been dealing with all day here. I say to my colleagues, there are discussions going on as to how we can resolve that, if, in fact, we can resolve it.

I say to especially my distinguished counterpart, Senator MCCONNELL, at this stage we are now ready to start the amendment process. I was told early this morning that there was a Bunning amendment the minority wanted to offer. No problem; we just have not seen it. I think this bill, which is a tax bill—we do not want to tell anyone what they can or cannot offer—but I think it should be in keeping with what this bill is about. I have no problem if the Republicans want to offer one amendment, two amendments, or lots of amendments. I have no intention of trying to prevent them from offering amendments to this piece of legislation. But there comes a time when you have to move on, and that is what we are doing now.

I repeat: The floor is open. I do think it is appropriate—and the only thing I did here is to stop random amendments from being offered. I do not know how I can be more suggestive of the fact I want to finish this bill. I want it to be done. If there are people who want to amend parts of this very important bill, they should have a right to do so. I have no problem with that. I do say it would be appropriate that we at least see what the amendment is so we can move on, and as long as it is in keeping with this bill, I do not care what it does.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. MCCONNELL. Madam President, I certainly share the view of the majority leader that this is an important bill that needs to be completed. However, I do not agree that employing a parliamentary technique of filling the tree, which is what my good friend, the majority leader, did, will help facilitate the completion of the bill. This, of course, gives the majority leader the opportunity to basically pick which amendments from my side will be allowed. That is the kind of procedure that makes it impossible to get enough cooperation on the minority side to get cloture and finish the bill.

This process is not going to help us get the bill finished. We will have to continue our discussions on both sides about the amendments we are going to insist be offered.

Hopefully, at the end of the day, after we get through the various procedural moves that have been made, we can develop a regular amendment process. I do not think there will be a huge number of amendments, but the amendments that need to be dealt with are important to this side of the aisle.

Until that kind of procedure is agreed to or worked out in one way or another, it would be difficult to get cloture and to finish the bill.

I see my good friend from Texas on the floor. She has been working diligently on this, along with Senator ROCKEFELLER, for quite some time. She may want to offer her observations as well.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. REID. Madam President, I say, through the Chair to my friend, I want to legislate on this bill. If someone can come up with a better way that we do it, I am happy to do that.

As we know, if this vehicle is here, standing alone, anyone can offer any amendment on anything. I do not think that is helpful to the process. I do not want to stop them. If there are amendments over here to offer, I have said once, twice—this is the third time—more power to you, offer them. I don't wish to stand in the way of anyone offering an amendment. I don't want to be dealing with the war in Iraq, abortion or anything else which are some things that are very difficult to deal with. That is my whole purpose in doing this. I want to deal with FAA or anything within the realm of transportation. I hope everyone understands that. I will be happy—if somebody can figure out a different way to do this, let me know, and I will be happy to cooperate.

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mrs. HUTCHISON. Madam President, I am greatly disappointed that we have come to the time when we are not going to be able to move this bill because there is not an open amendment process. I have worked with Senator ROCKEFELLER on the aviation bill; this is the FAA reauthorization. We have come to agreement on the basic bill. It is very bipartisan. Senator INOUYE and Senator STEVENS, the chairman of the Commerce Committee and the ranking member, have come to an agreement on the aviation portions of this bill. The distinguished majority leader said we don't want to take amendments that are not relevant to the bill, but, in fact, the tax package that is in the substitute that was put forward deals with many issues that are not in any way related to aviation, not in one instance. So we would like to be able to pass a bipartisan FAA reauthorization bill.

We have come to agreement in the Commerce Committee on the importance of the bill—the passenger bill of rights, the added safety features. It will modernize the air traffic control system. Yet now we have a bill that has no amendments allowed unless we get permission to offer amendments, when the underlying bill has many extraneous provisions in it that were added by the Finance Committee. They are not relevant to this bill, and they are not agreed to even by the leaders on the Commerce Committee whose bill this is.

So I am disappointed. I think it is going to stop the consideration of the FAA bill. If we could pare it back to FAA reauthorization, modernization, then I think we would have a bipartisan step forward for the consumers and passengers in this country.

I wish to thank my colleague, the Senator from Illinois, for working on the pension part, which has now been taken out. I think that is an excellent step in the right direction. It is very important to me. I was the cosponsor of his amendment. That amendment has now virtually been adopted. But I can't walk away from the rest of the people on my side of the aisle who want to offer legitimate amendments and who have very great concerns about the tax provisions in this bill that have nothing to do with aviation.

So I hope once we get to the point the bill doesn't move forward, which is where I think we will go, we can once again come together in a bipartisan spirit and have the aviation bill we have agreed to, with the tax provisions that relate to aviation that we have agreed to, and get this bill going. There will be legitimate amendments on perimeter rule, on some other safety issues. Those will be relevant. But we can't move forward when half our body virtually is unable to be a participant.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. REID. The Senator from Texas makes my case. If there is part of this bill she doesn't like, whether it is tax provisions or anything else, offer an amendment to try to take it out. No one is trying to stop her from legislating. It appears to me my friend from Texas is looking for an excuse to kill this bill. If she doesn't like the tax provisions in this bill, offer an amendment to strike them. No one is stopping her from doing that.

I don't think it is asking too much to say we would like to have some idea of what amendments are going to be offered. I don't care what they are if they relate to this bill. I don't know how

many more times I need to say that. I think people, such as my friend from Texas, are looking for an excuse to deep six this bill, and that is what is going to happen.

We are at a place now where I have said if you want to offer amendments, offer amendments, and they are saying, well, we don't want to offer amendments because you have said you want to look at the amendments first.

Mrs. HUTCHISON. Madam President, parliamentary inquiry: Wasn't the tree filled up so that there are no possibilities of offering amendments?

Mr. REID. I have said—it is so easy. If anyone wants to offer an amendment, we take that little tree and add her branch to it. It is easy to do. I am not trying to stop anyone from offering amendments to this FAA bill. It is an important piece of legislation and it should be accomplished. But we can't stand around for days on end looking at each other. We have people who say they want to offer amendments. Good. Let them offer amendments. I have no problem with that.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. MCCONNELL. Madam President, I will try one more time with this voice. I expect I am correct in saying that filling up the tree has not worked except on occasions when the Republican leader agreed with the majority leader on filling up the tree, and there have been a few occasions on which I have agreed. I do not agree this time. This is not a process that is going to get us a bill. But we all continue to talk to each other, and we will hope that when the Sun comes up tomorrow, there will be a process agreed to that will give us a chance to get the votes we are going to have to get on this side of the aisle in order to complete a bill we would all basically like to complete.

Mr. REID. Madam President, I have an idea. Why don't we have an arrangement where the minority leader, the Republican leader, can also look at amendments with me. I am not going to try to stop anyone from offering an amendment. He can be part of the deal. I shouldn't be the sole arbiter. He can work with me on these amendments.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. ROCKEFELLER. Madam President, I would observe that from the very beginning of this most interesting day, my very good friend, Senator HUTCHISON, who is the ranking member on the Aviation Committee, has said there is a way to pass this bill in 5 minutes and that is: One, we do the amendment with respect to what my substitute amendment does; and, secondly, that the extraneous amendments, financial amendments which the Republicans do not like, they can put up that amendment. Now, they have said nobody on their side will vote for our amendment on the theory that it didn't come before they had a chance to take out the extraneous amendments. So I would say to my distinguished friend, Senator KAY BAILEY HUTCHISON, offer your amendment right now, right now. Offer it. You may find a more welcome audience than you think.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Madam President, it is frankly unfortunate that we are getting all high bound here and wrapped up around the axle. The action by the majority leader, as I understand it, in effect has adopted the Durbin amendment, which off the top I think is regrettable. I think it is important that this body protect pension plans—all pension plans—and the effect of the substitute would be to let a certain airline off the hook in providing enough protection to the plans. It has made big promises, but it is not fully funding the plan.

Second, it is a bit disturbing that things have developed this way because I had discussions with the majority leader as to how we can resolve the Durbin amendment, how we can resolve that issue. It was my hope we could continue those negotiations and discussions to possibly take that issue off the table.

I say to my good friend from Texas and to all Members, the leader asked me to work with Senator ROCKEFELLER to come up with a bill that merges both the Commerce Committee bill and the Finance Committee bill. Senator ROCKEFELLER and I did that. We sat down and worked out an agreement on the bill. It is unfortunate we are not starting with that agreement because it is a good-faith agreement and it also included tax provisions. We have to have tax provisions to pay for our airlines, for the trust fund, the airline trust fund. We have to have tax provisions to pay for the highway trust fund. Again, we negotiated this out, the chairman and I did, Senator ROCKEFELLER and I did in good faith and we came up with the measure which I think is fair.

Now, fairly, Senators have the right to offer amendments and should offer amendments. After all, this is the Senate. I think there is a way to work out the Durbin amendment. I made a suggestion to the majority leader as to how to do that, and I think it would be helpful if those negotiations could continue as we unwind one of the problems we are faced with. But second, I hope we can get away from the situation the minority leader described, which is filling up the tree which tends to get us stuck. The goal is not to get stuck; the goal is to seek an expeditious process and to move along quickly.

We have been spending all afternoon doing nothing, frankly. I made a suggestion as to how to deal with at least one significant part and that is the Durbin amendment, and it would be my hope that, as has been suggested, when the Sun rises tomorrow and we all sleep on this a little bit, cooler heads prevail, and we can find a way to get from here to there. That means passing the FAA bill, which deals with issues Senator HUTCHISON has talked about and which also finances the airport trust fund and the highway trust fund—that is, the plussed-up highway trust fund—and also a way to resolve the Durbin amendment in a fair and equitable way. Because nobody is 100 percent right here. Senator DURBIN is not 100 percent right and I am not 100 percent right. But I do think there is a way to resolve this, and I hope this evening we can think about it, sleep on it, and work it out.

Mr. DURBIN. Madam President, I wish to thank the Senator from Montana. We have had some words today, some positive and some not so positive, but I hope we can follow through on this conversation and this dialogue and try to see if there is common ground. I don't know if there is, but I am willing to try, and I hope we can see if we can achieve it.

I offered with Senator HUTCHISON to have a vote earlier today and that didn't happen. But at this point I hope we can find a way to reach an amicable solution. This pension issue is a very important issue to thousands and thousands of workers and to many communities that are served by these airlines. We worked hard and I think had a sizable number of Senators who supported our position, but you never know until you take the actual vote. I will say the underlying bill, after all this conversation about the pension plans affecting five airlines—and the tax provisions, which, frankly, I support—I think the tax provisions in this bill are good, relative to rail bonds, to the New York situation, and to the highway trust fund. I support that. I am happy to support it. But we want to make sure that at the end of the day, the underlying bill is enacted into law. This is long overdue to bring modernization and safety to our skies, and I know the work that has been put into it by the Senator from Texas and especially the Senator from West Virginia.

So I am prepared to sit down and meet with anyone in good faith to try to resolve this if we can. I hope that at the end of the day, though, what the majority leader said a few minutes ago is remembered. He is looking for any germane amendments relative to this bill and is prepared to engage a debate on both sides. He used this procedural approach to try to break a logjam, but he clearly is looking for a way to move to amendments and most importantly to pass this bill. I think that was a good-faith offer, and I know he is a man of his word. So we are prepared to work with Senator ROCKEFELLER and Senator HUTCHISON and all the Members to try to resolve these differences.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Madam President, I appreciate what the Senator from Montana and the Senator from Illinois have said. I do hope we can continue to

work on this. I know the situation, as it stands right now, would not be acceptable: having a major piece of legislation that needs to be debated, and we need to have the ability for the minority voice to be heard. I don't think that it is going to happen with this particular procedure, but that doesn't mean the door is closed.

We do want to work on this bill because, as I have said many times, the underlying bill is one I fully support. It may be that one of the options would be to separate the tax part of the bill and the aviation part. I agree with the aviation tax part as well. Most people on our side of the aisle do. It is the taxes that have nothing to do with aviation that have been put into this bill that are the problem. That is what is killing this bill right now. If we can come to an agreement on the aviation taxes and the aviation bill and let the other tax provisions that relate to the subway and the railway and the highway fund, if those can be done in a separate package and then we have the votes up or down, then I think that is one option we ought to consider.

So right now, in this particular procedure, I think we are going nowhere. But we are going to continue to talk, and perhaps one of these other options would be doable. The pension part is so important to me. I have worked with Senator DURBIN all day and ever since I learned the pension part had been changed in the tax part of the package.

I hope we can come to a conclusion. I would like to come to a conclusion with the Finance Committee because I think there are some compromises, perhaps, that could be made. But I know what is in the bill now would be very detrimental to some of the airlines in this country. I think, as a matter of fairness and equity and protection of employees, that we could not accept the language that is there. That doesn't mean the door isn't open to talk. But if we can do something in a separate bill and let the aviation bill—taxes and authorization—go forward, I would hope that would be an option to consider.

The PRESIDING OFFICER (Mr. CASEY). The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, first, I appreciate the words of the Senator from Illinois and the Senator from Texas and their willingness to work out an accommodation on the pension provision.

Second, I caution this body about potentially separating these bills because the revenues provided in the bill are for the airport trust fund. I think that is very important. Also, the revenues are provided for NextGen, which is the next generation of air traffic control infrastructure, as they move from analog to satellite. European countries already have it. We need it here. We are behind the times. We need the money to get started. So I wonder about the advisability of separating those provisions.

Third, our highway trust fund is in deep trouble because of inflation, fuel costs, and construction costs going up. It is important that we so-called plus-up the highway trust fund and revenues there. The ways we are paying for the highway trust fund have been agreed to by the Commerce Committee and the Finance Committee, Senator ROCKEFELLER and myself. We agreed. That should not be an issue. The ways we are paying for the highway trust fund are provisions that are very meek and mild, not inflammatory at all. One is to limit fuel fraud. We should do that. Next, we should increase the solvency of the liability trust fund. That has not been opposed by anybody that I am aware of. That is jobs. We know this country and our growth rate is not what we would like it to be, and we could work this out.

Again, here we are at about 7 o'clock this evening, and a lot of good words have been spoken in good faith. Let's follow up and try to find a solution tomorrow.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mrs. HUTCHISON. Mr. President, if I may respond briefly to the Senator from Montana, there is a lot of room for us to work on the highway trust fund issue. Everybody wants to replenish the highway trust fund. I do think there are issues with paying for it, and I think there is the view that we don't have to put a tax on some sectors in order to make this whole, because it is stimulative, and I think we could work on something that would get the highway trust fund replenished but not have to then find the issue of how we pay for it—particularly, one of the things is the retroactive tax version which is a problem for some people.

With the highway trust fund, I think we are replenishing something we can all agree is necessary. If we can come to terms on paying for it and in what manner it will be paid for, that is an area we would like to discuss.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. ROCKEFELLER. Mr. President, I don't know if I am closing or not. I want to offer this observation. I have been here virtually all day. I have had plenty of rest—very little talking and very little learning. What strikes me, as this day closes, is that the people who are objecting in various ways to taking a vote—there will be no votes from our side on this or that or whatever—are missing the whole point of the bill. I support the Durbin position on pensions because it is part of the written law. It is not very difficult.

Everybody wants their own little piece to win. I have heard almost no conversation today—and virtually none yesterday—about the perilous condition of our aviation industry, particularly the commercial aviation industry. There isn't any sense of urgency about the large matter. Maybe people have it in their hearts, but they don't choose to bring it out here because on the floor they want to win points or they have ideological considerations that we cannot raise taxes or whatever. But while we are sitting here doing nothing—and I am sure impressing the American people mightily with our vigor—we have an aviation industry that is on the verge of collapse.

I pointed out a number of times that one out of every six employees has been laid off by commercial airlines. The fastest growing part of the aviation industry is the general aviation industry. I have very strong feelings about that, but for the sake of the chairman of the Finance Committee, I backed off of my solution for a fee of $25 per flight for a high-end private or corporate jet. I never really figured out how the $25 was going to bring them to the feet of catastrophe. Most of the jets that are made at the high end are sold elsewhere, overseas.

So I am very frustrated, as chairman of the Aviation Subcommittee, that we are not really talking about how to fix aviation. We are talking about how to keep our turf, how you are going to get no votes on this until I get my votes on that. None of it is about the big picture. It is about little things inside the bill which people choose to put their feet down on and then not move.

That is very depressing to me because I am very keenly aware that aviation is not a subject that has a great deal of appeal broadly. Most of our meetings on the Commerce Committee are attended by relatively few. There are relatively few on the floor of the Senate who really understand the condition of the aviation industry or the details pertaining to its condition, the history of that condition, and what the future holds.

I hope that, as we go through this night of cooling down, we will become reflective about what the bill is about, which is trying to give the commercial aviation industry, as well as the general aviation industry, a chance to survive in one case and flourish in the other case.

I made enormous compromises with the chairman of the Finance Committee—monumental, from my point of view. But so what. That is not even the point. The point is commercial airlines. So many of them are closing down. So many of them are in chapter 11 bankruptcy, in and out of chapter 11. Some are headed toward chapter 7. It is a national catastrophe—not to speak of our air traffic control system where we are at this point behind Mongolia.

So these things are important, and evidently others don't think so because they want to win their points to keep their positions and let the aviation industry take care of itself. I have not heard anybody on the floor today discussing with any passion, any coherency, or logic the condition of our aviation industry. That is very disappointing to me.

So I put up that caution and say that I hope we will be a wiser group tomorrow and that we will reach an accommodation because if we don't, we will

not only not be the world class of aviation, we will be very far from it. It is not just the commercial airlines, it is the air traffic control system. And, yes, you do have to kind of raise taxes for that. You have to build a digital GPS satellite system at the same time as you maintain an analog system. It will take 10 or 12 years to build this modern air traffic control system which every other country in Europe has—Japan and probably China have it.

It is discouraging to me for people not to be keeping their eye on the central force of this bill, which is to preserve what we need to do in commerce, to stay in touch with each other, to visit a dying mother, and do all kinds of things that are in the American way of life. Our debate today has not reflected the American way of life. It has reflected kind of a much more parochial view than I am comfortable with. But I am managing the bill, so I have to deal with that.

So I just close by saying that I hope tomorrow will be a brighter day.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, I wasn't present on the floor when the maneuvering that just took place happened that puts this Senate in a very difficult position, but it gets us into a very bad and dangerous situation.

The maneuvering of the Democratic leader and floor manager that was just done is not used very often in the Senate. In fact, substituting—putting a modification of a substitute that was agreed to by two separate committees that jointly brought this to the floor is something that I think is very unprecedented. This process of filling the tree so that only the majority party can decide what amendments can come up is not only dangerous and can keep this very important piece of legislation from being passed, but it is dangerous for the whole process of the Senate's comity in getting the job done.

As I said, this substitute was the product of two committees—not one committee but two committees—and by the overwhelming support of people on those committees that we needed to not only reauthorize the Federal Aviation Administration and do everything we can to improve airport safety, as well as airport facilities, but also the financing of it, to make sure there is plenty of money available to get the job done.

On safety at the airports, we have the Commerce Committee doing their work. On financing it, we have the tax-writing Finance Committee making sure the money is available. These two committees do their work almost in a unanimous way, and it comes to the Senate floor. That ought to be a procedure that gets this bill through this body quickly, without a lot of controversy, and by an overwhelming vote that reflects the comity that went into it and that reflects the need of the airline industry, both for commerce and for the passenger.

These joint deals should not be taken lightly, and because one amendment is offered that a few powerful Senators do not like, and their unwillingness to set it aside so we could work on other amendments as we tried to work out a compromise was not accepted, they take this extraordinary measure that only a manager of a bill can do to ask to modify an amendment by taking out the provision of the bill which dealt with the Durbin amendment that was before the Senate. That is nothing else, just blatant political power to get around something that people did not want to deal with. This was something that was agreed to between the two committees. That move breaches the deal.

What is more, the Democratic leader has backstopped the breach of the deal by this procedure we call ''filling the tree'' so that only amendments can be offered that can get unanimous consent to offer them, and that is very difficult to do and is only done for the sole purpose of keeping the issue dealing with the Durbin amendment from debate and finality on the floor of the Senate.

All day long the floor managers could have set aside the Durbin amendment, as I said, and moved along to other business. That is what the Finance Committee does in similar situations. We have already heard speakers before me say there are very real possibilities of working out compromises on that amendment that the majority manager did not like.

Let it be clear that we could have processed other business if Senator DURBIN would have deferred action on his amendment, and we would have been moving along. We would not be in this position that is dangerous from two standpoints: dangerous whether or not this important legislation can be passed, and dangerous from the standpoint of working together on other legislation that needs to be done in future weeks.

I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

(The remarks of Mr. BROWN are located in today's RECORD under ''Statements on Introduced bills and Joint Resolutions.'')

Mr. BROWN. I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

IRAQ

Mr. CASEY. Mr. President, I rise tonight to talk about the war in Iraq, from two different vantage points. One, the first vantage point, is from the perspective of those who have served—some of our fighting men and women who happen to be in the Reserves. I also wish to talk about a victim of this war and some thoughts I have in my heart today about the war and about this particular victim and what it tells about our country. First of all, with regard to a particular problem and then some legislation I introduced to correct it.

We have a policy right now, which I would regard as unfair, that if it is fully implemented would hurt numerous Army Reserve members and consequently our national security. Last year, the Army implemented a new policy whereby Reserve members who were called to Active Duty for a period of time exceeding 180 days, will be given an option—an option of a permanent change in station assignment or a waiver request to receive a significantly reduced per diem rate for the locality to which they are temporarily assigned. This could tremendously disadvantage those who happen to be serving in the Army Reserves.

While on its face it might seem harmless because it gets fairly technical, its unintended ramifications could be very costly. Reserve Members from across Pennsylvania and across the country have described this policy as a hardship that could potentially cause future problems for retention and enlistment rates. For instance, under this new policy, an Army reservist living in Philadelphia who is deployed for a temporary mobilization, as short as 9 or 12 months, for example—and this is an increasingly common occurrence because of the strain the war in Iraq has placed on our military, but this particular example means that person could face the financial necessity of selling his or her home if he or she is unable to afford to maintain both their primary residence and their temporary housing on a reduced per diem rate. In other words, they are not being helped in that interim period of, say, 9 to 12 months. This is not only a story about Pennsylvania, but it is a story that could be replicated, unfortunately, across the country.

I introduced legislation yesterday entitled ''The Reserve Residence Protection Act of 2008,'' which would correct this fundamentally unfair policy. The legislation would provide a basic allowance for housing to cover the costs of maintaining the primary residence of National Guard or Reserve members when they are mobilized outside their local area.

In addition, it would pay a lower second basic allowance at their mission location, if onbase housing is not provided. In January, when we passed the fiscal year 2007 National Defense Authorization Act, we passed a provision providing for the second basic housing allowance to protect the residence of Reserve members without dependents, but we left out—it is hard to believe this but we did—this body left out members with dependents. So if you had dependents and you are in this dilemma, you were left out. This legislation corrects this very important oversight.

Our Nation today is relying more than ever on National Guard and Reserve troops to fulfill our missions around the world and especially to carry on the work these men and women are doing in Iraq. Without these citizen soldiers placing their lives on the line to contribute to our national security, we could not carry out all our vital missions. National Guard and Reserve members know the sacrifices they need to make whether they enlist, but no Reserve members should be forced to choose—as they are now, if this policy is implemented without the bill passing—no Reserve member should be forced to choose selling his or her primary residence in order to fulfill a temporary mobilization order or deciding not to reenlist due to this unnecessary burden. In addition to being unfair in the first instance, it acts as a disincentive to those who might want to give even more service to their country.

When citizen soldiers enlist, they sign agreements to train and deploy when they are called up. That is the commitment they make to us and to our national security. However, I do not believe, and no one in this Chamber believes, that this is a one-way street or a one-way deal. The Nation, at the end of this bargain, promises to acknowledge their unique role as citizen soldiers and to aid in the transition between Active and Reserve Duty.

I am proud to have introduced the Reserve Residence Protection Act of 2008 because it will ensure that America is keeping its promise, keeping our promise to those who serve in our National Guard and Reserve, and we are keeping our promise to their families as well.

In conclusion tonight, I wish to talk about the war for a few moments, from the perspective of one victim, but I think this one victim tells a very dear and sad story. Today's Washington Post had a picture on the front above the headline. The headline read: ''U.S. Role Deepens in Sadr City.'' The subheadline reads, ''Fierce Battle Against Shiite Militiamen Echoes First Years Of War.''

I would say this in the context of where we are today. Tomorrow is the fifth anniversary of President Bush declaring, ''Mission Accomplished.'' That is one thing we are thinking about today and tomorrow—all the time that has passed, all the trauma to our country and to the people of Iraq since then. But also we note, in yesterday's press, in the month of April, as of April 29, yesterday, 44 Americans died in Iraq, the highest number since September of 2007.

So why do I say that in the context of this story? The story, which is an ominous sign for what is happening in Sadr City with regard to our troops—and we have seen the loss of life this week. But above that story is this horrific picture. I know you may not be able to see it from a distance, but many have seen it today. I will read the caption before I show the picture.

The caption reads: ''Ali Hussein is pulled from the rubble of his home after a U.S. airstrike in Baghdad's Sadr City. The 2-year-old died at a hospital.''

The picture depicts two men, one holding this 2-year-old child above his head. The 2-year-old, this child, would look like any child in America with the kind of sandals you can connect with Velcro. He has shorts on and a shirt.

Unfortunately, I know you cannot see it from here, unfortunately for this child, who later died, apparently when this picture was taken he is still alive, he looks at that moment, in fact, dead. His eyes are closed, his mouth is open. You can see the soot or the dust from an explosion covering his body. So at that moment he had not died, but he died a short time after. And what does this mean? Well, it means a lot of things. It means this war grinds on, and that the lives of our soldiers, the effect on their families, and we see other victims—we do not see pictures like this very often of children dying in Iraq.

This is not the fault of any one person or any side of the aisle here. It is something we have got to be more cognizant of, especially in the context of this raging debate we are having in America about our economy. And it is so important that we have a debate about our economy. It is so important that we focus on those who have lost their jobs, focus on those who have been devastated by the loss of their homes, focus on the increasingly difficult challenge that people have paying to fill their gas tank; all of the horrific and traumatic economic circumstances we face.

But as that debate is taking place, we are still at war. We still have soldiers coming home who, as Lincoln said, in his second inaugural when he spoke of ''him who has borne the battle and his widow and his orphan.''

So many soldiers are coming home either maimed or coming home dead for their final rest. And even victims in Iraq, young victims such as this young boy, 2 years old. He lost his life in an airstrike. So whether it is a 2-year-old in Sadr City who happened to be Iraqi or whether it is a 2-year-old boy or girl here in America who lost their mother or their father in Iraq serving our country, we have to remind ourselves that this anniversary challenges all of us to do all we can to bring this conflict to an end.

No one has a corner on the market of truth. No one knows the only way to do this. But we have to continue to worry about it and think about this war and its victims, and we have to figure out a way to get our troops out of this civil war.

As we do that, unfortunately, these pictures of the victims, whether they are nameless and faceless, or whether they are, in fact, identified, as this poor child was identified, must be reminders to all of us that we have a lot of unfinished business in the Senate and in Washington when it comes to the policy that has led to the loss of life we have seen here in America.

In my home State of Pennsylvania, like the Presiding Officer's, Ohio, we are up to 184 deaths and more than 1,200 wounded, in many cases grievously, permanently, irreparably wounded.

So this picture reminds us that we have a lot of work to do when it comes to the policy as it relates to the war in Iraq.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

MORNING BUSINESS

Mr. BROWN. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business, with Senators permitted to speak for up to 10 minutes each.

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

AAA SCHOOL SAFETY PATROLLERS

Mr. REID. Mr. President, I rise today in recognition of three young Americans recently chosen by the American Automobile Association to receive the School Safety Patrol Lifesaving award.

In 1920, the American Automobile Association, AAA, began the School Safety Patrol Program in order to ensure that children across the country could commute to school in a safe manner. Today over 500,000 young people participate in this program, and every year since 1949, the AAA has recognized those patrollers who go above and beyond their duties.

For nearly 50 years, the AAA has given its highest School Safety Patrol honor, the Lifesaving Award, to those patrollers who have risked their own lives to save the life of another. Today I have the great honor of recognizing three courageous patrollers who, while on duty, showed the kind of clear-thinking, quick-acting skills that save lives.

Nicole Epstein participates in the School Safety Patrol Program at North Chevy Chase Elementary in Chevy Chase, MD, not far from where we stand today. In June of 2007, an 8-year-old boy watched the traffic light turn to green and began to cross a busy road, unaware that a car making a right-hand turn was heading directly toward him. Nicole, seeing the oncoming car, stepped off the curb and grabbed the boy's backpack to pull him to safety. The driver of the car must not have seen the boy, because the vehicle completed the turn and drove on

with out slowing down or acknowledging the children. Through her bravery and quick thinking, Nicole saved this young boy from being hit by that car.

Raul Valdez, a AAA school safety patroller at West Gate Elementary in Manassas, VA, showed great courage when he saved a young girl who ran out in front of an oncoming van on April 13, 2007. Following an adult guard's ''hold back'' instruction, Raul put his arms up to prevent students from crossing the busy area of the school drive where buses and daycare vans collect children. When a young girl attempted to run across the drive, Raul reached for her shoulder and swiftly pulled her out of the way of an approaching daycare van. Thanks to Raul's attentiveness and his speedy reaction time, that young girl was saved from harm.

Clarissa Sourada is a safety patroller at Union Mill Elementary in Clifton, VA. On a morning in February 2007, Clarissa was holding two children at the edge of a residential driveway near her post, waiting for the clear to cross, when she noticed a vehicle backing towards them. She alerted the children to the danger and called for them to move out of the way. When one child did not heed her warning, Clarissa pushed the child from the driveway to the sidewalk, safely out of the path of the car. That child's life was saved thanks to Clarissa's quick thinking and attentive supervision.

As these three exceptional young people have demonstrated, the participants in the AAA School Safety Patrol Program serve an important role in ensuring that our young people get to school safely. This program has helped save countless lives, and I thank the AAA and the program volunteers for making it all possible. I know I speak for every Member of the Senate in expressing our gratitude for their valuable work in our communities.

ONE YEAR AFTER VIRGINIA TECH

Mr. LEVIN. Mr. President, April 16 marked 1 year since the deadliest shooting rampage in our Nation's history, a tragedy that took the lives of 32 Virginia Tech students and faculty members and wounded 17 more. April 16 was a day that forever changed the lives of many and we struggle to make sense of this senseless tragedy.

In almost 32 States, and on at least 32 college campuses, survivors and family members of those killed or injured in that shooting recently joined students, parents, and concerned citizens to remember the lives lost on April 16, 2007. During remembrance events across the country, hundreds laid silently on the ground in groups of 32 to honor the 32 innocent victims murdered at Virginia Tech. In my home State of Michigan, people gathered in Detroit and Kalamazoo to ring bells, read names, and recite prayers, all to remember the victims of this horrible tragedy.

These commemorations also sought to remember the families and loved ones of the more than approximately 100,000 people who are killed or injured by a firearm every year in America. Hundreds joined in expressing their frustrations at the glaring gaps in our Nation's gun laws. In August 2007, a panel of experts, commissioned by Virginia Gov. Tim Kaine, issued a report based upon their independent review of the tragedy at Virginia Tech. Among other things, the report pointed to weak enforcement of and gaps in regulations regarding the purchase of guns, as well as holes in State and Federal laws. It also emphasized the critical need for improved background checks and the danger firearms can present on college campuses.

Despite these calls from experts and outcries from the American people, the Congress has yet to act to make it harder for dangerous people to obtain dangerous weapons. By strengthening our background check system, closing the gun show loophole, and renewing the assault weapons ban we could help put an end to the type of tragedies such as the one that occurred at Virginia Tech.

RECOGNITION OF THE SERVICE OF FORMER SENATOR WALTER ''FRITZ'' MONDALE

Ms. KLOBUCHAR. Mr. President, I ask unanimous consent to have printed in the RECORD a statement made by Senator LEAHY at the University of Minnesota on April 7, 2008.

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

Mr. LEAHY. Thank you Senator Klobuchar. And what a joy it still is to say those two words together. Minnesota's new senator already is bringing even more distinction to the seat that Hubert Humphrey held. She is another star who was mentored by Fritz Mondale, and she is upholding that grand DFL tradition.

When I was asked if I could be here with you, I was more than glad to clear my calendar to do it. It is a special honor and a great pleasure to be here with you in recognition of the service, the historical significance, and the 80th anniversary year of a friend, a former colleague, and an American statesman.

In this room we know him as ''Fritz.'' Others call him Walter. When he was a halfback in high school, they called him ''Crazylegs Mondale'' for some reason. He has also gone by Mr. Attorney General, Senator, Mr. Vice President, Mr. Ambassador, and Dad. I think I like Crazylegs best. I can't wait to ask him about how that happened.

The history of the era of his public service has not yet taken full form for the ages, but even now Fritz Mondale looms large as a model and as a catalyst, in his roles in the Senate and as Vice President.

I have been asked to focus particularly on his time in the Senate.

Walter Mondale is sometimes described as the paradigm figure of the transition between two eras—the FDR Coalition up to the War in Vietnam, and the social ferment that came after the war. And perhaps this is so. But to me, who Fritz Mondale is, and what he stands for, are just as important as when he stood there. Deep echoes resonate throughout his service of the first principles of our Republic. The issues he led on then are as fresh as today's news, and as enduring as our founding documents.

Issues like the concentration and abuse of power. Or social and economic justice and the consolidation of wealth in the pockets and portfolios of just a few. Or the role of government in protecting the little guy when powerful market forces run roughshod. Or the tension between freedom and security. Or the challenge of achieving energy security. Or the very roles of both the Senate and the Office of the Vice President in the American system. Even the question of whether a woman ever could credibly assume the highest office in the land. Trace any of these issues back in time, and you will find Fritz Mondale at earlier decision points. For example, just imagine how loose from our moorings we might be right now without the guideposts of the FISA law, which resulted from the investigation that he, Frank Church and others launched into earlier abuses of the power of government to snoop into Americans' lives.

Here is something to which we all can attest. Fritz Mondale is a good man whose decency elevated every institution in which he served. Who he is has everything to do with what he achieved.

Clarence once said that his brother's politics were, as he put it, ''an extension of our father's preaching,'' and I can see that. Their father, the farmer-turned-minister, felt and saw the ravages of the Great Depression on the farms and the communities of the heartland. And when Fritz entered politics, he did it for the right reasons, to make life better for the people.

In the Senate we mostly chalked Fritz's personality up to clean air, clean living and Norwegian genes. He was and is well liked on both sides of the aisle. Fritz's dad taught him that your integrity is everything, and the lesson stuck. He kept his word and everyone trusted him. He was always well prepared. And he surrounded himself with good and competent people. He had one of the best staffs on the Hill, and it's a treat to see some of those staffers sprinkled around the room today.

I've known Fritz a long while, but you still pick up some new perspectives in preparing for an occasion like this. I knew he was avid about hunting and fishing in the North Woods, but I hadn't known his reputation for being such a good ''bull cook.''

I looked it up. A bull cook is the fellow stuck with doing the chores around camp, cutting fuel, cleaning up and cooking. But when he rings the bell in the morning, everyone has to get up. I think that after being in a place like the Senate where no one is able to give orders that stick, Fritz likes that sense of real power when he rings that bell.

One side of Fritz that the public did not see as readily as we did in the Senate was his sense of humor—one of the best I have ever known. In many a tense moment, his sense of humor often defused the tension and restored the spirit of comity that is so crucial in getting things done in the Senate.

I wish the American people had seen more of that side of Fritz Mondale. Mike Berman told Fritz's biographer Finlay Lewis that the staff was always urging Fritz to loosen up in public. Mike said, ''I can't count the number of lit cigars I have stuffed in my pocket over the years.''

He loved the Senate, and the Senate loved him back. He once said that he ''found his sweet spot'' in the Senate. He was a quick learner and craved learning new things. He said the Senate ''was like mainlining human nature.'' And it's true. You pick up any day's Congressional Record, and it's like America's newspaper. Whatever is happening in

the country or the world on any given day is being talked about and sometimes even acted on in the United States Senate.

His first major legislative achievement was a 1966 law to make automakers notify car owners of dangerous defects. He went on to win another victory for consumers by stepping up regulation of slaughterhouses that had been selling diseased and putrid meat.

But he really came into his own in mastering the legislative process with a key victory on his open housing bill. Part of his success in winning a key cloture vote, against great odds, was helped along by his earlier bonding with a crusty earlier chairman of the Judiciary Committee, James Eastland. I hasten to note that I haven't yet entered into my crusty phase. Fritz knew the art of being able to disagree without being disagreeable.

That was a heady and vibrant legislative era, and Fritz had a hand in virtually every major piece of civil rights, education and child care legislation that emerged from Congress during that period.

To me, part of his Senate legacy that is the most significant and timely—timely, even today—was his work on and after the Senate's investigation—headed by Senator Frank Church—into the abuses that led to the spying on the American people by their own government. The FBI's COINTELPRO operation, for instance, had spent more than two decades searching in vain for communist influence in the NAACP, and they had infiltrated domestic groups like organizations that advocated for women's rights.

More than any other member of the special committee, Fritz Mondale mastered the issues and dug into the research, which spanned testimony from 800 witnesses and more than one hundred thousand classified pages. The evidence added up, in his words, to ''a road map to the destruction of American democracy.'' Powerful government surveillance tools were misused against the American people. There had been little effective congressional oversight of these federal investigative and intelligence agencies, and too little judicial review.

Their work led to the creation of the Select Committee on Intelligence, and later, to the Foreign Intelligence Surveillance Act—the FISA law that only lately has entered the public lexicon.

Then, as now, in the name of security, some were willing to trade away the people's rights. Then, as now, some would have the United States of America stoop to the level of our enemies, giving them a victory over us that they could not achieve on their own.

The parallels with today are clear and so are the lessons, but Fritz freshened the bottom line for us in his address to Senators not long after 9/11, as part of the Senate's leaders lecture series. Even before Abu Ghraib, the disclosure of the torture memos, the revelations about unlawful surveillance of Americans, or White House political tampering with U.S. Attorneys, this is what he said in September, 2002: ''There is always the danger that our fears will overcome our faith in the power of justice and accountability. Whenever we have gone down that road, we have hurt the innocent and embarrassed ourselves. Justice and accountability make us better able to face our enemies. Justice strengthens us.'' Unquote, and amen.

Another of Fritz Mondale's most remarkable and lasting achievements in the Senate was to engineer a change in the Senate's rules, to curb the abuse of filibusters in thwarting the will of clear majorities of the American people. The difficulty in passing the civil rights laws of the 60s had gradually convinced more and more Senators that the bar for cutting off debate in the Senate was set too high.

That might not sound difficult, but changing the way the Senate operates is something akin to trying to change the weather.

As a freshman Senator, I had a front seat and a bit part in Fritz's highly organized campaign to change the cloture rule.

He and Republican Senator James Pearson of Kansas launched the effort to change cloture from two-thirds to three-fifths. Fritz preceded and followed that launch by carefully laying the groundwork, enlisting Senators one by one. When it finally reached the Senate Floor, the debate itself was protracted. Finlay Lewis set the scene well in describing part of the debate. Quoting him, ''To an uninitiated or casual visitor, the proceedings must have seemed arcane, even bizarre. Here was the world's greatest deliberative body solemnly voting to table the Lord's Prayer. At another point, the Senate became polarized over a murky motion to table a motion to reconsider a vote to table an appeal of a ruling that a point of order was NOT in order against a motion to table another point of order against a motion to bring to a vote a motion to call up a resolution that would change the rules. At least, that's what it sounded like.'' Unquote.

Late, late one night, at about this point in the debate, Fritz and Majority Leader Mike Mansfield enlisted me, a young whippersnapper, to play a role. They asked me to stay on the floor one night around two in the morning to take the gavel as the presiding officer. They expected that a lot of tight rulings were coming up. But I felt the honor of the calling drain away as Mansfield explained that they needed someone big who was still awake to be in the chair for those rulings. Sometimes a Senator is no more than a conscious body in the right place at the right time.

The debate went on and on and on, and so did the parliamentary and coalition-building by Fritz and by his opponents. Relationships and Senate comity were being tested. Before they reached the breaking point, Fritz rightly knew when to strike a compromise, and he worked one out with Russell Long.

He won the change in the cloture rule, and it is not an exaggeration to point out that his efforts probably saved the Senate as we know it, and he did it without changing the Senate's fundamental character. As difficult as it still is to get things done in the Senate, without the Mondale cloture rule the Senate by now would be largely unmanageable.

It is saddening and frustrating today to see that even the Mondale rule has been abused. Filibusters are used far more often than they used to be. We had to have 72 cloture votes last year, and with a razor thin majority like the current Democratic majority in the Senate, that usually is an insurmountable hurdle. As Fritz knows and as Fritz practiced, the Senate's machinery is oiled by good will and self restraint, and there is less and less of that around.

Through his public service, Fritz Mondale invested himself in the belief that our democracy offers civilizing power to all of us together as a community, through our representative government, to give each of us, and all of us, the opportunity to thrive, to make justice real, and to make the economy work for all and not just for some.

In a time when government is compiling more and more information about every American, every American deserves to know what their government is doing. Checks and balances and the kind of oversight that Fritz Mondale believes in and practiced makes government more accountable to the people. It helps make our system work as the Framers intended.

This is the way he put it in that address in 2002: ''What a paradise we would live in if trust were never abused. But our Founders knew better. They built our system on this deep insight into human nature. We are not perfect. We are, all of us, mixtures of the good and base, lofty and lowly, selfless and selfish. We are capable of sonatas, sonnets, and cathedrals. But we are also capable of greed, paranoia, and a dangerous thirst for power.'' Unquote. That insight of the Framers, he concluded, accounts for our unique system of checks and balances.

The Senate at its best can be the conscience of the nation. I have seen that when it happens, and I marvel in the fundamental soundness and wisdom of our system every time it does. But we cannot afford to put any part of the mechanism on automatic pilot. It takes constant work and vigilance to keep our system working as it should for the betterment of our society and its people. Keeping faith with these fundamentals accounts for much of the legacy of Fritz Mondale.

It is easy for politicians to appeal to our worst instincts and to our selfishness. Political leaders serve best when they appeal to the best in us, to lift our sights, summon our will and raise us to a higher level.

This year we celebrate our good fortune of knowing and benefiting from Fritz Mondale's ample service to the nation, and there is much to celebrate. His is the generous and optimistic spirit of the reformer, and of the patriot.

Thank you, Fritz. And Happy Birthday.

COMMISSION ON THE NATIONAL GUARD AND RESERVES

Mr. WARNER. Mr. President, I rise today to commend the work of the Commission on the National Guard and Reserves. Under the leadership of Arnold L. Punaro, the Commission has done this Nation a great service. It was my privilege as chairman of the Senate Armed Services Committee to include the legislation that established the Commission in the annual National Defense Authorization Act for Fiscal Year 2005.

On January 31, 2008, the Commission submitted its final report to the House and Senate Armed Services Committees and the Secretary of Defense. That report is thorough, is based on substantial and careful research and an extensive information-gathering process, and reflects many hours of deliberations by the Commission's members.

The 12 Commissioners, between them, brought 288 total years of military service, 186 total years of nonmilitary government service, and many years of private-sector experience to the task. In addition to Chairman Punaro, the Commission's members are William L. Ball, III; Les Brownlee; Rhett B. Dawson; Larry K. Eckles; Patricia L. Lewis; Dan McKinnon; Wade Rowley; James E. Sherrard, III; Donald L. Stockton; E. Gordon Stump; and J. Stanton Thompson.

The Commission was established by Public Law 108–375, the Ronald Reagan National Defense Authorization Act for fiscal year 2005, as amended by Public Law 109–163, to assess the reserve component of the U.S. military and to recommend changes to ensure that the National Guard and other reserve components are organized, trained, equipped, compensated, and supported

to best meet the needs of U.S. national security.

The Commission's first interim report, containing initial findings and the description of a strategic plan to complete its work, was delivered on June 5, 2006. The second interim report, delivered on March 1, 2007, was required by Public Law 109–364, the John Warner National Defense Authorization Act for Fiscal Year 2007, enacted on October 17, 2006. That second report examined 17 proposals contained in the National Defense Enhancement and National Guard Empowerment Act, and included 23 recommendations covering the broad spectrum of issues raised by the legislation.

The Commission's second report was thoroughly reviewed by both Congress and the Department of Defense, and careful consideration was given to the Commission's recommendations that have changed, in a fundamental way, the Department of Defense's role for domestic security, taking significant steps towards improvements to make the nation safer from man-made and natural disasters. Secretary of Defense Gates also has taken timely and decisive action to implement those recommendations not requiring legislation, and has advocated before Congress for those requiring legislation.

The final report of the Commission was constructed from 17 days of public hearings, involving 115 witnesses; 52 Commission meetings; more than 850 interviews; numerous site visits, forums, and panel discussions; and the detailed analysis of thousands of documents supplied at the Commission's request by the military services, government agencies, experts, and other stakeholders. It contains 6 major conclusions and 95 recommendations, supported by 163 findings. This prodigious, thorough effort met the expectations of Congress.

In conducting its work, the Commission gathered information, analyzed evidence, identified significant problems facing the reserve components, and sought to offer the best possible recommendations to solve the problems identified. The Commissioners stated clearly their belief that the problems identified in the report are systemic, have evolved over many years, and are not the product of any one official or administration. Many of the Commission's recommendations to solve those problems can now be implemented; however, a number of them will take years to reach full implementation and will require additional work by Congress and the executive branch.

At the core of these changes is the explicit recognition of the evolution of the reserve components from a purely strategic force, with lengthy mobilization times designed to meet threats from large nation-states, to an operational force. This operational reserve must be readily available for emergencies at home and abroad, and more fully integrated with active components. Simultaneously, this force must retain its own required strategic elements and capabilities.

The Commission concluded that there will be greater reliance on the reserve components as part of its operational force for missions at home and abroad. Moreover, the Commission also concluded that the change from the reserve components' historic Cold War posture necessitates fundamental reforms to reserve components' homeland roles and missions, to personnel management systems, to equipping and training policies, to policies affecting families and employers, and to the organizations and structures used to manage the reserves. These reforms are essential to ensure that this operational reserve is feasible in the short term while sustainable over the long term. In fact, the Commission believes that the future of the all-volunteer force depends upon the continued success of our implementation of needed reforms to ensure that the reserve components are ready, capable, and available for both operational and strategic missions.

In reviewing the past several decades of diverse use of the reserve components, as an integral part of operations in Iraq, Afghanistan, and the homeland, most notably the Commission has found indisputable and overwhelming evidence of the need for future policymakers and the military to break with outdated policies and processes and implement fundamental, thorough reforms in these areas.

The members of the Commission on the National Guard and Reserves share this view unanimously. The Commission notes that these recommendations will require the nation to reorder the priorities of the Department of Defense, thereby necessitating a major restructuring of laws and DOD's budget. While there are some costs associated with these recommendations, the Commission believes that the problems are serious, the need to address them is urgent, and the benefits of the reforms we identify more than exceed the expense of implementing them.

Clearly, the reserve force has proven itself to be a wise investment in our overall security structure and should be commended for their professional contributions to our Nation's defense. The Commission recognizes that these issues are extremely complex, and that there will be disagreement with some of the solutions it has proposed. That is to be expected. Commission members anticipate that this report will generate lively debate among the organizations and key policymakers responsible for protecting U.S. national security. With the submission of its last report, the Commission turns its findings, conclusions, and recommendations over to the legislative and executive branches, where Commission members feel confident that they will be carefully considered, improved upon, and implemented.

The Commission has provided America a blueprint for our work on the National Guard and Reserves this year and in the future. Each of its 95 recommendations merits our careful consideration. The Senate Armed Services and Homeland Security and Governmental Affairs Committees have already held hearings on the Commission's report, and we await the Department of Defense's formal response to its recommendations.

It is with profound admiration and gratitude that I extend our collective thanks for the service that this Commission has rendered to our nation and to our men and women in uniform. I know my colleagues will agree when I say that this Commission has made profound and substantive recommendations for reforming our National Guard and Reserves and that we look forward to working to address the issues raised by the Commission's final report.

ADDITIONAL STATEMENTS

TRIBUTE TO MICHAEL E. BAKER

• Mr. AKAKA. Mr. President, it is a privilege for me today to honor Mr. Michael E. Baker as he retires as president of Maryknoll School. I want to express a heartfelt mahalo nui loa—thank you very much—and best wishes with my warmest aloha as he retires after 11 years at the helm of the school with an unsurpassed record of achievements. He leaves a legacy which benefitted students and continues to do so and is appreciated by parents, alumni, and our educational community. His is a legacy of a great leader and educator.

As a former principal in our public school system, I agree wholeheartedly with the philosophy contained in Mr. Baker's ''President's Message'' in which he emphasize the critical importance of exceptional teachers in the commencement and development of students, intellectually and spiritually, and to inculcate them with these and all the other attributes necessary to develop into a valued member of our society. He has built on the solid foundation laid by his predecessors and attracted the very best faculty recognized for their excellence locally, regionally, and nationally.

As he retires from his stewardship of Maryknoll School to spend more time with his family, I also want to congratulate him for his leadership that made the Maryknoll School Community Center a reality. When completed, this much-needed first-rate center for the school's athletics program will be an important part of the school's curriculum as it continues to build success upon success for its students.

Mr. President, I join President Michael E. Baker's family, colleagues, friends, and the community in wishing him Godspeed as he enters the next phase of his life. He has earned the right to enjoy his family and the simple pleasures of life in retirement.•

TRIBUTE TO LOUISIANA WWII VETERANS

• Ms. LANDRIEU. Mr. President, I am proud to honor a group of 94 World War II veterans from Louisiana who are traveling to Washington, DC, this weekend to visit the various memorials and monuments that recognize the sacrifices of our Nation's invaluable service members.

Louisiana HonorAir, a group based in Lafayette, LA, is sponsoring this Saturday's trip to the Nation' s Capital. The organization is honoring each surviving World War II Louisiana veteran by giving them an opportunity to see the memorials dedicated to their service. On this trip, the veterans will visit the World War II, Korea, Vietnam and Iwo Jima memorials. They will also travel to Arlington National Cemetery to lay a wreath on the Tomb of the Unknowns.

This is the eighth flight Louisiana HonorAir has made to Washington, DC., and there will be one additional flight this spring.

World War II was one of America's greatest triumphs, but was also a conflict rife with individual sacrifice and tragedy. More than 60 million people worldwide were killed, including 40 million civilians, and more than 400,000 American service members were slain during the long war. The ultimate victory over enemies in the Pacific and in Europe is a testament to the valor of American soldiers, sailors, airmen and marines. The years 1941 to 1945 also witnessed an unprecedented mobilization of domestic industry, which supplied our military on two distant fronts.

In Louisiana, there remain today more than 40,000 living WWII veterans, and each one has a heroic tale of achieving the noble victory of freedom over tyranny. Veterans in this HonorAir group range in age from 79 to 91. They began their service as early as 1939, before the bombing of Pearl Harbor, and some members of this group served as late as 1976. They served in various branches of the military—37 members in the Army; 17 in the Army Air Corps, including one in the Women's Air Corps; 28 in the Navy; 3 in the Naval Reserve; 4 in the Marines; 1 in the Marine Corps Reserve; 2 in the Merchant Marines; and 2 in the U.S. Coast Guard.

Our heroes served across the globe in the Pacific, Atlantic, Asiatic Pacific and China Burma India theaters. Others served in North Africa, Japan, Korea, the islands of the South Pacific and in other areas of Europe and stateside. Our service members battled at Iwo Jima, Guadalcanal, Okinawa, Saipan, Tinian and the Solomon Islands.

Many of these veterans earned Purple Hearts, Bronze Star Medals and Croix de Guerre medals. They served on famous battleships such as USS North Carolina, and they participated in the liberation of the Philippines.

I ask the Senate to join me in honoring these 94 veterans, all Louisiana heroes, that we welcome to Washington this weekend and Louisiana HonorAir for making these trips a reality.•

HONORING TRANS-TECH INDUSTRIES

• Ms. SNOWE. Mr. President, I rise today to commend the immeasurable contributions of a small Maine company both to its industry and community. Trans-Tech Industries is an innovative manufacturer of aluminum tanks and trailers which are used to transport fuel and petroleum products. In addition to leading its field, Trans-Tech has given back to the city of Brewer, ME, in countless ways.

Trans-Tech is a shining model for companies seeking to compete in the demanding global marketplace. Founded in 1984, the company set out with a simple goal: strengthen existing models of aluminum tanks to become safer and more convenient for the operator. Trans-Tech originally began operations in a converted storage unit in the seaside town of Southwest Harbor. During its early years, Trans-Tech manufactured tanks and trailers as well as aluminum boats. But company president Ken Peters found it difficult to produce the number of tanks for which he had hoped, and he continually increased efforts to make more tanks. In 1999, Trans-Tech finally moved to a location in Brewer's East-West Industrial Park that better suited the company's needs.

Since relocating to Brewer, Trans-Tech's tank production has soared. The company presently makes between 400 and 500 tanks each year, as opposed to the less than 100 it previously produced, and revenues have increased threefold. Moreover, the company continues to improve and expand. Besides its state-of-the-art 43,000 square foot production facility, Trans-Tech added an adjacent 7,200 square foot building in 2004, allowing it to focus on the manufacturing of specialty trailers. Trans-Tech was additionally able to realize its goal of developing aircraft refuelers that range from 1,000 to 10,000 gallons each which are now in use at airports across the country, showing how Trans-Tech has made the most of its new opportunities.

While Trans-Tech certainly produces high quality tanks and trailers, the firm and its over 60 employees are also a good neighbor, donating time and resources to many area organizations and charities. Trans-Tech's commitment to the community is visible with its assistance to The Salvation Army; the company's sponsoring a youth hockey team; and its major participation in the Brewer Days and Brewer Winterfest, two well-attended annual community events.

One of Trans-Tech's most recognizable efforts is its involvement with the Bangor Area Homeless Shelter. Mr. Peters serves on the shelter's board of directors, and he and Trans-Tech constantly provide the shelter with needed supplies such as furniture and food. They even donated a new air conditioner for the hot summer months. Mr. Peters also serves as a board member on the Brewer Economic Development Corporation and he is a founding member of the Penobscot Landing Committee, which is aimed at revitalizing the historic Brewer waterfront. He is also the 2008 recipient of the Governor's Service Award as chosen by the Maine Commission for Community Service, a fitting acknowledgement of the devotion he and Trans-Tech have shown to improving the well-being of Brewer.

Through its unyielding pledge to both business and community, Trans-Tech sets a high bar for companies seeking to succeed in all facets. Ken Peters inspires his employees, and they in turn help make Brewer a better community in which to live. He also gives back to his employees in numerous ways, including providing them with a raise to help them manage rising gas prices. The firm's magnanimous spirit truly flows from the top, and it is something to be celebrated. I congratulate Trans-Tech Industries on all it does, and wish the company well in the future.•

TRIBUTE TO MICHAEL J. BARTLETT

• Mr. SUNUNU. Mr. President, I wish to pay tribute to Michael J. Bartlett, supervisor of the U.S. Fish and Wildlife Service New England Field Office, who is retiring after four decades of exemplary public service. My home State of New Hampshire, the New England region, and our Nation have benefitted greatly from Mike's efforts as a tireless defender of our natural resources.

After completing military service over 37 years ago, Mike joined the U.S. Fish and Wildlife Service as a staff biologist. Prior to his current role, he served as a project leader in the New Jersey Ecological Services Office, Northeast regional chief of field operations, and Northeast deputy assistant regional director.

Like any good steward, Mike has left things better than he found them in each of these positions. Throughout his time with the Fish and Wildlife Service, Mike has fostered accountability, efficiency, and teamwork. For his accomplishments in strengthening employee-supervisor relationships and improving overall employee satisfaction, Mike was honored with the Fish and Wildlife Service Northeast Region's ''Invest in People'' award.

Mike's leadership and collaborative approach to natural resource protection are widely respected. As Supervisor of the New England Field Office, Mike has minimized the adversarial nature of his office's regulatory role and repeatedly brought parties together for mutually beneficial outcomes. At the same time, Mike has been unwavering in his dedication to natural resource protection.

Mike was instrumental in complex and lengthy negotiations with the

Maine aquaculture industry, the Army Corps of Engineers, the Environmental Protection Agency, and State of Maine that resulted in strong protections for endangered Atlantic salmon. Additionally, under his supervision, the New England Field Office has secured significant resource benefits by negotiating numerous settlement agreements on contentious hydroelectric project license renewals. For example, a mitigation fund created as part of the relicensing of the Fifteen Mile Falls hydroelectric project on the Connecticut River has allowed the restoration of 20 miles of river habitat, protection of over 25,000 acres of watershed lands, and fish passage improvements.

Under Mike's supervision, the New England Field Office has been a wise steward of natural resource damage assessment funds. Mike has insisted that such funds be used to obtain the greatest possible benefit for fish and wildlife impacted by oilspills and other environmental degradation. In Maine, settlement funds totaling $8 million were used to leverage over $100 million in additional investment to protect habitat for common loons and ducks that were impacted by the North Cape oilspill in Rhode Island. The combined funds secured the protection of 1.5 million acres and more than 200 lakes and ponds that provide nesting habitat for over 125 pairs of loons and 600 pairs of common eiders. In Massachusetts, settlement funds have been used to preserve endangered roseate tern colonies in Buzzards Bay, restore saltmarsh and eelgrass beds, and provide herring with spawning habitat on the Acushnet River.

Mike's emphasis on collaboration shines through in the exceptional work performed by his office through the Fish and Wildlife Service Partners program. During Mike's tenure as supervisor of the New England Field Office, the program has restored hundreds of miles of river access and thousands of acres of wetlands in the region. In New Hampshire, thanks to a highly successful dam removal program that Mike conceived and helped to create, I have witnessed improvements to our rivers such as the Contoocook and Souhegan. Meanwhile, the Partners program has restored coastal saltmarsh in Greenland, Newmarket, Newington, Hampton, Rye and North Hampton, New Hampshire. This and similar work throughout New England has enhanced landscapes and preserved critical habitat for Atlantic salmon, American shad, American eel, brook trout, and freshwater mussels.

Mike's work has also benefitted many species including Indiana bats, New England cottontail rabbits, and a variety of migratory birds such as piping plovers, bobolinks, eastern meadowlarks, loons, roseate terns, and bald eagles. His stewardship has even impacted the smallest of species. Mike's negotiation of an agreement with the city of Concord, the New Hampshire Department of Fish and Game, and private partners has ensured the protection of the federally endangered Karner blue butterfly through cooperative management of 300 acres of habitat at the Concord City Airport.

Mike plans to teach in his retirement, and this is fitting because he has already been a mentor, coach, and teacher for many individuals. Mike's dedication and his outgoing and gregarious personality, to which colleagues and friends attribute much of his success, are widely admired. The inspiration Mike provides for others will undoubtedly continue to be a catalyst for conservation.

Mike is to be commended for his extensive work on behalf of fish, wildlife, wetlands, and conservation in general. I am certain that Mike's retirement will be enjoyable, as some say that his professional and personal attributes may be equaled only by his aquatic resource collection skills with a fly rod. Mike's upcoming time for angling, hunting, kayaking, and relaxing with his wife, children, and grandchildren, is well-deserved. I wish Mike and his family great success in the years to come.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mrs. Neiman, 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 and a withdrawal 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 12:27 p.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 bills, in which it requests the concurrence of the Senate:

H.R. 3490. An act to transfer administrative jurisdiction of certain Federal lands from the Bureau of Land Management to the Bureau of Indian Affairs, to take such lands into trust for Tuolumne Band of Me-Wuk Indians of the Tuolumne Rancheria, and for other purposes.

H.R. 3522. An act to ratify a conveyance of a portion of the Jicarilla Apache Reservation to Rio Arriba County, State of New Mexico, pursuant to the settlement of litigation between the Jicarilla Apache Nation and Rio Arriba County, State of New Mexico, to authorize issuance of a patent for said lands, and to change the exterior boundary of the Jicarilla Apache Reservation accordingly, and for other purposes.

H.R. 4332. An act to amend the Federal Financial Institutions Examination Council Act to require the Council to establish a single telephone number that consumers with complaints or inquiries could call and be routed to the appropriate Federal banking agency or State bank supervisor, and for other purposes.

H.R. 5631. An act to designate the facility of the United States Postal Service located at 1155 Seminole Trail in Charlottesville, Virginia, as the ''Corporal Bradley T. Arms Post Office Building''.

The message also announced that the House has passed the following bills, without amendment:

S. 2457. An act to provide for extensions of leases of certain land by Mashantucket Pequot (Western) Tribe.

S. 2739. An act to authorize certain programs and activities in the Department of the Interior, the Forest Service, and the Department of Energy, to implement further the Act approving the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, to amend the Compact of Free Association Amendments Act of 2003, and for other purposes.

ENROLLED BILLS SIGNED

The PRESIDENT pro tempore (Mr. BYRD) reported that he had signed the following enrolled bills, which were previously signed by the Speaker of the House:

H.R. 3196. An act to designate the facility of the United States Postal Service located at 20 Sussex Street in Port Jervis, New York, as the ''E. Arthur Gray Post Office Building''.

H.R. 3468. An act to designate the facility of the United States Postal Service located at 1704 Weeksville Road in Elizabeth City, North Carolina, as the ''Dr. Clifford Bell Jones, Sr. Post Office''.

H.R. 3532. An act to designate the facility of the United States Postal Service located at 5815 McLeod Street in Lula, Georgia, as the ''Private Johnathan Millican Lula Post Office''.

H.R. 3720. An act to designate the facility of the United States Postal Service located at 424 Clay Avenue in Waco, Texas, as the ''Army PFC Juan Alonso Covarrubias Post Office Building''.

H.R. 3803. An act to designate the facility of the United States Postal Service located at 3100 Cashwell Drive in Goldsboro, North Carolina, as the ''John Henry Wooten, Sr. Post Office Building''.

H.R. 3936. An act to designate the facility of the United States Postal Service located at 116 Helen Highway in Cleveland, Georgia, as the ''Sgt. Jason Harkins Post Office Building''.

H.R. 3988. An act to designate the facility of the United States Postal Service located at 3701 Altamesa Boulevard in Fort Worth, Texas, as the ''Master Sergeant Kenneth N. Mack Post Office Building''.

H.R. 4166. An act to designate the facility of the United States Postal Service located at 701 East Copeland Drive in Lebanon, Missouri, as the ''Steve W. Allee Carrier Annex''.

H.R. 4203. An act to designate the facility of the United States Postal Service located at 3035 Stone Mountain Street in Lithonia, Georgia, as the ''Specialist Jamaal RaShard Addison Post Office Building''.

H.R. 4211. An act to designate the facility of the United States Postal Service located at 725 Roanoke Avenue in Roanoke Rapids, North Carolina, as the ''Judge Richard B. Allsbrook Post Office''.

H.R. 4240. An act to designate the facility of the United States Postal Service located at 10799 West Alameda Avenue in Lakewood, Colorado, as the ''Felix Sparks Post Office Building''.

H.R. 4286. An act to award a congressional gold medal to Daw Aung San Suu Kyi in recognition of her courageous and unwavering commitment to peace, nonviolence, human rights, and democracy in Burma.

H.R. 4454. An act to designate the facility of the United States Postal Service located at 3050 Hunsinger Lane in Louisville, Kentucky, as the ''Iraq and Afghanistan Fallen Military Heroes of Louisville Memorial Post Office Building'', in honor of the service men and women from Louisville, Kentucky, who died in service during Operation Enduring Freedom and Operation Iraqi Freedom.

H.R. 5135. An act to designate the facility of the United States Postal Service located at 201 West Greenway Street in Derby, Kansas, as the ''Sergeant Jamie O. Maugans Post Office Building''.

H.R. 5220. An act to designate the facility of the United States Postal Service located at 3800 SW. 185th Avenue in Beaverton, Oregon, as the ''Major Arthur Chin Post Office Building''.

H.R. 5400. An act to designate the facility of the United States Postal Service located at 160 East Washington Street in Chagrin Falls, Ohio, as the ''Sgt. Michael M. Kashkoush Post Office Building''.

H.R. 5472. An act to designate the facility of the United States Postal Service located at 2650 Dr. Martin Luther King Jr. Street, Indianapolis, Indiana, as the ''Julia M. Carson Post Office Building''.

H.R. 5489. An act to designate the facility of the United States Postal Service located at 6892 Main Street in Gloucester, Virginia, as the ''Congresswoman Jo Ann S. Davis Post Office.''

At 5:54 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the House agrees to the amendment of the Senate to the bill (H.R. 1195) to amend the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users to make technical corrections, and for other purposes.

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 3490. An act to transfer administrative jurisdiction of certain Federal lands from the Bureau of Land Management to the Bureau of Indian Affairs, to take such lands into trust for Tuolumne Band of Me-Wuk Indians of the Tuolumne Rancheria, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 4332. An act to amend the Federal Financial Institutions Examination Council Act to require the Council to establish a single telephone number that consumers with complaints or inquiries could call and be routed to the appropriate Federal banking agency or State bank supervisor, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

H.R. 5631. An act to designate the facility of the United States Postal Service located at 1155 Seminole Trail in Charlottesville, Virginia, as the ''Corporal Bradley T. Arms Post Office Building''; to the Committee on Homeland Security and Governmental Affairs.

H.R. 5712. An act to require disclosure by Federal contractors of certain violations relating to the award or performance of Federal contracts; to the Committee on Homeland Security and 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–339. A resolution adopted by the House of Representatives of the State of Alaska urging Congress to permanently repeal the federal estate tax; to the Committee on Finance.

HOUSE RESOLUTION NO. 7

Whereas the Economic Growth and Tax Relief Reconciliation Act of 2001 temporarily phased out but did not permanently eliminate the federal estate tax; and

Whereas our form of government is premised on the right to enjoy the fruit of one's labor, to own one's own possessions, and to pass on one's bounty to one's heirs; and

Whereas, when a person works for a lifetime to build assets, saving and investing money, building a business, or buying and developing land, that person has a moral right to pass those assets on to the person's family without being penalized with inheritance taxes; and

Whereas there is a fundamental problem of double taxation when a decedent's survivors are forced to pay an inheritance tax on assets acquired by the decedent with after-tax dollars; and

Whereas we need a tax system that encourages lifelong saving, investment, and business activity, and not one that can result in heirs liquidating or selling family businesses that are often asset rich but cash poor, thereby destroying those ongoing job-producing businesses simply to fund increased government consumption; and

Whereas the persistent uncertainty created by sec. 901 of the Economic Growth and Tax Relief Reconciliation Act of 2001, which provides for the reinstatement of federal estate tax law for decedents dying after December 31, 2010, prevents families and small businesses from fully benefitting from the temporary repeal; be it

Resolved, That the House of Representatives strongly urges the United States Congress to support, work to pass, and vote for the immediate and permanent repeal of the federal estate tax.

POM–340. A resolution adopted by the Legislature of the State of Arizona urging Congress to authorize the Department of the Treasury to intercept federal tax refunds to pay overdue victim restitution; to the Committee on Finance.

SENATE CONCURRENT MEMORIAL NO. 1004

Whereas, between $500 million and $1 billion in victim restitution, fines, fees and surcharges are past due and owed to courts across Arizona; and

Whereas, under current law, the Internal Revenue Service is authorized to intercept tax refunds for child support debts, state and federal tax debt and federal agency debt, but not for the collection of court-ordered restitution, fines and fees; and

Whereas, Arizona law currently allows state tax refunds to be intercepted for past-due court obligations, and in fiscal year 2007, approximately $7.1 million was collected through this program and distributed to victims and various criminal justice agencies throughout the state; and

Whereas, legislation has been introduced in Congress, S. 1287, that would add state court debts to the list of debts that can be withheld from federal tax refunds. It is estimated that approximately $70 million could be collected for Arizona if federal tax refunds were subject to intercept by the Internal Revenue Service; and

Whereas, mechanisms already are in place to intercept this debt and such a plan would result in no loss to the federal budget. The federal tax intercept proposal is a fair and simple way to enforce debts owed without implementing a tax increase.

Wherefore your memorialist, the Senate of the State of Arizona, the House of Representatives concurring, prays.

1. That the United States Congress enact S. 1287 or other similar legislation that would authorize the United States Department of the Treasury to intercept federal tax refunds to pay overdue victim restitution and other financial obligations ordered by state and local criminal and traffic courts.

2. That the Secretary of State of the State of Arizona transmit copies of this Memorial to the President of the United States Senate, the Speaker of the United States House of Representatives and each Member of Congress from the State of Arizona.

POM-341. A concurrent resolution adopted by the Senate of the State of Louisiana urging Congress to extend the expiration deadline of the Gulf Opportunity Zone Act of 2005; to the Committee on Finance.

SENATE CONCURRENT RESOLUTION NO. 20

Whereas, hurricanes Katrina and Rita struck the United States in August and September 2005, and were considered the most devastating natural disasters to hit the United States; and

Whereas, in response to these natural disasters Congress in December 2005, enacted the Gulf Opportunity Zone Act (GO Zone Act) of 2005 to provide desperately needed economic relief, and

Whereas, the GO Zone Act provides federal tax incentives and bonds to rebuild the economies of those areas impacted by hurricanes Katrina, Rita and Wilma; and

Whereas, even though the entire state of Louisiana was included in the hurricanes Katrina and Rita disaster areas, the provisions of the GO Zone Act apply only to certain designated parishes; and

Whereas, the GO Zone Act applies to the following parishes: Acadia, Allen, Ascension, Assumption, Beauregard, Calcasieu, Cameron, East Baton Rouge, East Feliciana, Evangeline, Iberia, Iberville, Jefferson, Jefferson Davis, Lafayette, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, Sabine, St. Bernard, St. Charles, St. Helena, St. James, St. John the Baptist, St. Landry, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Vermilion, Vernon, Washington, West Baton Rouge, and West Feliciana; and

Whereas, the GO Zone Act provides low-income housing credits, rehabilitation tax credits for restoring commercial buildings, employer-provided housing benefits, fifty percent bonus depreciation on certain new property investments, deductions for demolition and clean-up costs, and net operating loss carrybacks; and

Whereas, many of the GO Zone Act provisions expired at the end of 2007 and other provisions are due to expire at the end of 2010 for certain parishes; and

Whereas, many Louisiana citizens and businesses can directly benefit from the Act's incentives if the GO Zone Act is extended; therefore, be it,

Resolved That the Legislature of Louisiana memorializes the Congress of the United States to extend the expiration deadline of the Gulf Opportunity Zone Act of 2005; be it further,

Resolved That a copy of this Resolution shall be transmitted to the secretary of the United States Senate and the clerk of the United States House of Representatives and to each member of the Louisiana delegation to the United States Congress.

POM–342. A joint resolution adopted by the Legislature of the State of Idaho urging the Idaho congressional delegation to take measures to improve quality care in the skilled nursing facilities in Idaho; to the Committee on Health, Education, Labor, and Pensions.

HOUSE JOINT MEMORIAL NO. 6

Whereas, the federal survey process through which skilled nursing facilities are inspected is a federal process which is not available for significant state deviation or modification; and

Whereas, the federal survey process was developed in 1987 and was designed for typical residents in skilled nursing facilities at that time; and

Whereas, the acuity levels of patients now being cared for in skilled nursing facilities are significantly elevated from those of twenty years ago; and

Whereas, the federal survey process does not allow for trained, experienced surveyors to provide consulting of any kind when surveying a skilled nursing facility; and

Whereas, the punitive and negative design of the federal survey process often negatively impacts the morale, turnover and motivation of the workforce of the skilled nursing facility; and

Whereas, the costs of the very expensive federal survey process outweigh the benefits; and

Whereas, the state of Idaho has produced a survey process for assisted living providers which is not punitive, provides for significant consulting and, as current feedback indicates, a confidence building and learning experience for employees of the facility; now, therefore, be it,

Resolved by the members of the Second Regular Session of the Fifty-ninth Idaho Legislature, the House of Representatives and the Senate concurring therein, That the Idaho Legislature urges the Idaho congressional delegation, the Idaho Department of Health and Welfare, the United States Department of Health and Human Services, resident advocate groups in Idaho and industry representatives to negotiate how to improve the survey process in skilled nursing facilities in Idaho and that the Idaho Legislature supports measures to improve quality care in the skilled nursing facilities in Idaho and the Idaho Legislature also affirms our desire to be efficient with tax dollars; be it further

Resolved, That the Idaho Legislature urges the Idaho congressional delegation to request support and necessary funding from the United States Congress for a pilot project in the state of Idaho to implement the changes negotiated by the aforementioned groups; be it further

Resolved, That the Chief Clerk of the House of Representatives be, and she is hereby authorized and directed to forward a copy of this Memorial to the President of the United States, to the Secretary of the United States Department of Health and Human Services, to the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegation representing the state of Idaho in the Congress of the United States.

POM–343. A resolution adopted by the Legislature of the State of Massachusetts urging Congress to create an office of the national nurse; to the Committee on Health, Education, Labor, and Pensions.

RESOLUTION

Whereas, nurses are highly valued and trusted by the public and, in addition to administering health care, are often called upon to deliver educational messages about health maintenance and disease prevention; and

Whereas, there are thousands of nurses and nurse educators currently living and working in the commmonwealth; and

Whereas, a national effort is underway to create an Office of the National Nurse; and

Whereas, on March 8, 2006, Congresswoman Lois Capps, a nurse representing the 23rd Congressional District of California, introduced H.R. 4903 in the House of Representatives to amend the Public Health Service Act to establish an Office of the National Nurse; and

Whereas, H.R. 4903 enjoyed bipartisan support and 42 Members of the House of Representatives signed on to the bill; and

Whereas, the Office of the National Nurse would raise awareness of health issues and promote good health through education and community outreach; and

Whereas, the Office of the National Nurse would effectively complement the Office of the Surgeon General of the United States; and

Whereas, the Office of the National Nurse would support valuable initiatives, such as producing weekly media broadcasts to promote health, increasing the number of nurse educators, facilitating the deployment of nurses to underserved areas, promoting volunteerism within the Medical Reserves Corps and partnering with existing agencies to deliver nursing assistance and education to communities, particularly communities in crisis; Therefore be it

Resolved, That the Massachusetts General Court memorializes the Congress of the United States to enact legislation to create an Office of the National Nurse as described in H.R. 4903 similar legislation; and be it further

Resolved, That copy of these resolutions be forwarded by the Clerk of the House of Representatives to the President of the United States, the presiding officer of each branch of Congress and the members thereof from the commonwealth.

POM–344. A concurrent resolution adopted by the Legislature of the State of Kansas expressing its support for the National Bio and Agro-Defense Facility; to the Committee on Health, Education, Labor, and Pensions.

SENATE CONCURRENT RESOLUTION NO. 1624

Whereas, Homeland Security Presidential Directive Nine (HSPD–9) has tasked the Secretary of the Department of Homeland Security to coordinate, ''counter-measure research and development of new methods for detection, prevention technologies, agent characterization and dose response relationships for high-consequence agents''; and

Whereas, at present no facilities in the United States have adequate containment, security, equipment and infrastructure to meet the requirements identified in HSPD–9; and

Whereas, to meet this need, the Department of Homeland Security and its federal partners initiated plans for a National Bio and Agro-Defense Facility (NBAF); and

Whereas, the NBAF will enhance protection from both natural and intentional threats by providing and integrating high-biosecurity facilities, thus increasing our nation's capacity to assess potential threats to both human and animal life; and

Whereas, the Department of Homeland Security is seeking a location to build the $451 million, 500,000 square foot, NBAF facility; and

Whereas, A site on the campus of Kansas State University is one of six sites actively under consideration by the Department of Homeland Security as possible locations for the NBAF facility; and

Whereas, the State of Kansas recognizes the NBAF as a critical national investment and pledges its support for the funding and construction of the NBAF in order to protect human and animal health from both naturally occurring and intentionally introduced disease threats; and

Whereas, Kansas is the ideal location for the NBAF. Kansas is a world leader in bioscience, particularly in the areas of animal health and vaccines, infectious diseases, and food safety. Kansas also has in place an exceptionally well qualified workforce; and

Whereas, in demonstration of their zealous support for locating the NBAF in Kansas, Governor Kathleen Sebelius and the Kansas Bioscience Authority have initiated a task force to lead Kansas' bid for the NBAF. This task force consists of prominent industry leaders, public officials—including the entire Kansas congressional delegation—representatives from the Kansas legislature, producer groups and leaders of prominent academic institutions; and

Whereas, the State of Kansas is committed to partnering with the federal government to support biosecurity. As part of this commitment, Kansas—along with the federal government—invested $54 million in the nation's most modern biosecurity laboratory, the Biosecurity Research Institute at Kansas State University: Now, therefore, be it

Resolved, by the Senate of the State of Kansas, the House of Representatives concurring therein, That the Kansas legislature pledges its support for Kansas State University and the City of Manhattan, in their bid to have the U.S. Department of Homeland Security's National Bio and Agro-Defense Facility located in Kansas, and that the Legislature underscores its commitment to provide any and all support necessary to ensure the location of the NBAF in Kansas; and be it further

Resolved, That the Kansas Legislature purposefully encourages the U.S. Department of Homeland Security to consider Kansas' demonstrated expertise and experience with research, its existing facilities and security infrastructure, and the human resources already in place that make Kansas a natural fit for the location of this new federal laboratory; and be it further

Resolved, That copies of this resolution be provided to President Bush and Vice President Cheney, Secretary Chertoff of the U.S. Department of Homeland Security, Secretary Schafer of the U.S. Department of Agriculture, Secretary Leavitt of the U.S. Department of Health and Human Services, the Kansas congressional delegation and Governor Kathleen Sebelius.

POM–345. A resolution adopted by the Senate of the State of Michigan urging Congress to reverse funding cuts to the Edward Byrne Memorial Justice Assistance Grant Program; to the Committee on the Judiciary.

SENATE RESOLUTION NO. 165

Whereas, the grants funded through the Byrne Justice assistance Grant Program are used throughout Michigan for statewide and local law enforcement efforts. The Byrne program grants assist the apprehension, prosecution, adjudication, detention, and rehabilitation of offenders. The funding supports training, equipment, additional personnel, and other measures to increase the effectiveness of law enforcement and victim assistance; and

Whereas, the cuts in the fiscal year 2008 appropriations for the Byrne program that were approved by Congress and signed into law are staggering. Michigan will lose two-thirds of the funding received in the previous year, down to only $3.2 million. For programs such as the Office of Drug Control Policy, the slashing of the funds available will cripple the office and force the cancellation of many worthwhile programs. The effects on other state and local programs will

be similarly drastic. With the state's budget situation still in question due to negative trends in the national economy that threaten to overwhelm state efforts to restore growth, we clearly cannot replace the lost federal money; and

Whereas, as the federal government continues to grapple wih the budget and economic growth measures, there is still time for Congress to correct the looming crisis in law enforcement efforts in the states. We know that cuts in funding now, when the economic picture is growing bleak, will make the need to effective law enforcement an victim assistance more important than ever. Congress must restore funding to the Byrne program to fiscal year 2007 levels through a supplemental appropriations act in order to prevent the curtailment or cancellation of key criminal justice programs; now, therefore, be it

Resolved by the Senate, That we memorialize the United States Congress to reverse cuts to the Edward Byrne Memorial Justice Assistance Grant Program; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.

POM–346. A concurrent resolution adopted by the Legislature of the State of Louisiana urging Congress to take the actions necessary to ensure adequate funding for veterans' health care; to the Committee on Veterans' Affairs.

HOUSE CONCURRENT RESOLUTION NO. 23

Whereas, the United States Department of Veterans Affairs provides medical care to veterans who have risked their lives to protect the security of the nation; and

Whereas, the United States Department of Veterans Affairs has the largest integrated health care system in the United States; and

Whereas, the missions of the United States Department of Veterans Affairs include providing health care to veterans, educating and training health care personnel, conducting medical research, serving as backup to the United States Department of Defense, and supporting communities in times of crisis; and

Whereas, the United States Department of Veterans Affairs provides a wide range of specialized services to meet the unique needs of veterans, including treatment and care for spinal cord injury, blindness, traumatic brain injury, post traumatic stress disorder, amputation injuries, mental health issues, substance abuse, and conditions requiring long-tern care; and

Whereas, federal discretionary funding for veterans' health care is controlled by the executive branch and congress through the budget and appropriations process; and

Whereas, the United States Governmental Accountability Office report in 2005 highlighted the lack of resources and staffing available to the United States Veterans Administration for processing an increasing backlog of veterans' claims; and

Whereas, discretionary funding for the United States Department of Veterans Affairs lags behind both medical inflation and the increased demands for services; and

Whereas, former United States Secretary of Veterans Affairs Anthony Principi has publicly stated that the United States Department of Veterans Affairs has been struggling to provide health care to the rapidly rising number of veterans who require health care; and

Whereas, it is imperative that the members of congress make funding health care for veterans a major priority. Therefore, be it

Resolved, That the Legislature of Louisiana does hereby urge and request the United States Congress to ensure adequate funding for veterans' health care. Be it further

Resolved, That the legislature does hereby express profound and enduring gratitude to veterans for sacrifices made while serving in the United States Armed Forces, particularly those who suffer as a result of injuries sustained during military service. Be it further

Resolved, That copies of this Resolution be transmitted to the president and vice president of the United States and to the members of Louisiana's congressional delegation.

POM–347. A concurrent resolution adopted by the Senate of the State of Louisiana urging Congress to adopt and implement the recommendations of the Veterans' Disability Benefits Commission; to the Committee on Veterans' Affairs.

SENATE CONCURRENT RESOLUTION NO. 28

Whereas, the Veterans' Disability Benefits Commission was established by the Congress of the United States in Public Law 108–136, the National Defense Authorization Act of 2004; and

Whereas, between May 2005 and October 2007, the commission conducted an in-depth analysis of the benefits and services available to veterans, service members, their survivors, and their families to compensate and provide assistance for the effects of disabilities and deaths attributable to military service; and

Whereas, the commission examined the appropriateness and purpose of benefits, benefit levels and payment rates, and the processes and purposes used to determine eligibility for such services; and

Whereas, the commission reviewed past studies on these subjects, the legislative history of these benefit programs, and related issues that have been debated repeatedly over several decades; and

Whereas, in federal fiscal year 2006, the Department of Veterans' Affairs expended over forty billion dollars on a wide array of these benefits and services for veterans, service members, their survivors and their families; and

Whereas, the commission identified eight principles that it believes should guide the development and delivery of future benefits for veterans, service members, and their families; and

Whereas, the following are those eight principles:

(1) Benefits should recognize the often enormous sacrifices of military service as a continuing cost of war, and commend military service as the highest obligation of citizenship.

(2) The goal of disability benefits should be rehabilitation and reintegration into civilian life to the maximum extent possible and preservation of the veterans' dignity.

(3) Benefits should be uniformly based on severity of service-connected disability without regard to the circumstances of the disability (wartime vs. peacetime, combat vs. training. or geographical location).

(4) Benefits and services should be provided that collectively compensate for the consequence of service-connected disability on the average impairment of earnings capacity, the ability to engage in usual life activities, and quality of life.

(5) Benefits and standards for determining benefits should be updated or adapted frequently based on changes in the economic and social impact of disability and impairment, advances in medical knowledge and technology, and the evolving nature of warfare and military service.

(6) Benefits should include access to a full range of health care provided at no cost to service-disabled veterans. Priority for care must be based on service connection and degree of disability.

(7) Funding and resources to adequately meet the needs of service-disabled veterans and their families must be fully provided while being aware of the burden on current and future generations.

(8) Benefits to our nation's service-disabled veterans must be delivered in a consistent, fair, equitable, and timely manner; and

Whereas, with these principles clearly in mind, the commission has urged the nation to set a firm foundation upon which to shape and evolve a system of appropriate, and generous benefits for the disabled veterans of today and tomorrow. Therefore, be it

Resolved, That the Legislature of Louisiana memorializes the Congress of the United States to adopt and implement the recommendations of the Veterans' Disability Benefits Commission. Be it further

Resolved, That a copy of this Resolution shall be transmitted to the secretary of the United States Senate and the clerk of the United States House of Representatives and to each member of the Louisiana delegation to the United States Congress.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Mr. KENNEDY:

S. 2939. A bill to expand and improve mental health care and reintegration programs for members of the National Guard and Reserve, and for other purposes; to the Committee on Armed Services.

By Mr. BROWN:

S. 2940. A bill to promote green energy production, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. LAUTENBERG:

S. 2941. A bill to improve airport runway safety, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. CARDIN (for himself and Mr. GRAHAM):

S. 2942. A bill to authorize funding for the National Advocacy Center; to the Committee on the Judiciary.

By Ms. CANTWELL (for herself and Mrs. MURRAY):

S. 2943. A bill to amend the National Trails System Act to designate the Pacific Northwest National Scenic Trail; to the Committee on Energy and Natural Resources.

By Mr. REID (for Mrs. CLINTON):

S. 2944. A bill to amend the Child Abuse Prevention and Treatment Act to examine and improve the child welfare workforce, and for other purposes; to the Committee on Finance.

By Mr. VOINOVICH:

S. 2945. A bill to amend title VII of the Civil Rights Act of 1964, to clarify that a discriminatory compensation decision or other practice occurs on the date on which the aggrieved person knew or should have known that the person was affected by the decision or practice, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. VITTER (for himself and Mr. BROWNBACK):

S. 2946. A bill to amend title 38, United States Code, to make a stillborn child an insurable dependent for purposes for the Servicemembers' Group Life Insurance program, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. SCHUMER:

S. 2947. A bill to amend the Food Security Act of 1985 to encourage owners and operators of privately held farm, ranch, and forest land to voluntarily make their land available for access by the public for maple-tapping activities under programs administered by States and tribal governments; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. BROWN:

S. 2948. A bill to provide quality, affordable health insurance for small employers and individuals; to the Committee on Health, Education, Labor, and Pensions.

By Mr. SMITH:

S. 2949. A bill to establish the Mark O. Hatfield Scholarship and Excellence in Tribal Governance Foundation and for other purposes; to the Committee on Indian Affairs.

By Mr. MENENDEZ:

S. 2950. A bill to increase housing, awareness, and navigation demonstration services (HANDS) for individuals with autism spectrum disorders; to the Committee on Health, Education, Labor, and Pensions.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. REID (for Mrs. CLINTON (for herself, Mr. MENENDEZ, Mr. FEINGOLD, and Mr. LAUTENBERG)):

S. Res. 542. A resolution designating April 2008 as ''National STD Awareness Month''; to the Committee on the Judiciary.

By Mr. THUNE (for himself, Mr. JOHNSON, and Mr. BINGAMAN):

S. Res. 543. A resolution designating the week beginning May 11, 2008, as ''National Nursing Home Week''; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 329

At the request of Mrs. LINCOLN, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 329, a bill to amend title XVIII of the Social Security Act to provide coverage for cardiac rehabilitation and pulmonary rehabilitation services.

S. 335

At the request of Mr. DORGAN, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 335, a bill to prohibit the Internal Revenue Service from using private debt collection companies, and for other purposes.

S. 796

At the request of Mr. BAYH, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 796, a bill to amend title VII of the Tariff Act of 1930 to provide that exchange-rate misalignment by any foreign nation is a countervailable export subsidy, to amend the Exchange Rates and International Economic Policy Coordination Act of 1988 to clarify the definition of manipulation with respect to currency, and for other purposes.

S. 935

At the request of Mr. NELSON of Florida, the name of the Senator from Tennessee (Mr. ALEXANDER) was added as a cosponsor of S. 935, a bill to repeal the requirement for reduction of survivor annuities under the Survivor Benefit Plan by veterans' dependency and indemnity compensation, and for other purposes.

S. 1232

At the request of Mr. DODD, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 1232, a bill to direct the Secretary of Health and Human Services, in consultation with the Secretary of Education, to develop a voluntary policy for managing the risk of food allergy and anaphylaxis in schools, to establish school-based food allergy management grants, and for other purposes.

S. 1340

At the request of Mrs. LINCOLN, the names of the Senator from Louisiana (Mr. VITTER) and the Senator from Minnesota (Ms. KLOBUCHAR) were added as cosponsors of S. 1340, a bill to amend title XVIII of the Social Security Act to provide Medicare beneficiaries with access to geriatric assessments and chronic care coordination services, and for other purposes.

S. 1366

At the request of Mr. BUNNING, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 1366, a bill to amend the Internal Revenue Code of 1986 to permit the consolidation of life insurance companies with other companies.

S. 1998

At the request of Mr. DURBIN, the names of the Senator from Maryland (Mr. CARDIN) and the Senator from New Jersey (Mr. MENENDEZ) were added as cosponsors of S. 1998, a bill to reduce child marriage, and for other purposes.

S. 2056

At the request of Mr. ROCKEFELLER, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 2056, a bill to amend title XVIII of the Social Security Act to restore financial stability to Medicare anesthesiology teaching programs for resident physicians.

S. 2161

At the request of Mr. ISAKSON, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of S. 2161, a bill to ensure and foster continued patient safety and quality of care by making the antitrust laws apply to negotiations between groups of independent pharmacies and health plans and health insurance issuers (including health plans under parts C and D of the Medicare Program) in the same manner as such laws apply to protected activities under the National Labor Relations Act.

S. 2372

At the request of Mr. SMITH, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of S. 2372, a bill to amend the Harmonized Tariff Schedule of the United States to modify the tariffs on certain footwear.

S. 2536

At the request of Mr. BAYH, his name was added as a cosponsor of S. 2536, a bill to amend title 38, United States Code, to prohibit the Secretary of Veterans Affairs from collecting certain debts to the United States in the case of veterans who die as a result of a service-connected disability incurred or aggravated on active duty in a combat zone, and for other purposes.

S. 2575

At the request of Mrs. HUTCHISON, the name of the Senator from Missouri (Mr. BOND) was added as a cosponsor of S. 2575, a bill to amend title 38, United States Code, to remove certain limitations on the transfer of entitlement to basic educational assistance under Montgomery GI Bill, and for other purposes.

S. 2682

At the request of Mrs. CLINTON, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of S. 2682, a bill to direct United States funding to the United Nations Population Fund for certain purposes.

S. 2704

At the request of Mrs. LINCOLN, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 2704, a bill to amend title XVIII of the Social Security Act to provide for Medicare coverage of services of qualified respiratory therapists performed under the general supervision of a physician.

S. 2705

At the request of Mr. DURBIN, the name of the Senator from Minnesota (Ms. KLOBUCHAR) was added as a cosponsor of S. 2705, a bill to authorize programs to increase the number of nurses within the Armed Forces through assistance for service as nurse faculty or education as nurses, and for other purposes.

S. 2766

At the request of Mr. NELSON of Florida, the name of the Senator from Ohio (Mr. BROWN) was added as a cosponsor of S. 2766, a bill to amend the Federal Water Pollution Control Act to address certain discharges incidental to the normal operation of a recreational vessel.

S. 2774

At the request of Mr. LEAHY, the names of the Senator from South Carolina (Mr. GRAHAM), the Senator from Minnesota (Ms. KLOBUCHAR) and the Senator from Minnesota (Mr. COLEMAN) were added as cosponsors of S. 2774, a bill to provide for the appointment of additional Federal circuit and district judges, and for other purposes.

S. 2775

At the request of Mr. KERRY, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. 2775, a bill to amend the Internal Revenue Code of 1986 and the Social Security Act to treat certain domestically controlled foreign persons performing services under contract

with the United States Government as American employers for purposes of certain employment taxes and benefits.

S. 2777

At the request of Mr. MARTINEZ, the name of the Senator from New Hampshire (Mr. SUNUNU) was added as a cosponsor of S. 2777, a bill to award a Congressional Gold Medal to Dr. Oscar Elias Biscet, in recognition of his courageous and unwavering commitment to democracy, human rights, and peaceful change in Cuba.

S. 2785

At the request of Ms. STABENOW, the name of the Senator from Louisiana (Mr. VITTER) was added as a cosponsor of S. 2785, a bill to amend title XVIII of the Security Act to preserve access to physicians' services under the Medicare program.

S. 2812

At the request of Mr. CONRAD, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 2812, a bill to amend title XVIII of the Social Security Act to improve the provision of telehealth services under the Medicare program.

S. 2822

At the request of Mr. WYDEN, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 2822, a bill to amend the Energy Policy Act of 2005 to repeal a section of that Act relating to exportation or importation of natural gas.

S. 2867

At the request of Mr. BINGAMAN, the name of the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 2867, a bill to authorize additional resources to identify and eliminate illicit sources of firearms smuggled into Mexico for use by violent drug trafficking organizations, and for other purposes.

S. 2928

At the request of Mr. SCHUMER, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 2928, a bill to ban bisphenol A in children's products.

S. 2934

At the request of Mr. MENENDEZ, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 2934, a bill to amend title 38, United States Code, to direct the Secretary of Veterans Affairs to provide a plot allowance for spouses and children of certain veterans who are buried in State cemeteries.

S. 2935

At the request of Mr. LAUTENBERG, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 2935, a bill to prevent the destruction of terrorist and criminal national instant criminal background check system records.

AMENDMENT NO. 4579

At the request of Mr. WYDEN, the name of the Senator from Arizona (Mr. MCCAIN) was added as a cosponsor of amendment No. 4579 intended to be proposed to H.R. 2881, a bill to amend title 49, United States Code, to authorize appropriations for the Federal Aviation Administration for fiscal years 2008 through 2011, to improve aviation safety and capacity, to provide stable funding for the national aviation system, and for other purposes.

AMENDMENT NO. 4582

At the request of Mr. SCHUMER, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of amendment No. 4582 intended to be proposed to H.R. 2881, a bill to amend title 49, United States Code, to authorize appropriations for the Federal Aviation Administration for fiscal years 2008 through 2011, to improve aviation safety and capacity, to provide stable funding for the national aviation system, and for other purposes.

AMENDMENT NO. 4584

At the request of Ms. LANDRIEU, the name of the Senator from Louisiana (Mr. VITTER) was added as a cosponsor of amendment No. 4584 intended to be proposed to H.R. 2881, a bill to amend title 49, United States Code, to authorize appropriations for the Federal Aviation Administration for fiscal years 2008 through 2011, to improve aviation safety and capacity, to provide stable funding for the national aviation system, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KENNEDY:

S. 2939. A bill to expand and improve mental health care and reintegration programs for members of the National Guard and Reserve, and for other purposes; to the Committee on Armed Services.

Mr. KENNEDY. Today, I introduce the National Guard and Reserve Mental Health Access Act, which provides greater access to mental health services for our members of the National Guard and Reserve.

The wars in Iraq and Afghanistan are taking an excruciatingly high toll on veterans and their families and the Nation obviously needs to give greater priority to their mental health needs, including the National Guard and the Reserve.

As of April 29, 2008, 31,848 servicemembers have been wounded in Iraq and Afghanistan. Thirty percent of our soldiers struggle with brain injuries, mental illnesses, including post-traumatic stress disorder and depression, or a combination of these physical and mental wounds.

Earlier this month, the RAND Corporation released a report documenting the alarmingly high numbers of veterans who struggle with mental health problems and brain injuries. One in 5 of these brave men and women report mental health problems.

These mental health problems take various forms, including post-traumatic stress disorder, depression, suicidal tendencies and substance abuse, and they can persist for months or even years after their service. Some will never be the same again.

It is our duty to give our National Guard and Reserves the best possible treatment, whatever their injury. Mental conditions should be treated with the same care and concern as physical conditions.

This bill calls for the implementation of the Yellow Ribbon Reintegration Program, which provides counseling, education and family services to returning members of the Guard and reservists. It establishes a Joint Psychological Health Program in the National Guard Bureau to oversee and coordinate support for Guard members with mental illness or brain injuries, and it creates a pilot project for providing new applications of technology in tele-mental health and anti-stigma treatment.

The National Guard and Reserve Mental Health Access Act is a three-part approach to targeting these mental health needs, which require specialized access to care and services.

Our National Guard and Reserves make incredible sacrifices for our country and we owe them the very best access to care possible.

By Mr. BROWN:

S. 2940. A bill to promote green energy production, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. BROWN. Mr. President, energy independence is no longer an option for our Nation. It is an imperative. The clock is ticking. If we do not break the ties, our children and grandchildren will have to clean up our mess. It is not too late.

Today I introduced legislation to help U.S. companies and U.S. workers chart a new course. This is an energy bill. It is a jobs bill. It is an environment bill. It will help companies turn green energy research into green energy products. It will help workers build careers around green energy development and production. It will help our Nation break free of foreign oil and grow our economy by growing green energy. It is an important step that, along with comprehensive climate change legislation, will put our country on a path to energy independence.

While the first oil well in the United States was in the Presiding Officer's State of Pennsylvania, just a year later oil was being produced in Ohio. Before long, derricks dotted the landscape in every corner of our State. My bill begins to address what Ohio and Pennsylvania have known for years about energy.

The history of my State is also rich in coal. Frontiersmen discovered large deposits of coal in Tuscarawas County in the mid-1700s, long before Ohio became a State. Today, coal power is more than 90 percent of Ohio's electricity production.

Oil and coal powered this Nation through two World Wars. They helped

the United States win the Cold War. And they made America the world's largest economy. But today our economic future depends on our ability to move toward alternative energy development. Green energy just will not restore our energy independence, it will secure our global leadership.

In my 15 months in the Senate, I have held nearly 100 roundtables across Ohio learning about Ohio's capabilities and potential in leading the way in the alternative energy industry. From Ralph Dahl's farm in northwest Montgomery County and the technology he has employed, to high-tech companies in Cleveland looking for financing but fearing the so-called valley of death, to eager entrepreneurs in Athens who are installing solar panels and wind turbines all over their part of the State, to the work of Stark State on fuel cells. But we haven't gone nearly far enough. It is only the beginning.

The Germans have long supported the development of solar power, and today they lead the world in that technology. Just last week, China announced plans to set up trade protection laws, not to increase wind energy in China but to corner the market on wind-energy-related products.

While we are debating whether to punch more holes in the ground to drill for oil, the rest of the world is about to pass us by. But it is not too late. American ingenuity and innovation can and will give our Nation an edge over the competition. My bill creates an investment corporation for that purpose lead by the best and brightest from the business, labor, and environmental worlds. It will be charged with supporting the development and commercialization of new energy products.

Great ideas are being left on the drawing board these days or, worse yet, getting produced overseas. Investments will be aimed with this legislation at communities with high levels of unemployment, with excess manufacturing capacity, and with brownfield industrial cleanup sites—communities with enormous potential and significant needs. My State, as is Pennsylvania, is dotted with dozens of those communities.

Our green energy manufacturing future should build on our great manufacturing past, revitalizing flagging industries, and reenergizing manufacturing hubs.

This bill creates the Green Redevelopment Opportunity and Workforce Program that provides grants to companies a little further from commercialization than those that receive loans in the Green Markets Program.

These companies have green energy ideas that are a few years away from the market. Without these grants, they would never make it into production.

We cannot pick, and we should not pick, winners in the fight for the future of green energy, so we must explore as many ideas and inventions that get to the market as possible.

My bill would also establish grant money for pilot programs for green energy communities, colleges, and National Guard bases even. These pilot programs will serve as important resources for business interested in commercializing green technologies, as well as models for other communities that are trying to transition their economies to green energy.

The corporation will run a green energy internship and apprenticeship program that will help innovate green energy companies, hire new talent, and help students earn valuable industry experience in this new industry as it begins to take off.

My bill establishes a Green Energy Efficiency Grant Program that is a dollar-for-dollar match for energy producers, including municipal power companies and rural electric co-ops.

This provision helps by ending the conflict that energy producers often face with protecting the environment and growing their businesses. These energy producers try to encourage people to conserve, but at the same time they are saying don't buy our product, which obviously is not a good business decision. This provision in this legislation will help answer that.

By meeting these companies halfway, by matching their investment in energy efficiency, the Government cannot do it all, but it can help these responsible companies do right by the consumers and the environment.

Today, most of Ohio's oil wells are dry, coal production is literally only half what it was in 1970, and Ohio's manufacturing centers from Steubenville to Lima, from Ravenna to Springfield, from Xenia to Findlay, are struggling to remain competitive. Our Nation's green future is more than using green energy or living in green houses or putting in green light bulbs. All those things are good, but we must build the green energy and its components in the United States. We know green energy is inevitable, but importing green energy from China and Germany, like we do today with oil from Saudi Arabia and Venezuela, need not be inevitable, and it is not in our Nation's best interests. We need to end our foreign energy dependence, whether it is today, too much with Saudi Arabia, or in the future, too much with Germany.

The next green energy company that can change the world is out there waiting to happen. It could be the National Composite Center in Dayton, could be the cutting-edge fuel cell research ongoing in Mount Vernon, OH.

We can do this. If we do this right, if we wean ourselves from foreign oil, we can create good-paying jobs right here at home in the United States of America.

By Ms. CANTWELL (for herself and Mrs. MURRAY):

S. 2943. A bill to amend the National Trails System Act to designate the Pacific Northwest National Scenic Trail; to the Committee on Energy and Natural Resources.

Ms. CANTWELL. Mr. President, my home State of Washington, and the Pacific Northwest in general, is home to some of the most pristine nature and breathtaking scenery this country has to offer. I rise today to recognize a well known local treasure that puts the priceless gems of our region within reach. The Pacific Northwest Trail, running from the Continental Divide to the Pacific Coast, is 1,200 miles long and ranks among the most scenic trails in the world. This carefully chosen path runs through the Rocky Mountains, Selkirk Mountains, Pasayten Wilderness, North Cascades, Olympic Mountains, and Wilderness Coast. From beginning to end it passes through three States, crosses three National Parks, and winds through seven National Forests. This trail is a national prize and should be recognized as such. That is why, today, I am introducing the Pacific Northwest National Scenic Trail Act of 2008 with my colleague from Washington State, Senator MURRAY.

The National Trails System was created in 1968 by the National Trails System Act. This act authorized a national system of trails to provide additional outdoor recreation opportunities and to promote the preservation of access to the outdoor areas and historic resources of the nation. Today there are eight National Scenic Trails that provide recreation, conservation, and enjoyment of significant scenic, historic, natural, or cultural qualities. Designating the Pacific Northwest Trail a National Scenic Trail will give it the proper recognition, bring benefits to countless neighboring communities, and promote its protection, development, and maintenance.

Adding the Pacific Northwest Trail to the National Trail System has gained the support of Commissioners in Clallam, Jefferson. Island, Skagit, Whatcom, Okanogan, Ferry, Stevens, and Pend Oreille Counties in Washington and Boundary County in Idaho. Mayors in numerous cities along the trail support the economic impact the trail has had on their communities

I urge my colleagues to support this bill and to come hike the Pacific Northwest Trail if ever given the opportunity.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

S. 2943

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

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 ''Pacific Northwest National Scenic Trail Act of 2008''.

SEC. 2. FINDINGS.

Congress finds that—

(1) in accordance with section 5(c)(22) of the National Trails System Act (16 U.S.C. 1244(c)(22)), a feasibility study of the proposed Pacific Northwest Trail was—

(A) conducted by the Director of the National Park Service and the Chief of the Forest Service; and

(B) completed in June 1980;

(2) the feasability study contained—

(A) a conclusion that the Pacific Northwest Trail ''would have the scenic and recreational qualities needed for designation as a National Scenic Trail''; but

(B) a recommendation against the designation of the Pacific Northwest Trail, citing as obstacles factors that are present in every other national scenic trail that has been designated under the National Trails System Act (16 U.S.C. 1241 et seq.);

(3) undaunted, the founder of the Pacific Northwest Trail and many supporters—

(A) moved forward with the creation of the Pacific Northwest Trail; and

(B) established a private volunteer organization to build, maintain, and promote the Pacific Northwest Trail;

(4) similar to each other national scenic trail designated under the National Trails System Act (16 U.S.C. 1241 et seq.), the Pacific Northwest Trail stands as an outstanding example of the recreational opportunities that can be provided through a partnership among the Federal Government, State and local governments, private nonprofit trail organizations, individual volunteers, and landowners;

(5) today, approximately 950 miles of the Pacific Northwest Trail are completed and provide significant outdoor recreational experiences to citizens and visitors of the United States, thus providing on-the-ground proof of the feasibility and desirability of designating the Pacific Northwest Trail as national scenic trail, as required under section 5(b) of the National Trails System Act (16 U.S.C. 1244(b));

(6) 3 segments of the Pacific Northwest Trail have already been designated by Congress as national recreation trails; and

(7) because the entire route of the Pacific Northwest Trail was found to qualify for designation as a national scenic trail, Congress should—

(A) designate the entire Pacific Northwest Trail as a national scenic trail; and

(B) provide administrative, technical, and financial assistance in accordance with the National Trails System Act (16 U.S.C. 1241 et seq.).

SEC. 3. DESIGNATION OF PACIFIC NORTHWEST NATIONAL SCENIC TRAIL.

Section 5(a) of the National Trails System Act (16 U.S.C. 1244(a)) is amended by adding at the end the following:

''(26) PACIFIC NORTHWEST NATIONAL SCENIC TRAIL.—

''(A) IN GENERAL.—The Pacific Northwest National Scenic Trail, a trail of approximately 1,200 miles, extending from the Continental Divide in Glacier National Park, Montana, to the Pacific Ocean Coast in Olympic National Park, Washington, following the route depicted on the map entitled 'Pacific Northwest National Scenic Trail: Proposed Trail', numbered T12/80,000, and dated February 2008 (referred to in this paragraph as the 'map').

''(B) AVAILABILITY OF MAP.—The map shall be on file and available for public inspection in the appropriate offices of the National Park Service.

''(C) ADMINISTRATION.—The Pacific Northwest National Scenic Trail shall be administered by the Secretary of the Interior.

''(D) LAND ACQUISITION.—The United States shall not acquire for the Pacific Northwest National Scenic Trail any land or interest in land outside the exterior boundary of any federally-managed area without the consent of the owner of the land or interest in land.''.

By Mr. REID (for Mrs. CLINTON):

S. 2944. A bill to amend the Child Abuse Prevention and Treatment Act to examine and improve the child welfare workforce, and for other purposes; to the Committee on Finance.

Mrs. CLINTON. Mr. President, today I am pleased to introduce a bill that will address a pressing need in our nation's child welfare system: improvements to the child welfare workforce. In 2006, the most recent year for which data are available, approximately 905,000 children were determined to be victims of abuse or neglect. Whether a child needs in-home support or foster care, family preservation or adoption, the child welfare workforce strives to meet the individual needs of children and families, so that safety and permanency are achieved as quickly as possible.

Unfortunately, the members of the child welfare workforce face a variety of barriers to their execution of this critically important work. Due to high caseloads and workloads, caseworkers have insufficient time to interact with children and families, prepare individualized plans, and provide services. Burnout and turnover are endemic to the child welfare system. The average tenure of a child welfare worker is just under 2 years, with staff citing high caseloads, a need for greater supervision, and few training opportunities as reasons for leaving their positions. This turnover leads to discontinuity of services, children's multiple placements in foster care, longer stays of children in care, and lower rates of finding permanent homes for children. There is evidence that turnover is lower among child welfare workers holding a degree in social work than among those who do not; yet, fewer than a third of child welfare workers hold these degrees.

Turnover is also expensive. The U.S. Department of Labor has estimated that the cost of worker turnover is equivalent to approximately one-third of the worker's annual salary. Therefore, it may cost agencies between $10,000 and $20,000 each time a worker leaves his or her position. Additionally, costs increase when turnover leads to children's extended stays in foster care, as maintaining children in foster care is more expensive than establishing permanency through reunification, adoption, or guardianship.

In addition to these obstacles, Federal support for training of child welfare workers is restricted. Title IV–E of the Social Security Act, the primary Federal source for child welfare training funds, is linked to an outdated income requirement. As a result, States may only access these dollars on behalf of a portion of the children in their care. Currently, Title IV–E funds may not be used to train child welfare staff employed by contracted nonprofit child welfare agencies, a huge barrier given the fact that many states rely on these agencies for providing necessary services. The Title IV–E training program does not address the essential role of non-child welfare professionals, such as substance abuse and domestic violence counselors, educators, and mental health providers, who work with children and families involved in the child welfare system. We must improve States' access to these funds in order to attract and maintain a trained and committed child welfare workforce.

Finally, Federal regulations limit the extent to which public child welfare agencies can partner with educational institutions to provide training to prospective and currently employed child welfare staff. Training programs implemented using Title IV–E university partnerships have shown great success. States running such programs show up to 90 percent retention of graduates in child welfare positions, even after their employment obligation period has expired. Unfortunately, because regulations prohibit private institutions from providing the state match for IV–E funded university training programs, state child welfare agencies are limited in the university partnerships they can create. As such, regions that have ready and willing private schools of social work, but few nearby public schools, are often unable to create these useful programs.

The Child Welfare Workforce Improvement Act tackles these challenges head on. This legislation calls on the National Academy of Sciences to conduct a study that assesses the child welfare workforce nationwide; makes recommendations regarding appropriate levels of caseload, workload, training, and supervision; and makes recommendations for linking workforce data to data on child outcomes. The bill requires the Department of Health and Human Services to devise a method for regularly collecting data on the child welfare workforce so that it can be linked to existing databases of child outcomes.

Additionally, the bill amends Title IV–E so that federal funds for training can be accessed by the full breadth of professionals responsible for children and families in the child welfare system. The legislation eliminates the 1996 AFDC ''look-back'' for IV–E training dollars so that a state can access training funds based on all of its children in foster care. It removes limitations so that funds may be used to train staff who provide support, preservation, or reunification services as well as foster care and adoption services. The bill allows related professionals access to short-term IV–E training in order to enhance their work with children and families in the child welfare system. Finally, the bill permits private nonprofit institutions of higher education to contribute matching dollars for IV–E funded training programs. This provision will allow State child welfare systems to set up university partnerships with a broader range of schools, thereby enhancing program quality, and helping to generate a cadre of professionally trained and committed child welfare workers.

We absolutely must support the members of the child welfare workforce if we want high quality services for our Nation's vulnerable children and families. I hope that my colleagues in the Senate will join me in this important effort.

By Mr. BROWN:

S. 2948. A bill to provide quality, affordable health insurance for small employers and individuals; to the Committee on Health, Education, Labor, and Pensions.

Mr. BROWN. Mr. President, earlier this week, I spoke on the Senate floor about Cover the Uninsured Week and a bill I was introducing that would increase access to health coverage for small businesses and self-employed individuals.

I will formally introduce the Small Business Empowerment Act today, and I would like to discuss the bill in a bit more depth.

First, why is it necessary?

It is necessary because 82 percent of the uninsured are workers, and the overwhelming majority work in small firms.

In Ohio, 99 percent of firms with more than 50 workers sponsor health coverage. About 44 percent of firms with less than 50 do.

And small employers that do offer coverage are struggling under the weight of it. According to the well-respected Rand Corporation, small businesses saw the economic burden of health insurance rise by 30 percent between 2000 and 2005.

The situation is even worse for the self-employed, who must contend with staggeringly high premiums for individual coverage, if, that is, they can find an insurer willing to cover them.

In the meantime, health insurers have been living large, their profits increasing by more than a third over the last 5 years. That's not revenue, it's profits.

Middle class families are shouldering the burden of skyrocketing gas prices and ballooning food prices, even as the equity in their homes erodes and the cost of putting their children through college explodes.

It would be ideal if they could also afford to pay a king's ransom for health insurance.

They can't. They shouldn't have to.

With those realities staring us in the face, inaction is the same as indifference.

My legislation attacks the issue of health coverage access from several directions.

To ensure widespread access, the bill would establish a national insurance pool modeled after the successful Federal Employees Health Benefits program.

FEHB, which enables enrollees to choose from a variety of health plans whose rates and benefits are negotiated by the federal Office of Personnel Management, has served members of Congress and federal employees well for many years now.

Under my bill, an independent contractor would manage a program that looks like FEHB, with a few modifications to accommodate the market segment it would serve.

A few of those modifications are designed to hold down costs:

The bill would establish a reinsurance program to pay claims that fall between $5,000 and $75,000. This approach minimizes premium spikes and makes coverage affordable for companies regardless of the age and health of their employees.

The bill would also establish what is called a ''loss-ratio'' standard for insurers. Basically this means that insurers would be required to spend most of their premium income on claims, and hold down their administrative costs.

And the bill would identify and apply strategies to ensure that providers employ ''best practices'' in health care, which means that they are providing the right care in the right amounts.

Finally, the bill would target ''price-gouging'' by drug manufacturers and other manufacturers of medical products. Price gouging occurs in U.S. health care when a company exploits American consumers by charging them dramatically higher prices than consumers in other wealthy nations.

Other modifications are designed to ensure that health coverage is non-discriminatory.

Think about it: If you develop a mental illness like clinical depression and I develop a medical illness like heart disease, why should you be denied health benefits while I receive them? We both have paid premiums to cover health care costs and we both need health care. Why is my condition more worthy of coverage than yours?

My bill charges a group representing providers, businesses, consumers, economists, and health policy experts with rethinking health care coverage to eliminate arbitrary differences in the coverage of equally disruptive, disabling, or dangerous health conditions.

The bottom-line is this. We have an opportunity to expand access to health coverage in a way that advances fundamental goals:

We can reach populations who can't find a home in the current insurance system.

We stand up for American consumers who are paying ridiculous prices for essential health care.

We can demand spending discipline on the part of insurers—they have chosen to play a pivotal role in the health of our nation; they can live with reasonable limits on their administrative costs.

We can clean up duplication and random variation in the delivery of health care services; and we can end arbitrary coverage rules that turn health protection into a health care crapshoot.

For the sake of small employers and their employees, for the sake of self-employed entrepreneurs, and for the sake of every American who didn't request a particular health problem and shouldn't be penalized for having it, I hope Members on both sides of the aisle will support my bill.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 542—DESIGNATING APRIL 2008 AS ''NATIONAL STD AWARENESS MONTH''

Mr. REID (for Mrs. CLINTON (for herself, Mr. MENENDEZ, Mr. FEINGOLD, and Mr. LAUTENBERG)) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 542

Whereas sexually transmitted diseases (STDs) pose a significant burden in the United States both in economic and human terms;

Whereas the United States has the highest rate of STD infection in the industrialized world, with an estimated 19,000,000 new cases of STDs occurring each year, and almost half of those infections occurring in young people between the ages of 15 to 24;

Whereas, according to the Centers for Disease Control and Prevention (CDC), STDs impose a tremendous economic burden on the United States, with direct medical costs as high as $15,300,000,000 per year;

Whereas, in 2008, the CDC estimated that 1 in 4 young women between the ages of 14 and 19 in the United States, or 3,200,000 teenage girls, is infected with at least 1 of the most common STDs, which are human papillomavirus (HPV), chlamydia, herpes simplex virus, and trichomoniasis;

Whereas poverty and lack of access to quality health care exacerbate the rate of infection with HIV and other STDs;

Whereas the CDC reports that 48 percent of young African-American women are infected with an STD, compared to 20 percent of young Caucasian women;

Whereas the CDC also reports that the 2 most common STDs among young women are HPV, with 18 percent infected, and chlamydia, with 4 percent infected;

Whereas the long-term health effects of STDs are especially severe for women and include infertility and cervical cancer;

Whereas HPV vaccination and the screening and early treatment of STDs can prevent some of the most devastating effects of untreated STDs;

Whereas the high STD infection rate among young women in the United States demonstrates the need to develop ways to reach those young women most at risk of infection;

Whereas the CDC recommends annual chlamydia screenings for sexually active women 25 years old and younger;

Whereas the CDC also recommends that girls and women between the ages of 11 and 26 who have not been vaccinated, or who have not completed the full series of shots, be fully vaccinated against HPV;

Whereas chlamydia can lead to chronic pain, infertility, and tubular pregnancies, which can affect a woman's health and well-being throughout her lifetime;

Whereas the harmful impact of STDs on infants leads to long-term emotional suffering and stress for families;

Whereas, unlike other diseases, STDs often cause stigma and feelings of shame for patients diagnosed with those diseases;

Whereas the Federal Government should help people protect themselves against STDs by supplying them with information about their options and funding screening and

treatment services through a variety of programs, including programs under title X of the Public Health Service Act (42 U.S.C. 300 et seq.) and the CDC's STD prevention program; and

Whereas STD screening, vaccination, and other prevention strategies for sexually active women should be among our highest public health priorities: Now, therefore, be it

Resolved, That the Senate—

(1) designates April 2008 as ''National STD Awareness Month'';

(2) requests the Federal Government, States, localities, and nonprofit organizations to observe the month with appropriate programs and activities, with the goal of increasing public knowledge of the risks of sexually transmitted diseases (STDs) and protecting people of all ages;

(3) recognizes the human toll of the STD epidemic and makes the prevention and cure of STDs a higher public health priority; and

(4) calls on all people in the United States to learn what screenings are recommended for them and their families and to seek appropriate care.

SENATE RESOLUTION 543—DESIGNATING THE WEEK BEGINNING MAY 11, 2008, AS ''NATIONAL NURSING HOME WEEK''

Mr. THUNE (for himself, Mr. JOHNSON, and Mr. BINGAMAN) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 543

Whereas more than 1,500,000 elderly and disabled individuals live in the nearly 16,000 nursing facilities in the United States;

Whereas the annual celebration of National Nursing Home Week invites people in communities nationwide to recognize nursing home residents and staff for their contributions to their communities;

Whereas the theme for National Nursing Home Week in 2008 is ''Love is Ageless'', emphasizing that each person, caregiver, and community has an abundance of love, no matter what their age;

Whereas love can be celebrated in a variety of ways, such as through the telling of personal stories, traditions, friendship, and family; and

Whereas National Nursing Home Week recognizes the people who provide care to the Nation's most vulnerable population: Now, therefore, be it

Resolved, That the Senate—

(1) designates the week beginning May 11, 2008, as ''National Nursing Home Week'';

(2) recognizes that a majority of people in the United States, because of social needs, disability, trauma, or illness, will require long-term care services at some point in their lives;

(3) honors nursing home residents and the people who care for them each day, including family members, volunteers, and dedicated long-term care professionals, for their contributions to their communities and the United States; and

(4) encourages the people of the United States to observe National Nursing Home Week with appropriate ceremonies and activities.

AMENDMENTS SUBMITTED AND PROPOSED

SA 4587. Mr. DURBIN (for himself, Mrs. HUTCHISON, Mr. BROWN, Mr. INHOFE, Mr. LAUTENBERG, Mr. VOINOVICH, Mr. NELSON, of Florida, Mr. CORNYN, Mr. MENENDEZ, Mr. HARKIN, Mr. BOND, and Mr. BIDEN) proposed an amendment to amendment SA 4585 proposed by Mr. ROCKEFELLER (for himself, Mr. INOUYE, Mr. BAUCUS, and Mr. GRASSLEY) to the bill H.R. 2881, to amend title 49, United States Code, to authorize appropriations for the Federal Aviation Administration for fiscal years 2008 through 2011, to improve aviation safety and capacity, to provide stable funding for the national aviation system, and for other purposes.

SA 4588. Mr. REID submitted an amendment intended to be proposed by him to the bill H.R. 2881, supra; which was ordered to lie on the table.

SA 4589. Mr. DORGAN (for himself, Mr. SCHUMER, Mr. BINGAMAN, Mr. BROWN, Mrs. CLINTON, Ms. COLLINS, Mr. DOMENICI, Mr. FEINGOLD, Mr. HARKIN, Mr. JOHNSON, Mr. KENNEDY, Mr. KERRY, Ms. LANDRIEU, Mr. LEVIN, Mrs. MCCASKILL, Mr. OBAMA, Mr. REED, Mr. SANDERS, Ms. STABENOW, and Mr. WYDEN) submitted an amendment intended to be proposed by him to the bill H.R. 2881, supra; which was ordered to lie on the table.

SA 4590. Mrs. MCCASKILL (for herself, Mr. SPECTER, Mr. OBAMA, and Mrs. CLINTON) submitted an amendment intended to be proposed by her to the bill H.R. 2881, supra; which was ordered to lie on the table.

SA 4591. Mr. INOUYE submitted an amendment intended to be proposed to amendment SA 4585 proposed by Mr. ROCKEFELLER (for himself, Mr. INOUYE, Mr. BAUCUS, and Mr. GRASSLEY) to the bill H.R. 2881, supra; which was ordered to lie on the table.

SA 4592. Mr. DURBIN (for Mr. KENNEDY (for himself and Mr. ENZI)) proposed an amendment to the bill H.R. 5715, to ensure continued availability of access to the Federal student loan program for students and families.

SA 4593. Mr. VITTER submitted an amendment intended to be proposed by him to the bill H.R. 2881, to amend title 49, United States Code, to authorize appropriations for the Federal Aviation Administration for fiscal years 2008 through 2011, to improve aviation safety and capacity, to provide stable funding for the national aviation system, and for other purposes; which was ordered to lie on the table.

SA 4594. Ms. MURKOWSKI submitted an amendment intended to be proposed to amendment SA 4585 proposed by Mr. ROCKEFELLER (for himself, Mr. INOUYE, Mr. BAUCUS, and Mr. GRASSLEY) to the bill H.R. 2881, supra; which was ordered to lie on the table.

SA 4595. Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill H.R. 2881, supra; which was ordered to lie on the table.

SA 4596. Mr. WEBB (for himself and Mr. WARNER) submitted an amendment intended to be proposed by him to the bill H.R. 2881, supra; which was ordered to lie on the table.

SA 4597. Mr. BARRASSO submitted an amendment intended to be proposed by him to the bill H.R. 2881, supra; which was ordered to lie on the table.

SA 4598. Mr. ALEXANDER submitted an amendment intended to be proposed by him to the bill H.R. 2881, supra; which was ordered to lie on the table.

SA 4599. Mr. CARPER (for himself, Mr. SPECTER, and Mr. BIDEN) submitted an amendment intended to be proposed by him to the bill H.R. 2881, supra; which was ordered to lie on the table.

SA 4600. Mr. MENENDEZ (for himself and Mrs. CLINTON) submitted an amendment intended to be proposed by him to the bill H.R. 2881, supra; which was ordered to lie on the table.

SA 4601. Mr. MENENDEZ (for himself, Mrs. CLINTON, Mr. SPECTER, Mr. CASEY, Mr. SCHUMER, and Mr. LAUTENBERG) submitted an amendment intended to be proposed by him to the bill H.R. 2881, supra; which was ordered to lie on the table.

SA 4602. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill H.R. 2881, supra; which was ordered to lie on the table.

SA 4603. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill H.R. 2881, supra; which was ordered to lie on the table.

SA 4604. Mr. SPECTER submitted an amendment intended to be proposed by him to the bill H.R. 2881, supra; which was ordered to lie on the table.

SA 4605. Mr. SPECTER (for himself and Mr. CASEY) submitted an amendment intended to be proposed by him to the bill H.R. 2881, supra; which was ordered to lie on the table.

SA 4606. Mr. INHOFE (for himself and Mr. VITTER) submitted an amendment intended to be proposed by him to the bill H.R. 2881, supra; which was ordered to lie on the table.

SA 4607. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill H.R. 2881, supra; which was ordered to lie on the table.

SA 4608. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill H.R. 2881, supra; which was ordered to lie on the table.

SA 4609. Mr. SCHUMER (for himself, Mrs. CLINTON, Mr. MENENDEZ, and Mr. LAUTENBERG) submitted an amendment intended to be proposed by him to the bill H.R. 2881, supra; which was ordered to lie on the table.

SA 4610. Mr. SCHUMER (for himself and Mr. MARTINEZ) submitted an amendment intended to be proposed by him to the bill H.R. 2881, supra; which was ordered to lie on the table.

SA 4611. Mr. SCHUMER (for himself and Mr. MARTINEZ) submitted an amendment intended to be proposed by him to the bill H.R. 2881, supra; which was ordered to lie on the table.

SA 4612. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill H.R. 2881, supra; which was ordered to lie on the table.

SA 4613. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill H.R. 2881, supra; which was ordered to lie on the table.

SA 4614. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill H.R. 2881, supra; which was ordered to lie on the table.

SA 4615. Mr. DODD (for himself and Mr. LIEBERMAN) submitted an amendment intended to be proposed by him to the bill H.R. 2881, supra; which was ordered to lie on the table.

SA 4616. Mr. ENSIGN (for himself, Mrs. BOXER, Mr. MCCAIN, Mr. KYL, and Mrs. DOLE) submitted an amendment intended to be proposed by him to the bill H.R. 2881, supra; which was ordered to lie on the table.

SA 4617. Mr. SCHUMER submitted an amendment intended to be proposed to amendment SA 4585 proposed by Mr. ROCKEFELLER (for himself, Mr. INOUYE, Mr. BAUCUS, and Mr. GRASSLEY) to the bill H.R. 2881, supra; which was ordered to lie on the table.

SA 4618. Mr. SCHUMER (for himself and Mrs. DOLE) submitted an amendment intended to be proposed by him to the bill H.R. 2881, supra; which was ordered to lie on the table.

SA 4619. Mr. CASEY (for himself, Mr. BIDEN, and Mr. CARPER) submitted an amendment intended to be proposed by him to the bill H.R. 2881, supra; which was ordered to lie on the table.

SA 4620. Mr. LEVIN (for himself and Ms. STABENOW) submitted an amendment intended to be proposed by him to the bill H.R. 2881, supra; which was ordered to lie on the table.

SA 4621. Mr. ISAKSON submitted an amendment intended to be proposed by him

to the bill H.R. 2881, supra; which was ordered to lie on the table.

SA 4622. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill H.R. 2881, supra; which was ordered to lie on the table.

SA 4623. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill H.R. 2881, supra; which was ordered to lie on the table.

SA 4624. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill H.R. 2881, supra; which was ordered to lie on the table.

SA 4625. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill H.R. 2881, supra; which was ordered to lie on the table.

SA 4626. Mr. NELSON, of Nebraska (for himself and Mr. HAGEL) submitted an amendment intended to be proposed by him to the bill H.R. 2881, supra; which was ordered to lie on the table.

SA 4627. Mr. ROCKEFELLER proposed an amendment to the bill H.R. 2881, supra.

SA 4628. Mr. REID proposed an amendment to amendment SA 4627 proposed by Mr. ROCKEFELLER to the bill H.R. 2881, supra.

SA 4629. Mr. REID proposed an amendment to amendment SA 4628 proposed by Mr. REID to the amendment SA 4627 proposed by Mr. ROCKEFELLER to the bill H.R. 2881, supra.

SA 4630. Mr. REID proposed an amendment to the bill H.R. 2881, supra.

SA 4631. Mr. REID proposed an amendment to amendment SA 4630 proposed by Mr. REID to the bill H.R. 2881, supra.

SA 4632. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill H.R. 2881, supra; which was ordered to lie on the table.

SA 4633. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill H.R. 2881, supra; which was ordered to lie on the table.

SA 4634. Mr. SALAZAR submitted an amendment intended to be proposed by him to the bill H.R. 2881, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 4587. Mr. DURBIN (for himself, Mrs. HUTCHISON, Mr. BROWN, Mr. INHOFE, Mr. LAUTENBERG, Mr. VOINOVICH, Mr. NELSON of Florida, Mr. CORNYN, Mr. MENENDEZ, Mr. HARKIN, Mr. BOND, and Mr. BIDEN) proposed an amendment to amendment SA 4585 proposed by Mr. ROCKEFELLER (for himself, Mr. INOUYE, Mr. BAUCUS, and Mr. GRASSLEY) to the bill H.R. 2881, to amend title 49, United States Code, to authorize appropriations for the Federal Aviation Administration for fiscal years 2008 through 2011, to improve aviation safety and capacity, to provide stable funding for the national aviation system, and for other purposes; as follows:

Strike section 808.

SA 4588. Mr. REID submitted an amendment intended to be proposed by him to the bill H.R. 2881, to amend title 49, United States Code, to authorize appropriations for the Federal Aviation Administration for fiscal years 2008 through 2011, to improve aviation safety and capacity, to provide stable funding for the national aviation system, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 24, strike line 22 and all that follows through page 25, line 10, and insert the following:

(2) in subsection (c)(2)(A)(i), by striking ''purpose'' and inserting the following: ''purpose, which includes serving as noise buffer land that may be—

''(I) undeveloped; or

''(II) developed in a way that is compatible with using such land for noise buffering purposes;''.

(3) in subsection (c)(2)(B)(iii), by striking ''paid to the Secretary for deposit in the Fund if another eligible project does not exist.'' and inserting ''reinvested in another project at the airport or transferred to another airport as the Secretary prescribes; and''; and

(4) in subsection (c)—

(A) by redesignating paragraph (3) as paragraph (5);

(B) by inserting after paragraph (2) the following:

''(3)(A) A lease by an airport owner or operator of land acquired for a noise compatibility purpose with a grant provided under this subchapter shall not be considered a disposal for purposes of paragraph (2).

''(B) The airport owner or operator may use revenues from such lease for ongoing airport operational and capital purposes.

''(C) The Administrator of the Federal Aviation Administration shall coordinate with each airport owner or operator to ensure that such leases are consistent with noise buffering purposes.

''(D) The provisions of this paragraph apply to all land acquired before, on, or after the date of the enactment of this paragraph.

''(4) In approving the reinvestment or transfer of

SA 4589. Mr. DORGAN (for himself, Mr. SCHUMER, Mr. BINGAMAN, Mr. BROWN, Mrs. CLINTON, Ms. COLLINS, Mr. DOMENICI, Mr. FEINGOLD, Mr. HARKIN, Mr. JOHNSON, Mr. KENNEDY, Mr. KERRY, Ms. LANDRIEU, Mr. LEVIN, Mrs. MCCASKILL, Mr. OBAMA, Mr. REED, Mr. SANDERS, Ms. STABENOW, and Mr. WYDEN) submitted an amendment intended to be proposed by him to the bill H.R. 2881, to amend title 49, United States Code, to authorize appropriations for the Federal Aviation Administration for fiscal years 2008 through 2011, to improve aviation safety and capacity, to provide stable funding for the national aviation system, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in title VII, insert the following:

SEC. 7___. SUSPENSION OF PETROLEUM ACQUISITION FOR STRATEGIC PETROLEUM RESERVE.

(a) IN GENERAL.—Except as provided in subsection (b) and notwithstanding any other provision of law, during calendar year 2008—

(1) the Secretary of the Interior shall suspend acquisition of petroleum for the Strategic Petroleum Reserve through the royalty-in-kind program; and

(2) the Secretary of Energy shall suspend acquisition of petroleum for the Strategic Petroleum Reserve through any other acquisition method.

(b) RESUMPTION.—Not earlier than 30 days after the date on which the President notifies Congress that the President has determined that the weighted average price of petroleum in the United States for the most recent 90-day period is $75 or less per barrel—

(1) the Secretary of the Interior may resume acquisition of petroleum for the Strategic Petroleum Reserve through the royalty-in-kind program; and

(2) the Secretary of Energy may resume acquisition of petroleum for the Strategic Petroleum Reserve through any other acquisition method.

SA 4590. Mrs. MCCASKILL (for herself, Mr. SPECTER, Mr. OBAMA, and Mrs. CLINTON) submitted an amendment intended to be proposed by her to the bill H.R. 2881, to amend title 49, United States Code, to authorize appropriations for the Federal Aviation Administration for fiscal years 2008 through 2011, to improve aviation safety and capacity, to provide stable funding for the national aviation system, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SECTION _____. ENHANCED OVERSIGHT AND INSPECTION OF REPAIR STATIONS.

(a) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Federal Aviation Administration.

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

(3) AIR TRANSPORTATION.—The term ''air transportation'' has the meaning given that term in such section 40102(a).

(4) AIRCRAFT.—The term ''aircraft'' has the meaning given that term in such section 40102(a).

(5) COVERED MAINTENANCE WORK.—The term ''covered maintenance work'' means maintenance work that is substantial, scheduled, or a required inspection item, as determined by the Administrator.

(6) PART 121 AIR CARRIER.—The term ''part 121 air carrier'' means an air carrier that holds a certificate under part 121 of title 14, Code of Federal Regulations (or any successor regulation).

(7) PART 145 REPAIR STATION.—The term ''part 145 repair station'' means a repair station that holds a certificate under part 145 of title 14, Code of Federal Regulations (or any successor regulation).

(8) UNITED STATES COMMERCIAL AIRCRAFT.—The term ''United States commercial aircraft'' means an aircraft registered in the United States and owned or leased by a commercial air carrier.

(b) REGULATION OF REPAIR STATIONS FOR SAFETY.—

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

''SEC. 44730. REPAIR STATIONS.

''(a) DEFINITIONS.—In this section:

''(1) COVERED MAINTENANCE WORK.—The term 'covered maintenance work' means maintenance work that is substantial, scheduled, or a required inspection item, as determined by the Administrator.

''(2) PART 121 AIR CARRIER.—The term 'part 121 air carrier' means an air carrier that holds a certificate under part 121 of title 14, Code of Federal Regulations (or any successor regulation).

''(3) PART 145 REPAIR STATION.—The term 'part 145 repair station' means a repair station that holds a certificate under part 145 of title 14, Code of Federal Regulations (or any successor regulation).

''(4) UNITED STATES COMMERCIAL AIRCRAFT.—The term 'United States commercial aircraft' means an aircraft registered in the United States and owned or leased by a commercial air carrier.

''(b) REQUIREMENTS FOR MAINTENANCE PERSONNEL PROVIDING COVERED MAINTENANCE WORK.—Not later than 3 years after the date

of the enactment of this section, the Administrator shall prescribe regulations requiring all covered maintenance work on United States commercial aircraft to be performed by maintenance personnel employed by—

''(1) a part 145 repair station;

''(2) a part 121 air carrier; or

''(3) a person that provides contract maintenance personnel to a part 145 repair station or a part 121 air carrier, if such personnel—

''(A) meet the requirements of such repair station or air carrier, as the case may be;

''(B) work under the direct supervision and control of such repair station or air carrier, as the case may be; and

''(C) carry out their work in accordance with the quality control manuals of such repair station or the maintenance manual of such air carrier, as the case may be.

''(c) CERTIFICATION OF INSPECTION OF FOREIGN REPAIR STATIONS.—Not later than 2 years after the date of the enactment of this section, and annually thereafter, the Administrator shall certify to Congress that—

''(1) each certified foreign repair station that performs maintenance work on an aircraft or a component of an aircraft for a part 121 air carrier has been inspected not fewer than 2 times in the preceding calendar year by an aviation safety inspector of the Federal Aviation Administration; and

''(2) not fewer than 1 of the inspections required by paragraph (1) for each certified foreign repair station was carried out at such repair station without any advance notice to such foreign repair station.

''(d) DRUG AND ALCOHOL TESTING OF FOREIGN REPAIR STATION PERSONNEL.—Not later than 1 year after the date of the enactment of this section, the Administrator shall modify the certification requirements under part 145 of title 14, Code of Federal Regulations, to include testing for the use of alcohol or a controlled substance in accordance with section 45102 of this title of any individual employed by a foreign repair station and performing a safety-sensitive function on a United States commercial aircraft for a foreign repair station.''.

(2) TEMPORARY PROGRAM OF IDENTIFICATION AND OVERSIGHT OF NONCERTIFIED REPAIR FACILITIES.—

(A) DEVELOP PLAN.—Not later than 180 days after the date of the enactment of this Act, the Administrator shall develop a plan for a program—

(i) to require each part 121 air carrier to identify and submit to the Administrator a complete list of all noncertificated maintenance providers that perform covered maintenance work on United States commercial aircraft used by such part 121 air carriers to provide air transportation;

(ii) to validate lists described in clause (i) that are submitted by a part 121 air carrier to the Administrator by sampling the records of part 121 air carriers, such as maintenance activity reports and general vendor listings; and

(iii) to carry out surveillance and oversight by field inspectors of the Federal Aviation Administration of all noncertificated maintenance providers that perform covered maintenance work on United States commercial aircraft for part 121 air carriers.

(B) REPORT ON PLAN FOR PROGRAM.—Not later than 180 days after the date of the enactment of this Act, the Administrator shall submit to Congress a report that contains the plan required by subparagraph (A).

(C) IMPLEMENTATION OF PLANNED PROGRAM.—Not later than 1 year after the date of the enactment of this Act and until regulations are prescribed under section 44730(b) of title 49, United States Code, as added by paragraph (1), the Administrator shall carry out the plan required by subparagraph (A).

(D) ANNUAL REPORT ON IMPLEMENTATION.—Not later than 180 days after the commencement of the plan under subparagraph (C) and each year thereafter until the regulations described in such subparagraph are prescribed, the Administrator shall submit to Congress a report on the implementation of the plan carried out under such subparagraph.

(3) CLERICAL AMENDMENT.—The analysis for chapter 447 of title 49, United States Code, is amended by adding at the end the following:

''44730. Repairs stations.''.

(c) REGULATION OF FOREIGN REPAIR STATIONS FOR SECURITY.—Section 44924 is amended by adding at the end the following:

''(h) COMPLIANCE OF FOREIGN REPAIR STATIONS WITH SECURITY REGULATIONS.—

''(1) PROHIBITION ON CERTIFICATION OF FOREIGN REPAIR STATIONS THAT DO NOT COMPLY WITH SECURITY REGULATIONS.—The Administrator may not certify or recertify a foreign repair station under part 145 of title 14, Code of Federal Regulations, unless such foreign repair station is in compliance with all applicable final security regulations prescribed under subsection (f).

''(2) NOTIFICATION TO AIR CARRIERS OF NONCOMPLIANCE BY FOREIGN REPAIR STATIONS.—If the Under Secretary for Border and Transportation Security of the Department of Homeland Security is aware that a foreign repair station is not in compliance with a security regulation or that a security issue or vulnerability has been identified with respect to such foreign repair station in a security review or audit required under subsection (a) or any regulation prescribed under subsection (f), the Under Secretary shall provide notice to each air carrier that holds a certificate under part 121 of title 14, Code of Federal Regulations, of such noncompliance or security issue or vulnerability.''.

(d) UPDATE OF FOREIGN REPAIR FEE SCHEDULE.—

(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Administrator shall revise the methodology for computation of fees for certification services performed outside the United States under part 187 of title 14, Code of Federal Regulations, to cover fully the costs to the Federal Aviation Administration of such certification services, including—

(A) the costs of all related inspection services;

(B) all travel expenses, salary, and employment benefits of inspectors who provide such services; and

(C) any increased costs to the Administration resulting from requirements of this section.

(2) UPDATES.—The Administrator shall periodically revise such methodology to account for subsequent changes in such costs to the Administration.

(e) ANNUAL REPORT BY INSPECTOR GENERAL.—Not later than 1 year after the date of the enactment of this Act and annually thereafter, the Inspector General of the Department of Transportation shall submit to Congress a report on the implementation of—

(1) section 44730 of title 49, United States Code, as added by subsection (b)(1) of this section;

(2) subsection (b)(2) of this section;

(3) subsection (h) of section 44924 of such title, as added by subsection (c) of this section;

(4) subsection (d) of this section; and

(5) the regulations prescribed or amended under the provisions described in this subsection.

SA 4591. Mr. INOUYE submitted an amendment intended to be proposed to amendment SA 4585 proposed by Mr. ROCKEFELLER (for himself, Mr. INOUYE, Mr. BAUCUS, and Mr. GRASSLEY) to the bill H.R. 2881, to amend title 49, United States Code, to authorize appropriations for the Federal Aviation Administration for fiscal years 2008 through 2011, to improve aviation safety and capacity, to provide stable funding for the national aviation system, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VIII, insert the following:

SEC. 839. INCLUSION OF TRANSPORTATION BETWEEN HAWAII AND CALIFORNIA IN QUALIFIED ZONE DOMESTIC TRADE.

(a) IN GENERAL.—Subparagraph (B) of section 1355(g)(4) is amended to read as follows:

''(B) QUALIFIED ZONE.—The term 'qualified zone' means any of the following:

''(i) The Great Lakes Waterway and the St. Lawrence Seaway.

''(ii) The area between any port in Hawaii and any port in California.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 1355(g)(4)(A) is amended by striking ''in the qualified zone'' and inserting ''in any one qualified zone''.

(2) The heading of subsection (g) of section 1355 is amended by striking ''GREAT LAKES'' and inserting ''CERTAIN''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SA 4592. Mr. DURBIN (for Mr. KENNEDY (for himself and Mr. ENZI)) proposed an amendment to the bill H.R. 5715, to ensure continued availability of access to the Federal student loan program for students and families; as follows:

Section 2 of the Ensuring Continued Access to Student Loans Act of 2008 is amended—

(1) in the section heading, by striking ''**AND GRADUATE**''; and

(2) in subsection (c), by striking ''issued'' and inserting ''first disbursed''.

Section 3(c) of the Ensuring Continued Access to Student Loans Act of 2008 is amended by striking ''issued'' and inserting ''first disbursed''.

In section 428B(a)(3) of the Higher Education Act of 1965 (20 U.S.C. 1078–2(a)(3)), as amended by section 4 of the Ensuring Continued Access to Student Loans Act of 2008, strike subparagraph (B) and insert the following:

''(B)(i) EXTENUATING CIRCUMSTANCES.—An eligible lender may determine that extenuating circumstances exist under the regulations promulgated pursuant to paragraph (1)(A) if, during the period beginning January 1, 2007, and ending December 31, 2009, an applicant for a loan under this section—

''(I) is or has been delinquent for 180 days or fewer on mortgage loan payments or on medical bill payments during such period; and

''(II) is not and has not been more than 89 days delinquent on the repayment of any other debt during such period.

''(ii) DEFINITION OF MORTGAGE LOAN.—In this subparagraph, the term 'mortgage loan' means an extension of credit to a borrower that is secured by the primary residence of the borrower.

''(iii) RULE OF CONSTRUCTION.—Nothing in this subparagraph shall be construed to limit an eligible lender's authority under the regulations promulgated pursuant to paragraph (1)(A) to determine that extenuating circumstances exist.''.

Section 428(j) of the Higher Education Act of 1965 (20 U.S.C. 1078(j)), as amended by section 5 of the Ensuring Continued Access to Student Loans Act of 2008, is amended—

(1) in paragraph (1), by inserting after the second sentence the following: ''No loan under section 428, 428B, or 428H that is made pursuant to this subsection shall be made with interest rates, origination or default fees, or other terms and conditions that are more favorable to the borrower than the maximum interest rates, origination or default fees, or other terms and conditions applicable to that type of loan under this part.'';

(2) in paragraph (5)(A), by striking ''lenders willing to make loans'' and inserting ''eligible lenders willing to make loans under this part''; and

(3) by adding at the end the following:

''(6) EXPIRATION OF AUTHORITY.—The Secretary's authority under paragraph (4) to designate institutions of higher education for participation in the program under this subsection shall expire on June 30, 2009.

''(7) EXPIRATION OF DESIGNATION.—The eligibility of an institution of higher education, or borrowers from such institution, to participate in the program under this subsection pursuant to a designation of the institution by the Secretary under paragraph (4) shall expire on June 30, 2009. After such date, borrowers from an institution designated under paragraph (4) shall be eligible to participate in the program under this subsection as such program existed on the day before the date of enactment of the Ensuring Continued Access to Student Loans Act of 2008.

''(8) PROHIBITION ON INDUCEMENTS AND MARKETING.—Each guaranty agency or eligible lender that serves as a lender-of-last-resort under this subsection—

''(A) shall be subject to the prohibitions on inducements contained in subsection (b)(3) and the requirements of section 435(d)(5); and

''(B) shall not advertise, market, or otherwise promote loans under this subsection, except that nothing in this paragraph shall prohibit a guaranty agency from fulfilling its responsibilities under paragraph (2)(C).

''(9) DISSEMINATION AND REPORTING.—

''(A) IN GENERAL.—The Secretary shall—

''(i) broadly disseminate information regarding the availability of loans made under this subsection;

''(ii) during the period beginning July 1, 2008 and ending June 30, 2010, provide to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and Labor of the House of Representatives and make available to the public—

''(I) copies of any new or revised plans or agreements made by guaranty agencies or the Department related to the authorities under this subsection;

''(II) quarterly reports on—

''(aa) the number and amounts of loans originated or approved pursuant to this subsection by each guaranty agency and eligible lender; and

''(bb) any related payments by the Department, a guaranty agency, or an eligible lender; and

''(III) a budget estimate of the costs to the Federal Government (including subsidy and administrative costs) for each 100 dollars loaned, of loans made pursuant to this subsection between the date of enactment of the Ensuring Continued Access to Student Loans Act of 2008 and June 30, 2009, disaggregated by type of loan, compared to such costs to the Federal Government during such time period of comparable loans under this part and part D, disaggregated by part and by type of loan; and

''(iii) beginning July 1, 2010, provide to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and Labor of the House of Representatives and make available to the public—

''(I) copies of any new or revised plans or agreements made by guaranty agencies or the Department related to the authorities under this subsection; and

''(II) annual reports on—

''(aa) the number and amounts of loans originated or approved pursuant to this subsection by each guaranty agency and eligible lender; and

''(bb) any related payments by the Department, a guaranty agency, or an eligible lender.

''(B) SEPARATE REPORTING.—The information required to be reported under subparagraph (A)(ii)(II) shall be reported separately for loans originated or approved pursuant to paragraph (4), or payments related to such loans, for the time period in which the Secretary is authorized to make designations under paragraph (4).''.

In section 5(c) of the Ensuring Continued Access to Student Loans Act of 2008, strike ''agency's'' and insert ''agencies''.

In section 6(a)(3) of the Ensuring Continued Access to Student Loans Act of 2008, strike ''adding at the end'' and insert ''inserting before the matter following paragraph (5)''.

Section 459A(a) of the Higher Education Act of 1965, as added by section 7(b) of the Ensuring Continued Access to Student Loans Act of 2008, is amended—

(1) in paragraph (1)—

(A) by striking ''loans originated'' and inserting ''loans first disbursed'';

(B) by inserting ''and before July 1, 2009,'' after ''October 1, 2003,''; and

(C) by inserting ''(including the cost of servicing the loans purchased)'' after ''Federal Government''; and

(2) by striking paragraphs (2) and (3) and inserting the following:

''(2) FEDERAL REGISTER NOTICE.—The Secretary, the Secretary of the Treasury, and the Director of the Office of Management and Budget, shall jointly publish a notice in the Federal Register prior to any purchase of loans under this section that—

''(A) establishes the terms and conditions governing the purchases authorized by paragraph (1);

''(B) includes an outline of the methodology and factors that the Secretary, the Secretary of the Treasury, and the Director of the Office of Management and Budget, will jointly consider in evaluating the price at which to purchase loans made under section 428, 428B, or 428H; and

''(C) describes how the use of such methodology and consideration of such factors used to determine purchase price will ensure that loan purchases do not result in any net cost to the Federal Government (including the cost of servicing the loans purchased).''.

The Ensuring Continued Access to Student Loans Act of 2008 is amended by adding at the end the following:

SEC. 10. ACADEMIC COMPETITIVENESS GRANTS.

(a) AMENDMENTS.—Section 401A of the Higher Education Act of 1965 (20 U.S.C. 1070a–1) is amended—

(1) by striking subsection (a) and inserting the following:

''(a) ACADEMIC COMPETITIVENESS GRANT PROGRAM AUTHORIZED.—The Secretary shall award grants, in the amounts specified in subsection (d)(1), to eligible students to assist the eligible students in paying their college education expenses.'';

(2) in subsection (b)—

(A) by striking ''academic year'' each place it appears and inserting ''year''; and

(B) in paragraph (2), by striking ''third or fourth'' and inserting ''third, fourth, or fifth'';

(3) in subsection (c)—

(A) in the matter preceding paragraph (1)—

(i) by striking ''full–time'';

(ii) by striking ''academic'' and inserting ''award''; and

(iii) by striking ''is made'' and inserting ''is made for a grant under this section'';

(B) by striking paragraphs (1) and (2) and inserting the following:

''(1) is eligible for a Federal Pell Grant;

''(2) is enrolled or accepted for enrollment in an institution of higher education on not less than a half-time basis; and''; and

(C) in paragraph (3)—

(i) by striking ''academic'' each place the term appears;

(ii) in subparagraph (A)—

(I) by striking the matter preceding clause (i) and inserting the following:

''(A) the first year of a program of undergraduate education at a two- or four-year degree-granting institution of higher education (including a program of not less than one year for which the institution awards a certificate)—'';

(II) by striking clause (i) and inserting the following:

''(i) has successfully completed, after January 1, 2006, a rigorous secondary school program of study that prepares students for college and is recognized as such by the State official designated for such recognition, or with respect to any private or home school, the school official designated for such recognition for such school, consistent with State law, which recognized program shall be reported to the Secretary; and''; and

(III) in clause (ii), by inserting '', except as part of a secondary school program of study'' before the semicolon;

(iii) in subparagraph (B)—

(I) in the matter preceding clause (i), by striking ''year of'' and all that follows through ''higher education'' and inserting ''year of a program of undergraduate education at a two- or four-year degree-granting institution of higher education (including a program of not less than two years for which the institution awards a certificate)''; and

(II) in clause (ii), by striking ''or'' after the semicolon at the end;

(iv) in subparagraph (C)—

(I) in the matter preceding subclause (I) of clause (i), by inserting ''certified by the institution to be'' after ''is'';

(II) by striking clause (i)(II) and inserting the following:

''(II) a critical foreign language; and''; and

(III) in clause (ii), by striking the period at the end and inserting a semicolon; and

(v) by adding at the end the following:

''(D) the third or fourth year of a program of undergraduate education at an institution of higher education (as defined in section 101(a)), is attending an institution that demonstrates, to the satisfaction of the Secretary, that the institution—

''(i) offers a single liberal arts curriculum leading to a baccalaureate degree, under which students are not permitted by the institution to declare a major in a particular subject area, and the student—

''(I)(aa) studies, in such years, a subject described in subparagraph (C)(i) that is at least equal to the requirements for an academic major at an institution of higher education that offers a baccalaureate degree in such subject, as certified by an appropriate official from the institution; and

''(bb) has obtained a cumulative grade point average of at least 3.0 (or the equivalent as determined under regulations prescribed by the Secretary) in the relevant coursework; or

''(II) is required, as part of the student's degree program, to undertake a rigorous course of study in mathematics, biology, chemistry, and physics, which consists of at least—

''(aa) 4 years of study in mathematics; and

''(bb) 3 years of study in the sciences, with a laboratory component in each of those years; and

''(ii) offered such curriculum prior to February 8, 2006; or

''(E) the fifth year of a program of undergraduate education that requires 5 full years of coursework, as certified by the appropriate official of the degree-granting institution of higher education, for which a baccalaureate degree is awarded by a degree-granting institution of higher education—

''(i) is certified by the institution of higher education to be pursuing a major in—

''(I) the physical, life, or computer sciences, mathematics, technology, or engineering (as determined by the Secretary pursuant to regulations); or

''(II) a critical foreign language; and

''(ii) has obtained a cumulative grade point average of at least 3.0 (or the equivalent, as determined under regulations prescribed by the Secretary) in the coursework required for the major described in clause (i).'';

(4) in subsection (d)—

(A) in paragraph (1)—

(i) in subparagraph (A)—

(I) by striking ''The'' and inserting ''IN GENERAL.—The'';

(II) in clause (ii), by striking ''or'' after the semicolon at the end;

(III) in clause (iii), by striking ''subsection (c)(3)(C).'' and inserting ''subparagraph (C) or (D) of subsection (c)(3), for each of the two years described in such subparagraphs; or''; and

(IV) by adding at the end the following:

''(iv) $4,000 for an eligible student under subsection (c)(3)(E).''; and

(ii) in subparagraph (B)—

(I) by striking ''Notwithstanding'' and inserting ''LIMITATION; RATABLE REDUCTION.—Notwithstanding'';

(II) by redesignating clauses (i), (ii), and (iii), as clauses (ii), (iii), and (iv), respectively; and

(III) by inserting before clause (ii), as redesignated under subclause (II), the following:

''(i) in any case in which a student attends an institution of higher education on less than a full-time basis, the amount of the grant that such student may receive shall be reduced in the same manner as a Federal Pell Grant is reduced under section 401(b)(2)(B);'';

(B) by striking paragraph (2) and inserting the following:

''(2) LIMITATIONS.—

''(A) NO GRANTS FOR PREVIOUS CREDIT.—The Secretary may not award a grant under this section to any student for any year of a program of undergraduate education for which the student received credit before the date of enactment of the Higher Education Reconciliation Act of 2005.

''(B) NUMBER OF GRANTS.—The Secretary may not award more than one grant to a student described in subsection (c)(3) for each year of study described in such subsection.''; and

(C) by adding at the end the following: and

''(3) CALCULATION OF GRANT PAYMENTS.—An institution of higher education shall make payments of a grant awarded under this section in the same manner, using the same payment periods, as such institution makes payments for Federal Pell Grants under section 401.'';

(5) by striking subsection (e)(2) and inserting the following:

''(2) AVAILABILITY OF FUNDS.—Funds made available under paragraph (1) for a fiscal year shall remain available for the succeeding fiscal year.'';

(6) in subsection (f)—

(A) by striking ''at least one'' and inserting ''not less than one''; and

(B) by striking ''subsection (c)(3)(A) and (B)'' and inserting ''subparagraphs (A) and (B) of subsection (c)(3)''; and

(7) in subsection (g), by striking ''academic'' and inserting ''award''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on January 1, 2009.

SEC. 11. INAPPLICABILITY OF MASTER CALENDAR AND NEGOTIATED RULEMAKING REQUIREMENTS.

Sections 482 and 492 of the Higher Education Act of 1965 (20 U.S.C. 1089, 1098a) shall not apply to amendments made by sections 2 through 9 of this Act, or to any regulations promulgated under such amendments.

SA 4593. Mr. VITTER submitted an amendment intended to be proposed by him to the bill H.R. 2881, to amend title 49, United States Code, to authorize appropriations for the Federal Aviation Administration for fiscal years 2008 through 2011, to improve aviation safety and capacity, to provide stable funding for the national aviation system, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VII, add the following:

SEC. 7_____. OIL AND GAS LEASING IN NEW PRODUCING AREAS.

(a) DEFINITIONS.—In this section:

(1) ELIGIBLE PRODUCING STATE.—The term ''eligible producing State'' means—

(A) a new producing State; and

(B) any other producing State that has, within the offshore administrative boundaries beyond the submerged land of a State, areas available for oil and gas leasing.

(2) NEW PRODUCING AREA.—The term ''new producing area'' means an area that is—

(A) within the offshore administrative boundaries beyond the submerged land of a State; and

(B) not available for oil and gas leasing as of the date of enactment of this Act.

(3) NEW PRODUCING STATE.—The term ''new producing State'' means a State with respect to which a petition has been approved by the Secretary under subsection (b).

(4) QUALIFIED REVENUES.—The term ''qualified revenues'' means all rentals, royalties, bonus bids, and other sums due and payable to the United States from leases entered into on or after the date of enactment of this Act for new producing areas.

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

(b) PETITION FOR LEASING NEW PRODUCING AREAS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, during any period in which the West Texas Intermediate daily price of crude oil (in dollars per barrel) exceeds 190 percent of the annual price of crude oil (in dollars per barrel) for calendar year 2006, the Governor of a State, with the concurrence of the State legislature, may submit to the Secretary a petition requesting that the Secretary make a new producing area of the State eligible for oil and gas leasing in accordance with the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) and the Mineral Leasing Act (30 U.S.C. 181 et seq.).

(2) ACTION BY SECRETARY.—As soon as practicable after the date on which the Secretary receives a petition under paragraph (1), the Secretary shall approve or disapprove the petition.

(c) DISPOSITION OF QUALIFIED OUTER CONTINENTAL SHELF REVENUES FROM ELIGIBLE PRODUCING STATES.—Notwithstanding section 9 of the Outer Continental Shelf Lands Act (43 U.S.C. 1338), for each applicable fiscal year, the Secretary of the Treasury shall deposit—

(1) 50 percent of qualified revenues in the general fund of the Treasury; and

(2) 50 percent of qualified revenues in a special account in the Treasury, from which the Secretary shall disburse—

(A) 37.5 percent to eligible producing States for new producing areas, to be allocated in accordance with subsection (d)(1); and

(B) 12.5 percent to provide financial assistance to States in accordance with section 6 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–8).

(d) ALLOCATION TO ELIGIBLE PRODUCING STATES.—

(1) IN GENERAL.—The amount made available under subsection (c)(2)(A) shall be allocated to eligible producing States in amounts (based on a formula established by the Secretary by regulation) that are inversely proportional to the respective distances between the point on the coastline of each eligible producing State that is closest to the geographic center of the applicable leased tract and the geographic center of the leased tract, as determined by the Secretary.

(2) USE.—Amounts allocated to an eligible producing State under subparagraph (A) shall be used to address the impacts of oil and gas exploration and production activities under this section.

(e) EFFECT.—Nothing in this section affects—

(1) the amount of funds otherwise dedicated to the land and water conservation fund established under section 2 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–5); or

(2) any authority that permits energy production under any other provision of law.

SA 4594. Ms. MURKOWSKI submitted an amendment intended to be proposed to amendment SA 4585 proposed by Mr. ROCKEFELLER (for himself, Mr. INOUYE, Mr. BAUCUS, and Mr. GRASSLEY) to the bill H.R. 2881, to amend title 49, United States Code, to authorize appropriations for the Federal Aviation Administration for fiscal years 2008 through 2011, to improve aviation safety and capacity, to provide stable funding for the national aviation system, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VIII, add the following:

SEC. _____. INCOME AVERAGING FOR AMOUNTS RECEIVED IN CONNECTION WITH THE EXXON VALDEZ LITIGATION.

(a) INCOME AVERAGING OF AMOUNTS RECEIVED FROM THE EXXON VALDEZ LITIGATION.—For purposes of section 1301 of the Internal Revenue Code of 1986—

(1) any qualified taxpayer who receives any qualified settlement income in any taxable year shall be treated as engaged in a fishing business (determined without regard to the commercial nature of the business), and

(2) such qualified settlement income shall be treated as income attributable to such a fishing business for such taxable year.

(b) CONTRIBUTIONS OF AMOUNTS RECEIVED TO RETIREMENT ACCOUNTS.—

(1) IN GENERAL.—Any qualified taxpayer who receives qualified settlement income during the taxable year may, at any time before the end of the taxable year in which such income was received, make one or more contributions to an eligible retirement plan

of which such qualified taxpayer is a beneficiary in an aggregate amount not to exceed the lesser of—

(A) $100,000 (reduced by the amount of qualified settlement income contributed to an eligible retirement plan in prior taxable years pursuant to this subsection), or

(B) the amount of qualified settlement income received by the individual during the taxable year.

(2) TIME WHEN CONTRIBUTIONS DEEMED MADE.—For purposes of paragraph (1), a qualified taxpayer shall be deemed to have made a contribution to an eligible retirement plan on the last day of the taxable year in which such income is received if the contribution is made on account of such taxable year and is made not later than the time prescribed by law for filing the return for such taxable year (not including extensions thereof).

(3) TREATMENT OF CONTRIBUTIONS TO ELIGIBLE RETIREMENT PLANS.—For purposes of the Internal Revenue Code of 1986, if a contribution is made pursuant to paragraph (1) with respect to qualified settlement income, then—

(A) except as provided in paragraph (4)—

(i) to the extent of such contribution, the qualified settlement income shall not be included in gross income, and

(ii) for purposes of section 72 of such Code, such contribution shall not be considered to be investment in the contract,

(B) the qualified taxpayer shall, to the extent of the amount of the contribution, be treated—

(i) as having received the qualified settlement income—

(I) in the case of a contribution to an individual retirement plan (as defined under section 7701(a)(37) of such Code), in a distribution described in section 408(d)(3) of such Code, and

(II) in the case of any other eligible retirement plan, in an eligible rollover distribution (as defined under section 402(f)(2) of such Code), and

(ii) as having transferred the amount to the eligible retirement plan in a direct trustee to trustee transfer within 60 days of the distribution,

(C) section 408(d)(3)(B) of the Internal Revenue Code of 1986 shall not apply with respect to amounts treated as a rollover under this paragraph, and

(D) section 408A(c)(3)(B) of the Internal Revenue Code of 1986 shall not apply with respect to amounts contributed to a Roth IRA (as defined under section 408A(b) of such Code) or a designated Roth contribution to an applicable retirement plan (within the meaning of section 402A of such Code) under this paragraph.

(4) SPECIAL RULE FOR ROTH IRAS AND ROTH 401(K)S.—For purposes of the Internal Revenue Code of 1986, if a contribution is made pursuant to paragraph (1) with respect to qualified settlement income to a Roth IRA (as defined under section 408A(b) of such Code) or as a designated Roth contribution to an applicable retirement plan (within the meaning of section 402A of such Code), then—

(A) the qualified settlement income shall be includible in gross income, and

(B) for purposes of section 72 of such Code, such contribution shall be considered to be investment in the contract.

(5) ELIGIBLE RETIREMENT PLAN.—For purpose of this subsection, the term ''eligible retirement plan'' has the meaning given such term under section 402(c)(8)(B) of the Internal Revenue Code of 1986.

(c) TREATMENT OF QUALIFIED SETTLEMENT INCOME UNDER EMPLOYMENT TAXES.—

(1) SECA.—For purposes of chapter 2 of the Internal Revenue Code of 1986 and section 211 of the Social Security Act, no portion of qualified settlement income received by a qualified taxpayer shall be treated as self-employment income.

(2) FICA.—For purposes of chapter 21 of the Internal Revenue Code of 1986 and section 209 of the Social Security Act, no portion of qualified settlement income received by a qualified taxpayer shall be treated as wages.

(d) QUALIFIED TAXPAYER.—For purposes of this section, the term ''qualified taxpayer'' means—

(1) any individual who is a plaintiff in the civil action In re Exxon Valdez, No. 89–095–CV (HRH) (Consolidated) (D. Alaska); or

(2) any individual who is a beneficiary of the estate of such a plaintiff who—

(A) acquired the right to receive qualified settlement income from that plaintiff; and

(B) was the spouse or an immediate relative of that plaintiff.

(e) QUALIFIED SETTLEMENT INCOME.—For purposes of this section, the term ''qualified settlement income'' means any interest and punitive damage awards which are—

(1) otherwise includible in gross income (determined without regard to subsection (b)), and

(2) received (whether as lump sums or periodic payments) in connection with the civil action In re Exxon Valdez, No. 89–095–CV (HRH) (Consolidated) (D. Alaska) (whether pre- or post-judgment and whether related to a settlement or judgment).

SA 4595. Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill H.R. 2881, to amend title 49, United States Code, to authorize appropriations for the Federal Aviation Administration for fiscal years 2008 through 2011, to improve aviation safety and capacity, to provide stable funding for the national aviation system, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ———. NEXTGEN RESEARCH AND DEVELOPMENT CENTER OF EXCELLENCE.

(a) ESTABLISHMENT.—Of the amount appropriated under section 48101(a) of title 49, United States Code, the Administrator of the Federal Aviation Administration shall use such sums as may be necessary for each of fiscal years 2008 through 2011 to contribute to the establishment of a center of excellence for the research and development of Next Generation Air Transportation System technologies.

(b) FUNCTIONS.—The center established under subsection (a) shall—

(1) leverage the centers of excellence program of the Federal Aviation Administration, as well as other resources and partnerships, to enhance the development of Next Generation Air Transportation System technologies within academia and industry; and

(2) provide educational, technical, and analytical assistance to the Federal Aviation Administration and other Federal agencies with responsibilities to research and develop Next Generation Air Transportation System technologies.

SA 4596. Mr. WEBB (for himself and Mr. WARNER) submitted an amendment intended to be proposed by him to the bill H.R. 2881, to amend title 49, United States Code, to authorize appropriations for the Federal Aviation Administration for fiscal years 2008 through 2011, to improve aviation safety and capacity, to provide stable funding for the national aviation system, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 414.

SA 4597. Mr. BARRASSO submitted an amendment intended to be proposed by him to the bill H.R. 2881, to amend title 49, United States Code, to authorize appropriations for the Federal Aviation Administration for fiscal years 2008 through 2011, to improve aviation safety and capacity, to provide stable funding for the national aviation system, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. GOVERNMENT OIL ACQUISITION FINANCIAL ACCOUNTABILITY AND CONSUMER RELIEF.

(a) SUSPENSION OF PETROLEUM ACQUISITION FOR STRATEGIC PETROLEUM RESERVE.—

(1) IN GENERAL.—Notwithstanding any other provision of law, during any period in which the conditions described in paragraph (2) are not met—

(A) the Secretary of the Interior shall suspend acquisition of petroleum for the Strategic Petroleum Reserve through the royalty-in-kind program; and

(B) the Secretary of Energy shall suspend acquisition of petroleum for the Strategic Petroleum Reserve through any other acquisition method.

(2) RESUMPTION.—

(A) IN GENERAL.—The Secretary of the Interior may resume acquisition of petroleum for the Strategic Petroleum Reserve through the royalty-in-kind program, and the Secretary of Energy may resume acquisition of petroleum for the Strategic Petroleum Reserve through any other acquisition method, not earlier than 30 days after the date on which the President notifies Congress that the President has determined that, for the most recent consecutive 4-week period—

(i) the weighted average price of retail, regular, all formulations gasoline in the United States is $2.50 or less per gallon (as adjusted under subparagraph (B)); or

(ii) the weighted average price of retail, No. 2 diesel in the United States is $2.75 or less per gallon (as adjusted under subparagraph (B)).

(B) ADJUSTMENT.—For fiscal year 2009 and each subsequent fiscal year, the prices specified in clauses (i) and (ii) of subparagraph (A) for the preceding fiscal year shall be adjusted to reflect changes for the 12-month period ending the preceding November 30 in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor.

(b) ADDITIONAL ACQUISITION REQUIREMENTS.—Section 160 of the Energy Policy and Conservation Act (42 U.S.C. 6240) is amended by inserting after subsection (c) the following:

''(d) ADDITIONAL ACQUISITION REQUIREMENTS.—

''(1) IN GENERAL.—To the maximum extent practicable, any acquisitions made by the Secretary of the Interior for the Strategic Petroleum Reserve through the royalty-in-kind program and any acquisitions made by the Secretary of Energy for the Reserve through any other acquisition method (referred to in this subsection as the 'respective Secretary') shall reflect a steady monthly dollar value of oil acquired through the royalty-in-kind program or any other acquisition method allowed by law.

''(2) PARTICULAR INCLUSION.—

''(A) DEFINITION OF HEAVY CRUDE OIL.—In this paragraph, the term 'heavy crude oil'

means oil with a gravity index of not more than 22 degrees.

''(B) REQUIREMENT.—To the extent technologically feasible, financially beneficial for the Treasury of the United States, and compatible with domestic refining requirements, the respective Secretary shall include at least 10 percent heavy crude oil in making any acquisitions of crude oil for the Reserve.

''(3) NEGOTIATION OF DELIVERY DATES.—Nothing in this subsection limits the ability of the respective Secretary to negotiate delivery dates for crude oil acquired for the Reserve.

''(4) NATIONAL SECURITY NEEDS.—The respective Secretary may waive any requirement under this subsection if the respective Secretary determines that the requirement is inconsistent with the national security needs of the United States.''.

SA 4598. Mr. ALEXANDER submitted an amendment intended to be proposed by him to the bill H.R. 2881, to amend title 49, United States Code, to authorize appropriations for the Federal Aviation Administration for fiscal years 2008 through 2011, to improve aviation safety and capacity, to provide stable funding for the national aviation system, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VII, add the following:

SEC. 7___. OVERFLIGHTS OF NATIONAL PARKS.

Section 40128(b) of title 49, United States Code, is amended by adding at the end the following:

''(7) LIMITATION ON COMMERCIAL AIR TOUR OPERATIONS.—Notwithstanding any other provision of this section, beginning on the date that is 2 years after the date of enactment of this paragraph, no commercial air tour operations may be conducted over a national park unless an air tour management plan has been established for the national park in accordance with this subsection.''.

SA 4599. Mr. CARPER (for himself, Mr. SPECTER, and Mr. BIDEN) submitted an amendment intended to be proposed by him to the bill H.R. 2881, to amend title 49, United States Code, to authorize appropriations for the Federal Aviation Administration for fiscal years 2008 through 2011, to improve aviation safety and capacity, to provide stable funding for the national aviation system, and for other purposes; which was ordered to lie on the table; as follows:

On page 134, between lines 7 and 8, insert the following:

(d) NOISE MITIGATION STUDY.—The Administrator of the Federal Aviation Administration shall—

(1) conduct a study of the current laws and regulations governing the evaluation and mitigation of airport noise;

(2) identify ways to improve the reporting and mitigation of noise impacts from airports, including—

(A) using the 65 DNL (Day/Night Noise Level) as the threshold for Federal noise abatement programs and

(B) determining whether frequent spikes in noise level above 65 decibels should be tracked and mitigated, even if such mitigation results in an average noise level below 65 DNL; and

(3) not later than September 30, 2009, submit a report to Congress that describes—

(A) the current process for evaluating airport noise impacts on surrounding communities;

(B) possible alternatives to the existing process and benchmarks; and

(C) the implications of adopting such alternatives.

SA 4600. Mr. MENENDEZ (for himself and Mrs. CLINTON) submitted an amendment intended to be proposed by him to the bill H.R. 2881, to amend title 49, United States Code, to authorize appropriations for the Federal Aviation Administration for fiscal years 2008 through 2011, to improve aviation safety and capacity, to provide stable funding for the national aviation system, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 126, strike line 23 and all that follows through page 127, line 9, and insert the following:

(a) CONFLICT OF INTEREST.—

(1) MODIFICATION OF POST EMPLOYMENT GUIDANCE ON EMPLOYMENT BY INSPECTED AIR CARRIERS.—Not later than 90 days after the date of the enactment of this Act, the Administrator of the Federal Aviation Administration shall initiate a rulemaking proceeding to revise the Administration's post employment guidance to prohibit an individual from representing an air carrier before the Federal Aviation Administration or participating in negotiations or other contacts with the Federal Aviation Administration on behalf of an air carrier for a period of 2 years beginning on the date of the termination of the employment of such individual with the Federal Aviation Administration if such individual—

(A) is employed by that air carrier and was the inspector responsible for inspecting that air carrier while employed by the Federal Aviation Administration;

(B) is employed by that air carrier and was a supervisor of inspectors responsible for inspecting that air carrier while employed by the Federal Aviation Administration; or

(C) is employed by that air carrier and was in a management position responsible for overseeing safety regulation of that air carrier while employed by the Federal Aviation Administration.

(2) LIMITATION ON EMPLOYMENT OF INDIVIDUALS WHO PREVIOUSLY WORKED FOR AN AIR CARRIER.—The Administrator of the Federal Aviation Administration shall prohibit any employee of the Administration who was employed by an air carrier before commencement of the employment of the individual with the Administration from personal and substantial involvement with the oversight of safety inspections or safety regulations of that air carrier for a period of 2 years beginning on the date of such commencement.

SA 4601. Mr. MENENDEZ (for himself, Mrs. CLINTON, Mr. SPECTER, Mr. CASEY, Mr. SCHUMER, and Mr. LAUTENBERG) submitted an amendment intended to be proposed by him to the bill H.R. 2881, to amend title 49, United States Code, to authorize appropriations for the Federal Aviation Administration for fiscal years 2008 through 2011, to improve aviation safety and capacity, to provide stable funding for the national aviation system, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. ON-GOING MONITORING OF AND REPORT ON THE NEW YORK/NEW JERSEY/PHILADELPHIA METROPOLITAN AREA AIRSPACE REDESIGN.

Not later than 270 days after the date of the enactment of this Act and every 180 days thereafter until the completion of the New York/New Jersey/Philadelphia Metropolitan Area Airspace Redesign, the Administrator of the Federal Aviation Administration shall, in conjunction with the Port Authority of New York and New Jersey and the Philadelphia International Airport—

(1) monitor the air noise impacts of the New York/New Jersey/Philadelphia Metropolitan Area Airspace Redesign; and

(2) submit to Congress a report on the findings of the Administrator with respect to the monitoring described in paragraph (1).

SA 4602. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill H.R. 2881, to amend title 49, United States Code, to authorize appropriations for the Federal Aviation Administration for fiscal years 2008 through 2011, to improve aviation safety and capacity, to provide stable funding for the national aviation system, for other purposes; which was ordered to lie on the table; as follows:

On page 135, strike lines 8 through 11, and insert the following:

(b) MEMBERSHIP.—The Advisory Committee shall consist of—

(1) the Administrator of the Federal Aviation Administration or the Administrator's designee;

(2) the Administrator of the National Aeronautics and Space Administration or the Administrator's designee; and

(3) 7 members appointed by the President from a list of 15 candidates proposed by the Director of the National Academy of Sciences.

SA 4603. Mrs. HUTCHISON submitted an amendment intended to be proposed to by her to the bill H.R. 2881, to amend title 49, United States Code, to authorize appropriations for the Federal Aviation Administration for fiscal years 2008 through 2011, to improve aviation safety and capacity, to provide stable funding for the national aviation system, and for other purposes; which was ordered to lie on the table; as follows:

On page 127, line 7, strike ''2'' and insert ''3''.

SA 4604. Mr. SPECTER submitted an amendment intended to be proposed by him to the bill H.R. 2881, to amend title 49, United States Code, to authorize appropriations for the Federal Aviation Administration for fiscal years 2008 through 2011, to improve aviation safety and capacity, to provide stable funding for the national aviation system, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. SCHEDULE REDUCTION.

(a) IN GENERAL.—The Administrator of the Federal Aviation Administration shall convene a conference of air carriers to voluntarily reduce operations described in paragraphs (1) and (2), in accordance with section 41722 of title 49, United States Code, to less than the maximum departure and arrival rate established by the Administrator for such operations, if the Administrator determines that—

(1) the aircraft operations of air carriers during any hour at an airport exceeds such hourly maximum departure and arrival rate; and

(2) the operations in excess of such maximum departure and arrival rate for such

hour at such airport are likely to have a significant adverse effect on the national or regional airspace system.

(b) NO AGREEMENT.—If the air carriers participating in a conference convened under subsection (a) with respect to an airport are not able to agree to a reduction in the number of flights to and from the airport to less than the maximum departure and arrival rate, the Administrator, in consultation with representatives of the affected airport, shall take such action as is necessary to ensure that the reduction described in subsection (a) is implemented.

(c) QUARTERLY REPORTS.—Not later than 3 months after the date of the enactment of this Act and every 3 months thereafter, the Administrator shall submit to Congress a report that describes—

(1) scheduling at the 35 airports that have the greatest number of passenger enplanements; and

(2) each occurrence in which hourly scheduled aircraft operations of air carriers at any such airport exceeded the maximum departure and arrival rate for such airport.

SA 4605. Mr. SPECTER (for himself and Mr. CASEY) submitted an amendment intended to be proposed by him to the bill H.R. 2881, to amend title 49, United States Code, to authorize appropriations for the Federal Aviation Administration for fiscal years 2008 through 2011, to improve aviation safety and capacity, to provide stable funding for the national aviation system, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. LIMITATION ON USE OF DISPERSAL DEPARTURE HEADINGS AT PHILADELPHIA INTERNATIONAL AIRPORT.

The Federal Aviation Administration may not use dispersal departure headings at Philadelphia International Airport unless 10 or more aircraft are waiting to depart.

SA 4606. Mr. INHOFE (for himself and Mr. VITTER) submitted an amendment intended to be proposed by him to the bill H.R. 2881, to amend title 49, United States Code, to authorize appropriations for the Federal Aviation Administration for fiscal years 2008 through 2011, to improve aviation safety and capacity, to provide stable funding for the national aviation system, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. LIABILITY PROTECTION FOR VOLUNTEER PILOT NONPROFIT ORGANIZATIONS THAT FLY FOR PUBLIC BENEFIT AND TO PILOTS AND STAFF OF SUCH NONPROFIT ORGANIZATIONS.

Section 4 of the Volunteer Protection Act of 1997 (42 U.S.C. 14503) is amended—

(1) in subsection (a)(4)—

(A) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(B) by striking ''the harm'' and inserting ''(A) except in the case of subparagraph (B), the harm'';

(C) in subparagraph (A)(ii), as redesignated by this paragraph, by striking the period at the end and inserting ''; or''; and

(D) by adding at the end the following:

''(B) the volunteer—

''(i) was operating an aircraft in furtherance of the purpose of a volunteer pilot nonprofit organization that flies for public benefit; and

''(ii) was properly licensed and insured for the operation of such aircraft.''; and

(2) in subsection (c)—

(A) by striking ''Nothing in this section'' and inserting the following:

''(1) IN GENERAL.—Except as provided in paragraph (2), nothing in this section''; and

(B) by adding at the end the following:

''(2) EXCEPTION.—A volunteer pilot nonprofit organization that flies for public benefit, the staff, mission coordinators, officers, and directors (whether volunteer or otherwise) of such nonprofit organization, and a referring agency of such nonprofit organization shall not be liable for harm caused to any person by a volunteer of such nonprofit organization while such volunteer—

''(A) is operating an aircraft in furtherance of the purpose of such nonprofit organization;

''(B) is properly licensed for the operation of such aircraft; and

''(C) has certified to such nonprofit organization that such volunteer has insurance covering the volunteer's operation of such aircraft.''.

SA 4607. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill H.R. 2881, to amend title 49, United States Code, to authorize appropriations for the Federal Aviation Administration for fiscal years 2008 through 2011, to improve aviation safety and capacity, to provide stable funding for the national aviation system, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. AVIATION TRAVELER TASKFORCE.

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

(1) While the aircraft safety should be a top priority for the Federal Aviation Administration and air carriers, compliance with Federal safety regulations should not come at the expense of passenger convenience.

(2) One of the chief complaints of customers left stranded during April 2008 by massive cancellations was the lack of notification about the status of their flights.

(3) Commercial air flight cancellations were announced with little advance notice, causing many travelers to discover that their flight was cancelled after they arrived at the airport.

(4) Air carriers have also reduced the number of flights on their schedules, which has frustrated consumers' attempts to find replacement flights on other air carriers.

(b) ESTABLISHMENT.—The Administrator of the Federal Aviation Administration shall establish an Aviation Traveler Taskforce, comprised of Federal Aviation Administration employees and representatives of the commercial aviation industry.

(c) FUNCTIONS.—The Aviation Traveler Taskforce shall—

(1) clarify interpretations of safety directives issued by the Federal Aviation Administration with which air carriers will soon need to comply;

(2) develop contingency plans in the event that additional aircraft—

(A) are found to be out of compliance with such safety directives; and

(B) need to be grounded;

(3) generate ideas for the best way to notify passengers on a massive scale that their flights have been cancelled; and

(4) design a notification system to alert passengers of potential service disruptions.

(d) INSPECTION PLANS.—The Administrator of the Federal Aviation Administration shall ensure that any standardized plan to perform inspections of commercial aircraft includes a plan to reduce groundings and other consequences resulting from such inspections.

SA 4608. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill H.R. 2881, to amend title 49, United States Code, to authorize appropriations for the Federal Aviation Administration for fiscal years 2008 through 2011, to improve aviation safety and capacity, to provide stable funding for the national aviation system, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. IMPLEMENTATION OF FAA RULE RELATING TO FUEL TANK FLAMMABILITY.

(a) IN GENERAL.—Notwithstanding any other provision of law, not later 1 year after the date of the enactment of this Act, the Federal Aviation Administration shall finalize and implement, in accordance with paragraph (2), the rule proposed by the Federal Aviation Administration relating to the reduction of fuel tank flammability in transport category airplanes (70 Fed. Reg. 70922, dated November 23, 2005) and operators and manufacturers of airplanes shall take appropriate action to comply with the rule.

(b) MATCHING FUNDS.—For each of the fiscal years 2009 through 2018, the Administrator of the Federal Aviation Administration may provide financial assistance to operators and manufacturers of airplanes in an amount that does not exceed $1 for every $1 incurred by such operators and manufacturers for complying with the rule described in subsection (a).

(c) STUDY AND REPORT.—Not later than 180 days after the date of the enactment of this Act, the Administrator of the Federal Aviation Administration shall conduct a study and report to Congress regarding ways to improve the safety and reduce the flammability of fuel tanks that are located on the wings of airplanes.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $40,000,000 for each of the fiscal years 2009 through 2018, to carry out the provisions of subsection (b).

SA 4609. Mr. SCHUMER (for himself, Mrs. CLINTON, Mr. MENENDEZ, and Mr. LAUTENBERG) submitted an amendment intended to be proposed by him to the bill H.R. 2881, to amend title 49, United States Code, to authorize appropriations for the Federal Aviation Administration for fiscal years 2008 through 2011, to improve aviation safety and capacity, to provide stable funding for the national aviation system, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. NEW YORK INTEGRATION OFFICE.

(a) BUDGET AUTHORITY.—The Director of the New York Integration Office of the Federal Aviation Administration is authorized to transfer any amounts appropriated for the operations of such office to any function that the Director determines to be necessary to carry out any flight delay reduction project involving the airspace in the New York-New Jersey region.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Federal Aviation Administration such sums as may be necessary to carry out the

responsibilities of the New York Integration Office, including hiring necessary support staff.

SA 4610. Mr. SCHUMER (for himself and Mr. MARTINEZ) submitted an amendment intended to be proposed by him to the bill H.R. 2881, to amend title 49, United States Code, to authorize appropriations for the Federal Aviation Administration for fiscal years 2008 through 2011, to improve aviation safety and capacity, to provide stable funding for the national aviation system, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. PLAN FOR SHARING MILITARY AND SPECIAL USE AIRSPACE.

The Administrator of the Federal Aviation Administration, in consultation with the Secretary of Transportation and the Secretary of Defense, shall develop—

(1) a plan to open up special use airspace for additional lanes of air traffic at specific choke points during the summer of 2008; and

(2) a permanent plan to share the military airspace off the eastern coast of the United States, which—

(A) creates a corridor for commercial flights seeking to avoid inclement weather or excessive air traffic; and

(B) provides for immediate reclamation of such airspace by the Department of Defense in the event of a national emergency.

SA 4611. Mr. SCHUMER (for himself and Mr. MARTINEZ) submitted an amendment intended to be proposed by him to the bill H.R. 2881, to amend title 49, United States Code, to authorize appropriations for the Federal Aviation Administration for fiscal years 2008 through 2011, to improve aviation safety and capacity, to provide stable funding for the national aviation system, and for other purposes; which was ordered to lie on the table; as follows:

On page 99, line 9, strike ''28'' and insert ''68''.

On page 99, line 17, strike ''beyond-perimeter''.

On page 99, line 19, insert ''and'' after the semicolon.

On page 98, strike lines 20 through 25 and insert the following:

(2) in paragraph (3)—

(A) in subparagraph (B), strike ''and'' at the end;

(B) in subparagraph (C), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(D) the remaining 48 exemptions shall be distributed in accordance with criteria developed by the Secretary in a manner that—

''(i) promotes air transportation by new entrant air carriers and limited incumbent air carriers;

''(ii) will produce the maximum competitive benefits, including low fares; or

''(iii) will increase the presence of new entrant and limited incumbent air carriers, particularly in hub markets dominated by large incumbent air carriers.''.

SA 4612. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill H.R. 2881, to amend title 49, United States Code, to authorize appropriations for the Federal Aviation Administration for fiscal years 2008 through 2011, to improve aviation safety and capacity, to provide stable funding for the national aviation system, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. ENHANCED PENALTIES FOR FLIGHT SCHOOLS THAT KNOWINGLY ACCEPT INELIGIBLE ALIENS.

(a) CIVIL PENALTIES.—Section 46301(a)(4) is amended—

(1) by striking ''Notwithstanding paragraph (1) of this subsection'' and inserting the following:

''(A) Notwithstanding paragraph (1) and except as provided under subparagraph (B)''; and

(2) by adding at the end the following:

''(B) The maximum civil penalty for knowingly providing flight training to an alien who is not eligible for such training in violation of section 44939 shall be—

''(i) $20,000; or

''(ii) $50,000 in the case of a person operating an aircraft for the transportation of passengers or property for compensation (except an individual serving as an airman).''.

(b) CRIMINAL PENALTIES.—Section 46317 is amended by adding at the end the following:

''(c) CRIMINAL PENALTY FOR PROVIDING FLIGHT TRAINING TO INELIGIBLE ALIENS.—In addition to any civil penalty imposed under section 46301(a)(4)(B), an individual shall be fined under title 18 if that individual knowingly provides flight training to an alien who is not eligible for such training in violation of section 44939.''.

SA 4613. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill H.R. 2881, to amend title 49, United States Code, to authorize appropriations for the Federal Aviation Administration for fiscal years 2008 through 2011, to improve aviation safety and capacity, to provide stable funding for the national aviation system, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. AVAILABILITY OF FLIGHT DELAY INFORMATION.

(a) IN GENERAL.—Subchapter I of chapter 417, as amended by section 714 of this Act, is further amended by adding at the end the following:

''§ 41725. Availability of flight delay information

''(a) REQUIREMENT TO MAKE INFORMATION AVAILABLE.—The Secretary of Transportation shall require each air carrier, foreign air carrier, or intrastate air carrier that provides air transportation or intrastate air transportation to make available to the public information regarding the delay of a scheduled passenger flight not later than 10 minutes after such information is available.

''(b) MANNER OF AVAILABILITY.—An air carrier, foreign air carrier, or intrastate air carrier shall make the information referred to in subsection (a) available through—

''(1) any Internet website of such air carrier, foreign air carrier, or intrastate air carrier;

''(2) any automated recording related to flight departure or arrival times maintained by such air carrier, foreign air carrier, or intrastate air carrier;

''(3) announcements at appropriate airports; and

''(4) flight information screens at appropriate airports.''.

(b) REGULATIONS.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Transportation shall promulgate regulations to implement section 41725 of title 49, United States Code, as added by subsection (a).

(c) CONFORMING AMENDMENT.—The analysis for chapter 417 of title 49, United States Code, is amended by adding after the item relating to section 41724, as added by section 714 of this Act, the following:

''41725. Availability of flight delay information.''.

SA 4614. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill H.R. 2881, to amend title 49, United States Code, to authorize appropriations for the Federal Aviation Administration for fiscal years 2008 through 2011, to improve aviation safety and capacity, to provide stable funding for the national aviation system, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. AIRPORT SCREENING.

(a) AIRPORT EMPLOYEE AND CONTRACTOR SCREENING.—

(1) SCREENING AIR CARRIER EMPLOYEES.—Section 44901 is amended—

(A) in subsection (a), by inserting '', air carrier employees,'' after ''passengers''; and

(B) in subsection (b), by inserting '', air carrier employees,'' after ''passengers''.

(2) SCREENING EMPLOYEES WITH ACCESS TO SECURED AREAS.—Section 44903(h)(4)(A) is amended by inserting ''(including airport and air carrier employees, contractors, and vendors)'' after ''individuals''.

(b) AIRPORT SCREENING PLANS.—Section 44903(h) is amended—

(1) by redesignating paragraph (7) as paragraph (8); and

(2) by inserting after paragraph (6) the following:

''(7) AIRPORT SCREENING PLANS.—

''(A) LARGE HUB AIRPORTS.—Not later than 180 days after the date of the enactment of the Aviation Investment and Modernization Act of 2008, the head of each large hub airport shall submit a plan for comprehensive screening of all individuals entering the secure area of such airport to the Administrator of the Transportation Security Administration.

''(B) MEDIUM HUB AIRPORTS.—Not later than September 30, 2009, the head of each medium hub airport shall submit a plan for comprehensive screening of all individuals entering the secure area of such airport to the Administrator of the Transportation Security Administration.

''(C) SMALL HUB AIRPORTS.—Not later than September 30, 2010, the head of each small hub airport shall submit a plan for comprehensive screening of all individuals entering the secure area of such airport to the Administrator of the Transportation Security Administration.

''(D) NONHUB AIRPORTS.—Not later than September 30, 2011, the head of each nonhub airport shall submit a plan for comprehensive screening of all individuals entering the secure area of such airport to the Administrator of the Transportation Security Administration.

''(E) IMPLEMENTATION OF PLANS.—Not later than 60 days after the submission of a comprehensive screening plan for an airport under this paragraph, the plan shall be implemented at such airport.''.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section and the amendments made by this section.

SA 4615. Mr. DODD (for himself and Mr. LIEBERMAN) submitted an amendment intended to be proposed by him to the bill H.R. 2881, to amend title 49, United States Code, to authorize appropriations for the Federal Aviation Administration for fiscal years 2008 through 2011, to improve aviation safety and capacity, to provide stable funding for the national aviation system, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. FUNDING LIMITATION FOR INTEGRATED AIRSPACE ALTERNATIVE.

The Administrator of the Federal Aviation Administration may not expend any Federal funds to carry out the Integrated Airspace Alternative (IAA), the preferred alternative selected by the Federal Aviation Administration for the New York/New Jersey/Philadelphia Metropolitan Area Airspace Redesign Project, until all the lawsuits challenging the legality of the IAA that were filed in a Federal court before the date of the enactment of this Act have been dismissed or otherwise reached a final resolution in favor of the Federal Aviation Administration.

SA 4616. Mr. ENSIGN (for himself, Mrs. BOXER, Mr. MCCAIN, Mr. KYL and Mrs. DOLE) submitted an amendment intended to be proposed by him to the bill H.R. 2881, to amend title 49, United States Code, to authorize appropriations for the Federal Aviation Administration for fiscal years 2008 through 2011, to improve aviation safety and capacity, to provide stable funding for the national aviation system, and for other purposes; which was ordered to lie on the table; as follows:

At the end of section 414, add the following:

(d) EXTENDING THE LENGTH OF FLIGHTS FROM RONALD REAGAN WASHINGTON NATIONAL AIRPORT.—Section 41718 is amended by adding at the end the following:

''(g) USE OF AIRPORT SLOTS FOR BEYOND PERIMETER FLIGHTS.—Notwithstanding section 49109 or any other provision of law, any air carrier that holds or operates air carrier slots at Ronald Reagan Washington National Airport as of January 1, 2008, pursuant to subparts K and S of part 93 of title 14, Code of Federal Regulations, which are being used as of that date for scheduled service between that airport and a large hub airport (as defined in section 40102(a)(29)), may use such slots for service between Ronald Reagan Washington National Airport and any airport located outside of the perimeter restriction described in section 49109.''.

SA 4617. Mr. SCHUMER submitted an amendment intended to be proposed to amendment SA 4585 proposed by Mr. ROCKEFELLER (for himself, Mr. INOUYE, Mr. BAUCUS, and Mr. GRASSLEY) to the bill H.R. 2881, to amend title 49, United States Code, to authorize appropriations for the Federal Aviation Administration for fiscal years 2008 through 2011, to improve aviation safety and capacity, to provide stable funding for the national aviation system, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VIII add the following:

SEC. _____. CLARIFICATION OF APPLICABILITY OF INTEREST ON REFUNDS OF OVERPAYMENTS OF HARBOR MAINTENANCE TAX.

(a) IN GENERAL.—Paragraph (1) of section 4462(f) (relating to extension of provisions of law applicable to customs duty) is amended by inserting '', and any requirement to pay interest on refunds of excess moneys deposited as customs duties and fees shall be made applicable to a refund of the tax imposed by this subchapter and paid in respect of port use for cargo exported from the United States by deeming the refund of such tax to be a liquidation occurring on the date of such refund payment, and the persons who paid such tax to be importers'' after ''cargo''.

(b) EFFECTIVE DATE; TIMING OF ACTIONS FOR PAYMENT.—

(1) EFFECTIVE DATE.—The amendment made by this section shall apply as if included in the amendments made by section 11116(a) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users.

(2) TIMING OF ACTIONS FOR PAYMENT.—Notwithstanding any other provision of law, claims for interest on refunds of the tax imposed under subchapter A of chapter 36 of the Internal Revenue Code of 1986 and paid in respect of port use for cargo exported from the United States may be enforced in an action brought in the Court of International Trade by or on behalf of persons entitled to receive such interest not later than 90 days after the date of the enactment of this Act.

SA 4618. Mr. SCHUMER (for himself and Mrs. DOLE) submitted an amendment intended to be proposed by him to the bill H.R. 2881, to amend title 49, United States Code, to authorize appropriations for the Federal Aviation Administration for fiscal years 2008 through 2011, to improve aviation safety and capacity, to provide stable funding for the national aviation system, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. PROHIBITION ON AUCTIONS AND CONGESTION PRICING AT COMMERCIAL AIRPORTS.

(a) FEDERAL AVIATION ADMINISTRATION.—Title I of the Transportation, Housing and Urban Development, and Related Agencies Appropriations Act, 2008 (division K of Public Law 110–161) is amended by inserting ''or to promulgate any regulation or take any action to regulate or influence airway operations at any commercial airport in the United States, which involves Federal allocation of such operations based on the Federal implementation or approval of auctions, leasing, peak-hour pricing, or congestion pricing, or encourage, require, or permit an airport to take such action'' after ''the date of the enactment of this Act''.

(b) DEPARTMENT OF TRANSPORTATION.—Notwithstanding any other provision of law, the Secretary of Transportation may not promulgate any regulation or take any action to regulate or influence airway operations at any commercial airport in the United States, which involves Federal allocation of such operations based on the Federal implementation or approval of auctions, leasing, peak-hour pricing, or congestion pricing, or encourage, require, or permit an airport to take such action.

SA 4619. Mr. CASEY (for himself, Mr. BIDEN, and Mr. CARPER) submitted an amendment intended to be proposed by him to the bill H.R. 2881, to amend title 49, United States Code, to authorize appropriations for the Federal Aviation Administration for fiscal years 2008 through 2011, to improve aviation safety and capacity, to provide stable funding for the national aviation system, and for other purposes; which was ordered to lie on the table; as follows:

On page 66, between lines 2 and 3, insert the following:

(5) The Administrator may not consolidate any additional approach control facilities into the Philadelphia TRACON and Tower, and may not realign, relocate or reorganize any functions at the approach control facilities at the Philadelphia International Airport until the Board's recommendations are completed.

SA 4620. Mr. LEVIN (for himself and Ms. STABENOW) submitted an amendment intended to be proposed by him to the bill H.R. 2881, to amend title 49, United States Code, to authorize appropriations for the Federal Aviation Administration for fiscal years 2008 through 2011, to improve aviation safety and capacity, to provide stable funding for the national aviation system, and for other purposes; which was ordered to lie on the table; as follows:

On page 65, line 24, insert ''consolidate any TRACON in Michigan or'' after ''may not''.

SA 4621. Mr. ISAKSON submitted an amendment intended to be proposed by him to the bill H.R. 2881, to amend title 49, United States Code, to authorize appropriations for the Federal Aviation Administration for fiscal years 2008 through 2011, to improve aviation safety and capacity, to provide stable funding for the national aviation system, and for other purposes; which was ordered to lie on the table; as follows:

On page 149, strike lines 18 through 20 and insert the following:

(a) WAR RISK INSURANCE.—

(1) EXTENSION OF INSURANCE POLICIES.—Section 44302(f)(1) is amended by striking ''August 31, 2008, and may extend through December 31, 2008'' and inserting ''December 31, 2011''.

(2) THIRD PARTY CLAIMS ARISING FROM ACTS OF TERRORISM.—Section 44303(b) is amended by striking ''December 31, 2008'' and inserting ''December 31, 2011''.

SA 4622. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill H.R. 2881, to amend title 49, United States Code, to authorize appropriations for the Federal Aviation Administration for fiscal years 2008 through 2011, to improve aviation safety and capacity, to provide stable funding for the national aviation system, and for other purposes; which was ordered to lie on the table; as follows:

On page 50, between lines 5 and 6, insert the following:

''(v) 1 representative that is a senior executive of an airframe manufacturer.

SA 4623. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill H.R. 2881, to amend title 49, United States Code, to authorize appropriations for the Federal Aviation Administration for fiscal years 2008 through 2011, to improve aviation

safety and capacity, to provide stable funding for the national aviation system, and for other purposes; which was ordered to lie on the table; as follows:

On page 134, line 3, strike ''benefits.'' and insert the following: ''benefits. In making that determination, the research program shall include a life cycle analysis to assess the environmental benefits of using alternative fuels, including reductions of greenhouse gas emissions.''.

SA 4624. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill H.R. 2881, to amend title 49, United States Code, to authorize appropriations for the Federal Aviation Administration for fiscal years 2008 through 2011, to improve aviation safety and capacity, to provide stable funding for the national aviation system, and for other purposes; which was ordered to lie on the table; as follows:

On page 84, between lines 10 and 11, insert the following:

SEC. 317. NEXT GENERATION AIR TRANSPORTATION SYSTEM METRICS.

(a) IN GENERAL.—The Administrator of the Federal Aviation Administration shall develop metrics—

(1) to measure the progress, over the near, intermediate, and long terms, of the Next Generation Air Transportation System toward achieving the operational performance goals of the system by 2025; and

(2) to allow for a practical assessment of the performance of the system with respect to safety, capacity, efficiency, and cost reduction.

(b) METRICS.—The metrics developed under subsection (a) shall include the following:

(1) The number and rate of fatal accidents each year associated with commercial air carriers and with general aviation.

(2) The average actual and scheduled gate-to-gate travel times on a set of routes that the Administrator determines are nationally representative.

(3) The number of useable operations per hour on runways at Operational Evolution Partnership airports.

(4) The number of new runways at existing, secondary, and new airports where additional runway capacity is needed.

(5) The average cost per flight per year.

(c) REPORT.—The Administrator shall include in the annual report required under section 709(d) of Vision 100–Century of Aviation Reauthorization Act (49 U.S.C. 40101 note) an assessment of the progress of the system in the near, intermediate, and long terms based on the metrics developed under subsection (a).

(d) PUBLIC AVAILABILITY.—The Administrator shall post on the Internet website of the Federal Aviation Administration the metrics developed under subsection (a) and the assessment of the progress of the system required under subsection (c).

SA 4625. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill H.R. 2881, to amend title 49, United States Code, to authorize appropriations for the Federal Aviation Administration for fiscal years 2008 through 2011, to improve aviation safety and capacity, to provide stable funding for the national aviation system, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 68, strike line 23 and all that follows through page 69, line 2, and insert the following:

''(5)(A) There is established the position of Associate Administrator for the Next Generation Air Transportation System, who shall be appointed by the Administrator of the Federal Aviation Administration and report to the Administrator.

''(B) The Associate Administrator for the Next Generation Air Transportation System shall—

''(i) be the head of the Office; and

''(ii) be a voting member of the Federal Aviation Administration's Joint Resources Council and the Air Traffic Organization's Executive Council.'';

SA 4626. Mr. NELSON of Nebraska (for himself and Mr. HAGEL) submitted an amendment intended to be proposed by him to the bill H.R. 2881, to amend title 49, United States Code, to authorize appropriations for the Federal Aviation Administration for fiscal years 2008 through 2011, to improve aviation safety and capacity, to provide stable funding for the national aviation system, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. CALCULATION OF HIGHWAY MILEAGE TO MEDIUM AND LARGE HUB AIRPORTS.

(a) IN GENERAL.—Section 41731 of title 49, United States Code, is amended by adding at the end the following:

''(c) CALCULATION OF HIGHWAY MILEAGE TO MEDIUM AND LARGE HUB AIRPORTS.—

''(1) IN GENERAL.—In any determination under this subchapter of compensation or eligibility for compensation for essential air service based on the highway mileage of an eligible place from the nearest medium hub airport or large hub airport, the highway mileage shall be that of the most commonly used route, as identified under paragraph (2).

''(2) MOST COMMONLY USED ROUTE.—The Secretary of Transportation shall identify the most commonly used route between an eligible place and the nearest medium hub airport or large hub airport by—

''(A) consulting with the Governor or a designee of the Governor in the State in which the eligible place is located; and

''(B) considering the certification of the Governor or a designee of the Governor as to the most commonly used route.

''(3) APPLICABILITY.—This subsection shall apply only to eligible places in the 48 contiguous States and the District of Columbia.''.

(b) CONFORMING AMENDMENT.—Section 409 of Vision 100—Century of Aviation Reauthorization Act (Public Law 108–176; 49 U.S.C. 41731 note) is repealed.

SA 4627. Mr. ROCKEFELLER proposed an amendment to the bill H.R. 2881, to amend title 49, United States Code, to authorize appropriations for the Federal Aviation Administration for fiscal years 2008 through 2011, to improve aviation safety and capacity, to provide stable funding for the national aviation system, and for other purposes; as follows:

Strike out all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Aviation Investment and Modernization Act of 2008''.

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

Sec. 1. Short title; table of contents.
Sec. 2. Amendments to title 49, United States Code.
Sec. 3. Effective date.

TITLE I—AUTHORIZATIONS AND FINANCING

Sec. 101. Operations.
Sec. 102. Air navigation facilities and equipment.
Sec. 103. Research and development.
Sec. 104. Airport planning and development and noise compatibility planning and programs.
Sec. 105. Other aviation programs.
Sec. 106. Delineation of next generation air transportation system projects.
Sec. 107. Funding for administrative expenses for airport programs.

TITLE II—AIRPORT IMPROVEMENTS

Sec. 201. Reform of passenger facility charge authority.
Sec. 202. Passenger facility charge pilot program.
Sec. 203. Amendments to grant assurances.
Sec. 204. Government share of project costs.
Sec. 205. Amendments to allowable costs.
Sec. 206. Sale of private airport to public sponsor.
Sec. 207. Pilot program for airport takeover of air navigation facilities.
Sec. 208. Government share of certain air project costs.
Sec. 209. Miscellaneous amendments.
Sec. 210. State block grant program.
Sec. 211. Airport funding of special studies or reviews.
Sec. 212. Grant eligibility for assessment of flight procedures.
Sec. 213. Safety-critical airports.
Sec. 214. Expanded passenger facility charge eligibility for noise compatibility projects.
Sec. 215. Environmental mitigation demonstration pilot program.
Sec. 216. Allowable project costs for airport development program.
Sec. 217. Glycol recovery vehicles.
Sec. 218. Research improvement for aircraft.

TITLE III—FAA ORGANIZATION AND REFORM

Sec. 301. Air Traffic Control Modernization Oversight Board.
Sec. 302. ADS–B support pilot program.
Sec. 303. Facilitation of next generation air traffic services.
Sec. 304. Clarification of authority to enter into reimbursable agreements.
Sec. 305. Clarification to acquisition reform authority.
Sec. 306. Assistance to other aviation authorities.
Sec. 307. Presidential rank award program.
Sec. 308. Next generation facilities needs assessment.
Sec. 309. Next generation air transportation system planning office.
Sec. 310. Definition of air navigation facility.
Sec. 311. Improved management of property inventory.
Sec. 312. Educational requirements.
Sec. 313. FAA personnel management system.
Sec. 314. Rulemaking and report on ADS-B implementation.
Sec. 315. FAA task force on air traffic control facility conditions.
Sec. 316. State ADS-B equipage bank pilot program.

TITLE IV—AIRLINE SERVICE AND SMALL COMMUNITY AIR SERVICE IMPROVEMENTS

Sec. 401. Airline contingency service requirements.
Sec. 402. Publication of customer service data and flight delay history.
Sec. 403. EAS connectivity program.
Sec. 404. Extension of final order establishing mileage adjustment eligibility.

Sec. 405. EAS contract guidelines.
Sec. 406. Conversion of former EAS airports.
Sec. 407. EAS reform.
Sec. 408. Clarification of air carrier fee disputes.
Sec. 409. Small community air service.
Sec. 410. Contract tower program.
Sec. 411. Airfares for members of the armed forces.
Sec. 412. Expansion of DOT airline consumer complaint investigations.
Sec. 413. EAS marketing.
Sec. 414. Extraperimetal and intraperimetal slots at Ronald Reagan Washington National Airport.
Sec. 415. Establishment of advisory committee for aviation consumer protection.
Sec. 416. Rural aviation improvement.

TITLE V—AVIATION SAFETY

Sec. 501. Runway safety equipment plan.
Sec. 502. Aircraft fuel tank safety improvement.
Sec. 503. Judicial review of denial of airman certificates.
Sec. 504. Release of data relating to abandoned type certificates and supplemental type certificates.
Sec. 505. Design organization certificates.
Sec. 506. FAA access to criminal history records or database systems.
Sec. 507. Flight crew fatigue.
Sec. 508. Increasing safety for helicopter emergency medical service operators.
Sec. 509. Cabin crew communication.
Sec. 510. Clarification of memorandum of understanding with osha.
Sec. 511. Acceleration of development and implementation of required navigation performance approach procedures.
Sec. 512. Enhanced safety for airport operations.
Sec. 513. Improved safety information.
Sec. 514. Voluntary disclosure reporting process improvements.
Sec. 515. Procedural improvements for inspections.
Sec. 516. Independent review of safety issues.
Sec. 517. National review team.
Sec. 518. FAA Academy improvements.
Sec. 519. Reduction of runway incursions and operational errors.

TITLE VI—AVIATION RESEARCH

Sec. 601. Airport cooperative research program.
Sec. 602. Reduction of noise, emissions, and energy consumption from civilian aircraft.
Sec. 603. Production of clean coal fuel technology for civilian aircraft.
Sec. 604. Advisory committee on future of aeronautics.
Sec. 605. Research program to improve airfield pavements.
Sec. 606. Wake turbulence, volcanic ash, and weather research.
Sec. 607. Incorporation of unmanned aerial systems into FAA plans and policies.
Sec. 608. Reauthorization of center of excellence in applied research and training in the use of advanced materials in transport aircraft.
Sec. 609. Pilot program for zero emission airport vehicles.
Sec. 610. Reduction of emissions from airport power sources.

TITLE VII—MISCELLANEOUS

Sec. 701. General authority.
Sec. 702. Human intervention management study.
Sec. 703. Airport program modifications.
Sec. 704. Miscellaneous program extensions.
Sec. 705. Extension of competitive access reports.
Sec. 706. Update on overflights.
Sec. 707. Technical corrections.
Sec. 708. FAA technical training and staffing.
Sec. 709. Commercial air tour operators in national parks.
Sec. 710. Phaseout of stage 1 and 2 aircraft.
Sec. 711. Weight restrictions at teterboro airport.
Sec. 712. Pilot program for redevelopment of airport properties.
Sec. 713. Air carriage of international mail.
Sec. 714. Transporting musical instruments.
Sec. 715. Recycling plans for airports.
Sec. 716. Consumer information pamphlet.

TITLE VIII—AMERICAN INFRASTRUCTURE INVESTMENT AND IMPROVEMENT

Sec. 800. Short title, etc.

Subtitle A—Airport and Airway Trust Fund Provisions and Related Taxes

Sec. 801. Extension of taxes funding Airport and Airway Trust Fund.
Sec. 802. Extension of Airport and Airway Trust Fund expenditure authority.
Sec. 803. Modification of excise tax on kerosene used in aviation .
Sec. 804. Air Traffic Control System Modernization Account.
Sec. 805. Treatment of fractional aircraft ownership programs.
Sec. 806. Termination of exemption for small aircraft on nonestablished lines.
Sec. 807. Transparency in passenger tax disclosures.ier pension plans.

Subtitle B—Increased Funding for Highway Trust Fund

Sec. 811. Replenish emergency spending from Highway Trust Fund.
Sec. 812. Suspension of transfers from highway trust fund for certain repayments and credit.
Sec. 813. Taxation of taxable fuels in foreign trade zones.
Sec. 814. Clarification of penalty for sale of fuel failing to meet EPA regulations.
Sec. 815. Treatment of qualified alcohol fuel mixtures and qualified biodiesel fuel mixtures as taxable fuels.
Sec. 816. Calculation of volume of alcohol for fuel credits.
Sec. 817. Bulk transfer exception not to apply to finished gasoline.
Sec. 818. Increase and extension of Oil Spill Liability Trust Fund tax.
Sec. 819. Application of rules treating inverted corporations as domestic corporations to certain transactions occurring after March 20, 2002.
Sec. 820. Denial of deduction for punitive damages.
Sec. 821. Motor fuel tax enforcement advisory commission.
Sec. 822. Highway Trust Fund conforming expenditure amendment.

Subtitle C—Additional Infrastructure Modifications and Revenue Provisions

Sec. 831. Restructuring of New York Liberty Zone tax credits.
Sec. 832. Participants in government section 457 plans allowed to treat elective deferrals as Roth contributions.
Sec. 833. Increased information return penalties.
Sec. 834. Exemption of certain commercial cargo from harbor maintenance tax.
Sec. 835. Credit to holders of qualified rail infrastructure bonds.
Sec. 836. Repeal of suspension of certain penalties and interest.
Sec. 837. Denial of deduction for certain fines, penalties, and other amounts.
Sec. 838. Revision of tax rules on expatriation.

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

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

SEC. 3. EFFECTIVE DATE.

Except as otherwise expressly provided, this Act and the amendments made by this Act shall take effect on the date of enactment.

TITLE I—AUTHORIZATIONS AND FINANCING

SEC. 101. OPERATIONS.

(a) IN GENERAL.—Section 106(k)(1) is amended by striking subparagraphs (A) through (D) and inserting the following:

''(A) $8,726,000,000 for fiscal year 2008;

''(B) $8,990,000,000 for fiscal year 2009;

''(C) $9,330,000,000 for fiscal year 2010; and

''(D) $9,620,000,000 for fiscal year 2011.''.

(b) SAFETY PROJECT.—Section 106(k)(2)(F) is amended by striking ''2007'' and inserting ''2011''.

SEC. 102. AIR NAVIGATION FACILITIES AND EQUIPMENT.

Section 48101(a) is amended by striking paragraphs (1) through (4) and inserting the following:

''(1) $2,572,000,000 for fiscal year 2008;

''(2) $2,923,000,000 for fiscal year 2009, of which $400,000,000 is derived from the Air Traffic Control System Modernization Account of the Airport and Airways Trust Fund;

''(3) $3,079,000,000 for fiscal year 2010, of which $400,000,000 is derived from the Air Traffic Control System Modernization Account of the Airport and Airways Trust Fund; and

''(4) $3,317,000,000 for fiscal year 2011, of which $400,000,000 is derived from the Air Traffic Control System Modernization Account of the Airport and Airways Trust Fund.''.

SEC. 103. RESEARCH AND DEVELOPMENT.

Section 48102 is amended—

(1) by striking subsection (a) and inserting the following:

''(a) IN GENERAL.—Not more than the following amounts may be appropriated to the Secretary of Transportation out of the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502) for conducting civil aviation research and development under sections 44504, 44505, 44507, 44509, and 44511 through 44513 of this title:

''(1) $140,000,000 for fiscal year 2008.

''(2) $191,000,000 for fiscal year 2009.

''(3) $191,000,000 for fiscal year 2010.

''(4) $194,000,000 for fiscal year 2011.'';

(2) by striking subsections (c) through (h); and

(3) by adding at the end the following:

''(c) RESEARCH GRANTS PROGRAM INVOLVING UNDERGRADUATE STUDENTS.—The Administrator of the Federal Aviation Administration shall establish a program to utilize undergraduate and technical colleges, including Historically Black Colleges and Universities, Hispanic Serving Institutions, tribally controlled colleges and universities, and Alaska Native and Native Hawaiian serving institutions in research on subjects of relevance to the Federal Aviation Administration. Grants may be awarded under this subsection for—

''(1) research projects to be carried out at primarily undergraduate institutions and technical colleges;

''(2) research projects that combine research at primarily undergraduate institutions and technical colleges with other research supported by the Federal Aviation Administration;

''(3) research on future training requirements on projected changes in regulatory requirements for aircraft maintenance and power plant licensees; or

''(4) research on the impact of new technologies and procedures, particularly those related to aircraft flight deck and air traffic management functions, and on training requirements for pilots and air traffic controllers.''.

SEC. 104. AIRPORT PLANNING AND DEVELOPMENT AND NOISE COMPATIBILITY PLANNING AND PROGRAMS.

Section 48103 is amended by striking paragraphs (1) through (4) and inserting the following:

''(1) $3,800,000,000 for fiscal year 2008;

''(2) $3,900,000,000 for fiscal year 2009;

''(3) $4,000,000,000 for fiscal year 2010; and

''(4) $4,100,000,000 for fiscal year 2011.''.

SEC. 105. OTHER AVIATION PROGRAMS.

Section 48114 is amended—

(1) by striking ''2007'' in subsection (a)(1)(A) and inserting ''2011'';

(2) by striking ''2007,'' in subsection (a)(2) and inserting ''2011,''; and

(3) by striking ''2007'' in subsection (c)(2) and inserting ''2011''.

SEC. 106. DELINEATION OF NEXT GENERATION AIR TRANSPORTATION SYSTEM PROJECTS.

Section 44501(b) is amended—

(1) by striking ''and'' after the semicolon in paragraph (3);

(2) by striking ''defense.'' in paragraph (4) and inserting ''defense; and''; and

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

''(5) a list of projects that are part of the Next Generation Air Transportation System and do not have as a primary purpose to operate or maintain the current air traffic control system.''.

SEC. 107. FUNDING FOR ADMINISTRATIVE EXPENSES FOR AIRPORT PROGRAMS.

(a) IN GENERAL.—Section 48105 is amended to read as follows:

''§ 48105. Airport programs administrative expenses

''Of the amount made available under section 48103 of this title, the following may be available for administrative expenses relating to the Airport Improvement Program, passenger facility charge approval and oversight, national airport system planning, airport standards development and enforcement, airport certification, airport-related environmental activities (including legal services), and other airport-related activities (including airport technology research), to remain available until expended—

''(1) for fiscal year 2008, $80,676,000;

''(2) for fiscal year 2009, $85,000,000;

''(3) for fiscal year 2010, $89,000,000; and

''(4) for fiscal year 2011, $93,000,000.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 481 is amended by striking the item relating to section 48105 and inserting the following:

''48105. Airport programs administrative expenses.''.

TITLE II—AIRPORT IMPROVEMENTS

SEC. 201. REFORM OF PASSENGER FACILITY CHARGE AUTHORITY.

(a) PASSENGER FACILITY CHARGE STREAMLINING.—Section 40117(c) is amended to read as follows:

''(c) PROCEDURAL REQUIREMENTS FOR IMPOSITION OF PASSENGER FACILITY CHARGE.—

''(1) IN GENERAL.—An eligible agency must submit to those air carriers and foreign air carriers operating at the airport with a significant business interest, as defined in paragraph (3), and to the Secretary and make available to the public annually a report, in the form required by the Secretary, on the status of the eligible agency's passenger facility charge program, including—

''(A) the total amount of program revenue held by the agency at the beginning of the 12 months covered by the report;

''(B) the total amount of program revenue collected by the agency during the period covered by the report;

''(C) the amount of expenditures with program revenue made by the agency on each eligible airport-related project during the period covered by the report;

''(D) each airport-related project for which the agency plans to collect and use program revenue during the next 12-month period covered by the report, including the amount of revenue projected to be used for such project;

''(E) the level of program revenue the agency plans to collect during the next 12-month period covered by the report;

''(F) a description of the notice and consultation process with air carriers and foreign air carriers under paragraph (3), and with the public under paragraph (4), including a copy of any adverse comments received and how the agency responded; and

''(G) any other information on the program that the Secretary may require.

''(2) IMPLEMENTATION.—Subject to the requirements of paragraphs (3), (4), (5), and (6), the eligible agency may implement the planned collection and use of passenger facility charges in accordance with its report upon filing the report as required in paragraph (1).

''(3) CONSULTATION WITH CARRIERS FOR NEW PROJECTS.—

''(A) An eligible agency proposing to collect or use passenger facility charge revenue for a project not previously approved by the Secretary or not included in a report required by paragraph (1) that was submitted in a prior year shall provide to air carriers and foreign air carriers operating at the airport reasonable notice, and an opportunity to comment on the planned collection and use of program revenue before providing the report required under paragraph (1). The Secretary shall prescribe by regulation what constitutes reasonable notice under this paragraph, which shall at a minimum include—

''(i) that the eligible agency provide to air carriers and foreign air carriers operating at the airport written notice of the planned collection and use of passenger facility charge revenue;

''(ii) that the notice include a full description and justification for a proposed project;

''(iii) that the notice include a detailed financial plan for the proposed project; and

''(iv) that the notice include the proposed level for the passenger facility charge.

''(B) An eligible agency providing notice and an opportunity for comment shall be deemed to have satisfied the requirements of this paragraph if the eligible agency provides such notice to air carriers and foreign air carriers that have a significant business interest at the airport. For purposes of this subparagraph, the term 'significant business interest' means an air carrier or foreign air carrier that—

''(i) had not less than 1.0 percent of passenger boardings at the airport in the prior calendar year;

''(ii) had at least 25,000 passenger boardings at the airport in the prior calendar year; or

''(iii) provides scheduled service at the airport.

''(C) Not later than 45 days after written notice is provided under subparagraph (A), each air carrier and foreign air carrier may provide written comments to the eligible agency indicating its agreement or disagreement with the project or, if applicable, the proposed level for a passenger facility charge.

''(D) The eligible agency may include, as part of the notice and comment process, a consultation meeting to discuss the proposed project or, if applicable, the proposed level for a passenger facility charge. If the agency provides a consultation meeting, the written comments specified in subparagraph (C) shall be due not later than 30 days after the meeting.

''(4) PUBLIC NOTICE AND COMMENT.—

''(A) An eligible agency proposing to collect or use passenger facility charge revenue for a project not previously approved by the Secretary or not included in a report required by paragraph (1) that was filed in a prior year shall provide reasonable notice and an opportunity for public comment on the planned collection and use of program revenue before providing the report required in paragraph (1).

''(B) The Secretary shall prescribe by regulation what constitutes reasonable notice under this paragraph, which shall at a minimum require—

''(i) that the eligible agency provide public notice of intent to collect a passenger facility charge so as to inform those interested persons and agencies that may be affected;

''(ii) appropriate methods of publication, which may include notice in local newspapers of general circulation or other local media, or posting of the notice on the agency's Internet website; and

''(iii) submission of public comments no later than 45 days after the date of the publication of the notice.

''(5) OBJECTIONS.—

''(A) Any interested person may file with the Secretary a written objection to a proposed project included in a notice under this paragraph provided that the filing is made within 30 days after submission of the report specified in paragraph (1).

''(B) The Secretary shall provide not less than 30 days for the eligible agency to respond to any filed objection.

''(C) Not later than 90 days after receiving the eligible agency's response to a filed objection, the Secretary shall make a determination whether or not to terminate authority to collect the passenger facility charge for the project, based on the filed objection. The Secretary shall state the reasons for any determination. The Secretary may only terminate authority if—

''(i) the project is not an eligible airport related project;

''(ii) the eligible agency has not complied with the requirements of this section or the Secretary's implementing regulations in proposing the project;

''(iii) the eligible agency has been found to be in violation of section 47107(b) of this title and has failed to take corrective action, prior to the filing of the objection; or

''(iv) in the case of a proposed increase in the passenger facility charge level, the level is not authorized by this section.

''(D) Upon issuance of a decision terminating authority, the public agency shall prepare an accounting of passenger facility revenue collected under the terminated authority and restore the funds for use on other authorized projects.

''(E) Except as provided in subparagraph (C), the eligible agency may implement the planned collection and use of a passenger facility charge in accordance with its report upon filing the report as specified in paragraph (1)(A).

''(6) APPROVAL REQUIREMENT FOR INCREASED PASSENGER FACILITY CHARGE OR INTERMODAL GROUND ACCESS PROJECT.—

''(A) An eligible agency may not collect or use a passenger facility charge to finance an intermodal ground access project, or increase a passenger facility charge, unless the project is first approved by the Secretary in accordance with this paragraph.

''(B) The eligible agency may submit to the Secretary an application for authority to impose a passenger facility charge for an intermodal ground access project or to increase a passenger facility charge. The application shall contain information and be in the form that the Secretary may require by regulation but, at a minimum, must include copies of any comments received by the agency during the comment period described by subparagraph (C).

''(C) Before submitting an application under this paragraph, an eligible agency must provide air carriers and foreign air carriers operating at the airport, and the public, reasonable notice of and an opportunity to comment on a proposed intermodal ground access project or the increased passenger facility charge. Such notice and opportunity to comment shall conform to the requirements of paragraphs (3) and (4).

''(D) After receiving an application, the Secretary may provide air carriers, foreign air carriers and other interested persons notice and an opportunity to comment on the application. The Secretary shall make a final decision on the application not later than 120 days after receiving it.''.

(b) CONFORMING AMENDMENTS.—

(1) REFERENCES.—

(A) Section 40117(a) is amended—

(i) by striking ''FEE'' in the heading for paragraph (5) and inserting ''CHARGE''; and

(ii) by striking ''fee'' each place it appears in paragraphs (5) and (6) and inserting ''charge''.

(B) Subsections (b), and subsections (d) through (m), of section 40117 are amended—

(i) by striking ''fee'' or ''fees'' each place either appears and inserting ''charge'' or ''charges'', respectively; and

(ii) by striking ''FEE'' in the subsection caption for subsection (l), and ''FEES'' in the subsection captions for subsections (e) and (m), and inserting ''CHARGE'' and ''CHARGES'', respectively.

(C) The caption for section 40117 is amended to read as follows:

''§ 40117. Passenger facility charges''.

(D) The chapter analysis for chapter 401 is amended by striking the item relating to section 40117 and inserting the following:

''40117. Passenger facility charges.''.

(2) LIMITATIONS ON APPROVING APPLICATIONS.—Section 40117(d) is amended—

(A) by striking ''subsection (c) of this section to finance a specific'' and inserting ''subsection (c)(6) of this section to finance an intermodal ground access'';

(B) by striking ''specific'' in paragraph (1);

(C) by striking paragraph (2) and inserting the following:

''(2) the project is an eligible airport-related project; and'';

(D) by striking ''each of the specific projects; and'' in paragraph (3) and inserting ''the project.''; and

(E) by striking paragraph (4).

(3) LIMITATIONS ON IMPOSING CHARGES.—Section 40117(e)(1) is amended to read as follows: ''(1) An eligible agency may impose a passenger facility charge only subject to terms the Secretary may prescribe to carry out the objectives of this section.''.

(4) LIMITATIONS ON CONTRACTS, LEASES, AND USE AGREEMENTS.—Section 40117(f)(2) is amended by striking ''long-term''.

(5) COMPLIANCE.—Section 40117(h) is amended—

(A) by redesignating paragraph (3) as paragraph (4); and

(B) by inserting after paragraph (2) the following:

''(3) The Secretary may, on complaint of an interested person or on the Secretary's own initiative, conduct an investigation into an eligible agency's collection and use of passenger facility charge revenue to determine whether a passenger facility charge is excessive or that passenger facility revenue is not being used as provided in this section. The Secretary shall prescribe regulations establishing procedures for complaints and investigations. The regulations may provide for the issuance of a final agency decision without resort to an oral evidentiary hearing. The Secretary shall not accept complaints filed under this paragraph until after the issuance of regulations establishing complaint procedures.''.

(6) PILOT PROGRAM FOR PFC AT NONHUB AIRPORTS.—Section 40117(l) is amended—

(A) by striking ''(c)(2)'' in paragraph (2) and inserting ''(c)(3)''; and

(B) by striking ''date that is 3 years after the date of issuance of regulations to carry out this subsection.'' in paragraph (7) and inserting ''date of issuance of regulations to carry out subsection (c) of this section, as amended by the Aviation Investment and Modernization Act of 2008.''.

(7) PROHIBITION ON APPROVING PFC APPLICATIONS FOR AIRPORT REVENUE DIVERSION.—Section 47111(e) is amended by striking ''sponsor'' the second place it appears in the first sentence and all that follows and inserting ''sponsor. A sponsor shall not propose collection or use of passenger facility charges for any new projects under paragraphs (3) through (6) of section 40117(c) unless the Secretary determines that the sponsor has taken corrective action to address the violation and the violation no longer exists.''.

SEC. 202. PASSENGER FACILITY CHARGE PILOT PROGRAM.

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

''(n) ALTERNATIVE PASSENGER FACILITY CHARGE COLLECTION PILOT PROGRAM.—

''(1) IN GENERAL.—The Secretary shall establish and conduct a pilot program at not more than 6 airports under which an eligible agency may impose a passenger facility charge under this section without regard to the dollar amount limitations set forth in paragraph (1) or (4) of subsection (b) if the participating eligible agency meets the requirements of paragraph (2).

''(2) COLLECTION REQUIREMENTS.—

''(A) DIRECT COLLECTION.—An eligible agency participating in the pilot program—

''(i) may collect the charge from the passenger at the facility, via the Internet, or in any other reasonable manner; but

''(ii) may not require or permit the charge to be collected by an air carrier or foreign air carrier for the flight segment.

''(B) PFC COLLECTION REQUIREMENT NOT TO APPLY.—Subpart C of part 158 of title 14, Code of Federal Regulations, does not apply to the collection of the passenger facility charge imposed by an eligible agency participating in the pilot program.''.

SEC. 203. AMENDMENTS TO GRANT ASSURANCES.

Section 47107 is amended—

(1) by striking ''made;'' in subsection (a)(16)(D)(ii) and inserting ''made, except that, if there is a change in airport design standards that the Secretary determines is beyond the owner or operator's control that requires the relocation or replacement of an existing airport facility, the Secretary, upon the request of the owner or operator, may grant funds available under section 47114 to pay the cost of relocating or replacing such facility;'';

(2) by striking ''purpose;'' in subsection (c)(2)(A)(i) and inserting ''purpose, which includes serving as noise buffer land;'';

(3) by striking ''paid to the Secretary for deposit in the Fund if another eligible project does not exist.'' in subsection (c)(2)(B)(iii) and inserting ''reinvested in another project at the airport or transferred to another airport as the Secretary prescribes.''; and

(4) by redesignating paragraph (3) of subsection (c) as paragraph (4) and inserting after paragraph (2) the following:

''(3) In approving the reinvestment or transfer of proceeds under paragraph (2)(C)(iii), the Secretary shall give preference, in descending order, to—

''(i) reinvestment in an approved noise compatibility project;

''(ii) reinvestment in an approved project that is eligible for funding under section 47117(e);

''(iii) reinvestment in an airport development project that is eligible for funding under section 47114, 47115, or 47117 and meets the requirements of this chapter;

''(iv) transfer to the sponsor of another public airport to be reinvested in an approved noise compatibility project at such airport; and

''(v) payment to the Secretary for deposit in the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502).''.

SEC. 204. GOVERNMENT SHARE OF PROJECT COSTS.

(a) FEDERAL SHARE.—Section 47109 is amended—

(1) by striking ''subsection (b) or subsection (c)'' in subsection (a) and inserting ''subsection (b), (c), or (e)''; and

(2) by adding at the end the following:

''(e) SPECIAL RULE FOR TRANSITION FROM SMALL HUB TO MEDIUM HUB STATUS.—If the status of a small hub primary airport changes to a medium hub primary airport, the United States Government's share of allowable project costs for the airport may not exceed 95 percent for 2 fiscal years following such change in hub status.''.

(b) TRANSITIONING AIRPORTS.—Section 47114(f)(3)(B) is amended by striking ''year 2004.'' and inserting ''years 2008, 2009, 2010, and 2011.''.

SEC. 205. AMENDMENTS TO ALLOWABLE COSTS.

Section 47110 is amended—

(1) by striking subsection (d) and inserting the following:

''(d) RELOCATION OF AIRPORT-OWNED FACILITIES.—The Secretary may determine that the costs of relocating or replacing an airport-owned facility are allowable for an airport development project at an airport only if—

''(1) the Government's share of such costs is paid with funds apportioned to the airport sponsor under sections 47114(c)(1) or 47114(d)(2);

''(2) the Secretary determines that the relocation or replacement is required due to a change in the Secretary's design standards; and

''(3) the Secretary determines that the change is beyond the control of the airport sponsor.''; and

(2) by striking ''facilities, including fuel farms and hangars,'' in subsection (h) and inserting ''facilities, as defined by section 47102,''.

SEC. 206. SALE OF PRIVATE AIRPORT TO PUBLIC SPONSOR.

Section 47133(b) is amended—

(1) by resetting the text of the subsection as an indented paragraph 2 ems from the left margin;

(2) by inserting ''(1)'' before ''Subsection''; and

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

''(2) In the case of a privately owned airport, subsection (a) shall not apply to the proceeds from the sale of the airport to a public sponsor if—

''(A) the sale is approved by the Secretary;

''(B) funding is provided under this title for the public sponsor's acquisition; and

''(C) an amount equal to the remaining unamortized portion of the original grant, amortized over a 20-year period, is repaid to the Secretary by the private owner for deposit in the Trust Fund for airport acquisitions.

''(3) This subsection shall apply to grants issued on or after October 1, 1996.''.

SEC. 207. PILOT PROGRAM FOR AIRPORT TAKEOVER OF AIR NAVIGATION FACILITIES.

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

''§ 44518. Pilot program for airport takeover of terminal area air navigation equipment

''(a) IN GENERAL.—Subject to the requirements of this section, the Administrator of the Federal Aviation Administrator may carry out a pilot program under which the Administrator may transfer ownership, operating, and maintenance responsibilities for airport terminal area air navigation equipment to sponsors of not more than 10 airports.

''(b) TERMS AND CONDITIONS OF TRANSFER FOR AIRPORT SPONSORS.—As a condition of participating in this pilot program the sponsor shall agree that the sponsor will—

''(1) operate and maintain all of the air navigation equipment that is subject to this section at the airport in accordance with standards established by the Administrator;

''(2) permit the Administrator or a person designated by the Administrator to conduct inspections of the air navigation equipment under a schedule established by the Administrator; and

''(3) acquire and maintain new air navigation equipment as needed to replace facilities that have to be replaced at the end of their useful life or to meet new standards established by the Administrator.

''(c) TERMS AND CONDITIONS OF TRANSFER FOR THE ADMINISTRATOR.—When the Administrator approves a sponsor's participation in this pilot program, the Administrator shall—

''(1) transfer, at no cost to the sponsor, the title and ownership of the air navigation equipment facilities approved for transfer under this program; and

''(2) transfer, at no cost to the sponsor, the government's property interest in the land on which the air navigation facilities transferred under paragraph (1) are located.

''(d) TREATMENT OF AIRPORT COSTS UNDER PILOT PROGRAM.—Upon transfer by the Administrator, any costs incurred by the airport for ownership and maintenance of the equipment transferred under this section shall be considered a cost of providing airfield facilities and services under standards and guidelines issued by the Secretary under section 47129(b)(2) and may be recovered in rates and charges assessed for use of the airfield.

''(e) DEFINITIONS.—In this section:

''(1) SPONSOR.—The term 'sponsor' has the meaning given that term in section 40102.

''(2) TERMINAL AREA AIR NAVIGATION EQUIPMENT.—The term 'terminal area air navigation equipment' means an air navigation facility under section 40102, other than buildings used for air traffic control functions, that exists to provide approach and landing guidance to aircraft.

''(f) GUIDELINES.—The Administrator shall issue advisory guidelines on the implementation of the program. The guidelines shall not be subject to administrative rulemaking requirements under subchapter II of chapter 5 of title 5.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 445 is amended by inserting after the item relating to section 44517 the following:

''44518. Pilot program for airport takeover of terminal area air navigation equipment.''.

SEC. 208. GOVERNMENT SHARE OF CERTAIN AIR PROJECT COSTS.

Notwithstanding section 47109(a) of title 49, United States Code, the Federal government's share of allowable project costs for a grant made in fiscal year 2008, 2009, 2010, or 2011 under chapter 471 of that title for a project described in paragraph (2) or (3) of that section shall be 95 percent.

SEC. 209. MISCELLANEOUS AMENDMENTS.

(a) TECHNICAL CHANGES TO NATIONAL PLAN OF INTEGRATED AIRPORT SYSTEMS.—Section 47103 is amended—

(1) by striking ''each airport to—'' in subsection (a) and inserting ''the airport system to—'';

(2) by striking ''system in the particular area;'' in subsection (a)(1) and inserting ''system, including connection to the surface transportation network; and'';

(3) by striking ''aeronautics; and'' in subsection (a)(2) and inserting ''aeronautics.'';

(4) by striking subsection (a)(3);

(5) by striking paragraph (2) of subsection (b) and redesignating paragraph (3) as paragraph (2);

(6) by striking ''operations, Short Takeoff and Landing/Very Short Takeoff and Landing aircraft operations,'' in subsection (b)(2), as redesignated, and inserting ''operations''; and

(7) by striking ''status of the'' in subsection (d).

(b) UPDATE VETERANS PREFERENCE DEFINITION.—Section 47112(c) is amended—

(1) by striking ''separated from'' in paragraph (1)(B) and inserting ''discharged or released from active duty in'';

(2) by adding at the end of paragraph (1) the following:

''(C) 'Afghanistan-Iraq war veteran' means an individual who served on active duty, as defined by section 101(21) of title 38, at any time in the armed forces for a period of more than 180 consecutive days, any part of which occurred during the period beginning on September 11, 2001, and ending on the date prescribed by Presidential proclamation or by law as the last date of Operation Iraqi Freedom.''; and

(3) by striking ''veterans and'' in paragraph (2) and inserting ''veterans, Afghanistan-Iraq war veterans, and''.

(c) ANNUAL REPORT.—Section 47131(a) is amended—

(1) by striking ''April 1'' and inserting ''June 1''; and

(2) by striking paragraphs (1) through (4) and inserting the following:

''(1) a summary of airport development and planning completed;

''(2) a summary of individual grants issued;

''(3) an accounting of discretionary and apportioned funds allocated;

''(4) the allocation of appropriations; and''.

(d) SUNSET OF PROGRAM.—Section 47137 is repealed effective September 30, 2008.

(e) CORRECTION TO EMISSION CREDITS PROVISION.—Section 47139 is amended—

(1) by striking ''47102(3)(F),'' in subsection (a);

(2) by striking ''47102(3)(F),'' in subsection (b);

(3) by striking ''47102(3)(L), or 47140'' in subsection (b) and inserting ''or 47102(3)(L),'';

(4) by striking ''47103(3)(F), in subsection (b);

(5) by striking ''47102(3)(L), or 47140,'' in subsection (b) and inserting ''or 47102(3)(L),''.

(f) CORRECTION TO SURPLUS PROPERTY AUTHORITY.—Section 47151(e) is amended by striking ''(other than real property that is subject to section 2687 of title 10, section 201 of the Defense Authorization Amendments and Base Closure and Realignment Act (10 U.S.C. 2687 note), or section 2905 of the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note),''.

(g) AIRPORT CAPACITY BENCHMARK REPORTS; DEFINITION OF JOINT USE AIRPORT.—Section 47175 is amended—

(1) by striking ''Airport Capacity Benchmark Report 2001.'' in paragraph (2) and inserting ''2001 and 2004 Airport Capacity Benchmark Reports or of the most recent Benchmark report.''; and

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

''(7) JOINT USE AIRPORT.—The term 'joint use airport' means an airport owned by the United States Department of Defense, at which both military and civilian aircraft make shared use of the airfield.''.

(h) CARGO AIRPORTS.—Section 47114(c)(2)(A) is amended by striking ''3.5 percent'' and inserting ''4.0 percent''.

(i) USE OF APPORTIONED AMOUNTS.—Section 47117(e)(1)(A) is amended—

(1) by striking ''35 percent'' in the first sentence and inserting ''$300,000,000'';

(2) by striking ''and'' after ''47141,'';

(3) by striking ''et seq.).'' and inserting ''et seq.), and for water quality mitigation projects to comply with the Act of June 30, 1948 (33 U.S.C. 1251 et seq.) approved in an environmental record of decision for an airport development project under this title.''; and

(4) by striking ''such 35 percent requirement is'' in the second sentence and inserting ''the requirements of the preceding sentence are''.

(j) USE OF APPORTIONED AMOUNTS.—An amount apportioned under section 47114 of title 49, United States Code, or made available under section 47115 of that title, to the sponsor of a reliever airport the crosswind runway of which was closed as a result of a Record of Decision dated September 3, 2004, shall be available for project costs associated with the establishment of a new crosswind runway.

(k) USE OF PREVIOUS FISCAL YEAR'S APPORTIONMENT.—Section 47114(c)(1) is amended—

(1) by striking ''airport due to an employment action, natural disaster, or other event unrelated to the demand for air transportation at the affected airport.'' in subparagraph (E)(iii) and inserting ''airport—

''(I) if it is included in the essential air service program in the calendar year in which the passenger boardings fall below 9,700;

''(II) if at the airport the total passenger boardings from large certificated air carriers (as defined in part 241 of title 14, Code of Federal Regulations) conducting scheduled plus nonscheduled service totals 10,000 or more in the calendar year in which the airport does not meet the criteria for a primary airport under section 47102 of this title; or

''(III) if the documented interruption to scheduled service at the airport was equal to 4 percent of the scheduled flights in calendar year 2006, exclusive of cancellations due to severe weather conditions, and the airport is served by a single air carrier.'';

(2) by redesignating subparagraphs (F) and (G) as (G) and (H), respectively, and inserting after subparagraph (E) the following:

''(F) For fiscal years 2009 through 2012, with regard to an airport that meets the criteria described in paragraph (E)(iii), if the calendar year passenger boardings for the

calculation of apportionments under this section fall below 10,000 passenger boardings, the Secretary may use the passenger boardings for the last fiscal year in which passenger boardings exceeded 10,000 for calculating apportionments.''.

(l) Section 47102(3) is amended by adding at the end the following:

''(M) construction of mobile refueler parking within a fuel farm at a nonprimary airport meeting the requirements of section 112.8 of title 40, Code of Federal Regulations.''.

(m) Section 47115(g)(1) is amended by striking ''of—'' and all that follows and inserting ''of $520,000,000. The amount credited is exclusive of amounts that have been apportioned in a prior fiscal year under section 47114 of this title and that remain available for obligation.''.

(n) Section 47114(c) is amended by adding at the end thereof the following:

''(3) AIRPORTS SERVED BY LARGE CERTIFICATED CARRIERS.—

''(A) APPORTIONMENT.—The Secretary shall apportion to the sponsor of an airport that received scheduled air service from a large certificated air carrier (as defined in part 241 of title 14, Code of Federal Regulations) an amount equal to the minimum apportionment specified in paragraph (1) of this subsection.

''(B) LIMITATION.—The apportionment under subparagraph (A) shall be made available to an airport sponsor only if—

''(i) the large certificated air carrier began scheduled air service at the airport in May 2006 and ceased scheduled air service at the airport in October 2006; and

''(ii) the Secretary determines that the airport had more than 10,000 passenger boardings in the preceding calendar year, based on data submitted to the Secretary under part 241 of title 14, Code of Federal Regulations.''.

(o) Subparagraph (H) of section 47114(c)(1), as redesignated by subsection (k)(2) of this section, is amended—

(1) by striking ''FISCAL YEAR 2006'' in the subparagraph heading and inserting ''FISCAL YEARS 2008 THROUGH 2011.—'';

(2) by striking ''fiscal year 2006'' and inserting ''each of fiscal years 2008 through 2011''; and

(3) by striking clause (i) and inserting the following:

''(i) the average annual passenger boardings at the airport for calendar years 2004 through 2006 were below 10,000 per year;''; and

(4) by striking ''2000 or 2001;'' in clause (ii) and inserting ''2003''.

(p) Section 47114 is amended by adding at the end thereof the following:

''(g) APPROACH LIGHTING SYSTEM.—Any amount apportioned for airport 03-02-0133 under the National Plan of Integrated Airport Systems may be utilized in any fiscal year for approach lighting systems including a medium intensity approach lighting system with runway alignment lights.''.

SEC. 210. STATE BLOCK GRANT PROGRAM.

Section 47128 is amended—

(1) by striking ''regulations'' each place it appears in subsection (a) and inserting ''guidance'';

(2) by striking ''grant;'' in subsection (b)(4) and inserting ''grant, including Federal environmental requirements or an agreed upon equivalent;'';

(3) by redesignating subsection (c) as subsection (d) and inserting after subsection (b) the following:

''(c) PROJECT ANALYSIS AND COORDINATION REQUIREMENTS.—Any Federal agency that must approve, license, or permit a proposed action by a participating State shall coordinate and consult with the State. The agency shall utilize the environmental analysis prepared by the State, provided it is adequate, or supplement that analysis as necessary to meet applicable Federal requirements.''; and

(4) by adding at the end the following:

''(e) PILOT PROGRAM.—The Secretary shall establish a pilot program for up to 3 States that do not participate in the program established under subsection (a) that is consistent with the program under subsection (a).''.

SEC. 211. AIRPORT FUNDING OF SPECIAL STUDIES OR REVIEWS.

Section 47173(a) is amended by striking ''project.'' and inserting ''project, or to conduct special environmental studies related to a federally funded airport project or for special studies or reviews to support approved noise compatibility measures in a Part 150 program or environmental mitigation in a Federal Aviation Administration Record of Decision or Finding of No Significant Impact.''.

SEC. 212. GRANT ELIGIBILITY FOR ASSESSMENT OF FLIGHT PROCEDURES.

Section 47504 is amended by adding at the end the following:

''(e) GRANTS FOR ASSESSMENT OF FLIGHT PROCEDURES.—

''(1) The Secretary is authorized in accordance with subsection (c)(1) to make a grant to an airport operator to assist in completing environmental review and assessment activities for proposals to implement flight procedures that have been approved for airport noise compatibility planning purposes under subsection (b).

''(2) The Administrator of the Federal Aviation Administration may accept funds from an airport sponsor, including funds provided to the sponsor under paragraph (1), to hire additional staff or obtain the services of consultants in order to facilitate the timely processing, review and completion of environmental activities associated with proposals to implement flight procedures submitted and approved for airport noise compatibility planning purposes in accordance with this section. Funds received under this authority shall not be subject to the procedures applicable to the receipt of gifts by the Administrator.''.

SEC. 213. SAFETY-CRITICAL AIRPORTS.

Section 47118(c) is amended—

(1) by striking ''or'' after the semicolon in paragraph (1);

(2) by striking ''delays.'' in paragraph (2) and inserting ''delays; or''; and

(3) by adding at the end the following:

''(3) be critical to the safety of commercial, military, or general aviation in transoceanic flights.''.

SEC. 214. EXPANDED PASSENGER FACILITY CHARGE ELIGIBILITY FOR NOISE COMPATIBILITY PROJECTS.

Section 40117(b) is amended by adding at the end the following:

''(7) NOISE MITIGATION FOR CERTAIN SCHOOLS.—

''(A) IN GENERAL.—In addition to the uses specified in paragraphs (1), (4), and (6), the Secretary may authorize a passenger facility charge imposed under paragraph (1) or (4) at a large hub airport that is the subject of an amended judgment and final order in condemnation filed on January 7, 1980, by the Superior Court of the State of California for the county of Los Angeles, to be used for a project to carry out noise mitigation for a building, or for the replacement of a relocatable building with a permanent building, in the noise impacted area surrounding the airport at which such building is used primarily for educational purposes, notwithstanding the air easement granted or any terms to the contrary in such judgment and final order, if—

''(i) the Secretary determines that the building is adversely affected by airport noise;

''(ii) the building is owned or chartered by the school district that was the plaintiff in case number 986,442 or 986,446, which was resolved by such judgment and final order;

''(iii) the project is for a school identified in 1 of the settlement agreements effective February 16, 2005, between the airport and each of the school districts;

''(iv) in the case of a project to replace a relocatable building with a permanent building, the eligible project costs are limited to the actual structural construction costs necessary to mitigate aircraft noise in instructional classrooms to an interior noise level meeting current standards of the Federal Aviation Administration; and

''(v) the project otherwise meets the requirements of this section for authorization of a passenger facility charge.

''(B) ELIGIBLE PROJECT COSTS.—In subparagraph (A)(iv), the term 'eligible project costs' means the difference between the cost of standard school construction and the cost of construction necessary to mitigate classroom noise to the standards of the Federal Aviation Administration.''.

SEC. 215. ENVIRONMENTAL MITIGATION DEMONSTRATION PILOT PROGRAM.

(a) PILOT PROGRAM.—Subchapter I of chapter 471 is amended by adding at the end thereof the following:

''§ 47143. Environmental mitigation demonstration pilot program

''(a) IN GENERAL.—The Secretary of Transportation shall carry out a pilot program involving not more than 6 projects at public-use airports under which the Secretary may make grants to sponsors of such airports from funds apportioned under paragraph 47117(e)(1)(A) for use at such airports for environmental mitigation demonstration projects that will measurably reduce or mitigate aviation impacts on noise, air quality or water quality in the vicinity of the airport. Notwithstanding any other provision of this subchapter, an environmental mitigation demonstration project approved under this section shall be treated as eligible for assistance under this subchapter.

''(b) PARTICIPATION IN PILOT PROGRAM.—A public-use airport shall be eligible for participation in the pilot.

''(c) SELECTION CRITERIA.—In selecting from among applicants for participation in the pilot program, the Secretary may give priority consideration to environmental mitigation demonstration projects that—

''(1) will achieve the greatest reductions in aircraft noise, airport emissions, or airport water quality impacts either on an absolute basis, or on a per-dollar-of-funds expended basis; and

''(2) will be implemented by an eligible consortium.

''(d) FEDERAL SHARE.—Notwithstanding any other provision of this subchapter, the United States Government's share of the costs of a project carried out under this section shall be 50 percent.

''(e) MAXIMUM AMOUNT.—Not more than $2,500,000 may be made available by the Secretary in grants under this section for any single project.

''(f) IDENTIFYING BEST PRACTICES.—The Administrator may develop and publish information identifying best practices for reducing or mitigating aviation impacts on noise, air quality, or water quality in the vicinity of airports, based on the projects carried out under the pilot program.

''(g) DEFINITIONS.—In this section:

''(1) ELIGIBLE CONSORTIUM.—The term 'eligible consortium' means a consortium that comprises 2 or more of the following entities:

''(A) Businesses incorporated in the United States.

''(B) Public or private educational or research organizations located in the United States.

''(C) Entities of State or local governments in the United States.

''(D) Federal laboratories.

''(2) ENVIRONMENTAL MITIGATION DEMONSTRATION PROJECT.—The term 'environmental mitigation demonstration project' means a project that—

''(A) introduces new conceptual environmental mitigation techniques or technology with associated benefits, which have already been proven in laboratory demonstrations;

''(B) proposes methods for efficient adaptation or integration of new concepts to airport operations; and

''(C) will demonstrate whether new techniques or technology for environmental mitigation identified in research are—

''(i) practical to implement at or near multiple public use airports; and

''(ii) capable of reducing noise, airport emissions, or water quality impacts in measurably significant amounts.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 471 is amended by inserting after the item relating to section 47142 the following:

''47143. Environmental mitigation demonstration pilot program''.

SEC. 216. ALLOWABLE PROJECT COSTS FOR AIRPORT DEVELOPMENT PROGRAM.

Section 47110(c) of title 49, United States Code, is amended—

(1) by striking ''; or'' in paragraph (1) and inserting a semicolon;

(2) by striking ''project.'' in paragraph (2) and inserting ''project; or''; and

(3) by adding at the end the following:

''(3) necessarily incurred in anticipation of severe weather.''.

SEC. 217. GLYCOL RECOVERY VEHICLES.

Section 47102(3)(G) is amended by inserting ''including acquiring glycol recovery vehicles,'' after ''aircraft,''.

SEC. 218. RESEARCH IMPROVEMENT FOR AIRCRAFT.

Section 44504(b) is amended—

(1) by striking ''and'' after the semicolon in paragraph (6);

(2) by striking ''aircraft.'' in paragraph (7) and inserting ''aircraft; and''; and

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

''(8) to conduct research to support programs designed to reduce gases and particulates emitted.''.

TITLE III—FAA ORGANIZATION AND REFORM

SEC. 301. AIR TRAFFIC CONTROL MODERNIZATION OVERSIGHT BOARD.

Section 106(p) is amended to read as follows:

''(p) AIR TRAFFIC CONTROL MODERNIZATION OVERSIGHT BOARD.—

''(1) ESTABLISHMENT.—Within 90 days after the date of enactment of the Aviation Investment and Modernization Act of 2008, the Secretary shall establish and appoint the members of an advisory Board which shall be known as the Air Traffic Control Modernization Oversight Board.

''(2) MEMBERSHIP.—The Board shall be comprised of 7 members, who shall consist of—

''(A) the Administrator of the Federal Aviation Administration and a representative from the Department of Defense;

''(B) 1 member who shall have a fiduciary responsibility to represent the public interest; and

''(C) 4 members representing aviation interests, as follows:

''(i) 1 representative that is the chief executive officer of an airport.

''(ii) 1 representative that is the chief executive officer of a passenger or cargo air carrier.

''(iii) 1 representative of a labor organization representing employees at the Federal Aviation Administration that are involved with the operation, maintenance or procurement of the air traffic control system.

''(iv) 1 representative with extensive operational experience in the general aviation community.

''(3) APPOINTMENT AND QUALIFICATIONS.—

''(A) Members of the Board appointed under paragraphs (2)(B) and (2)(C) shall be appointed by the President, by and with the advice and consent of the Senate.

''(B) Members of the Board appointed under paragraph (2)(B) shall be citizens of the United States and shall be appointed without regard to political affiliation and solely on the basis of their professional experience and expertise in one or more of the following areas and, in the aggregate, should collectively bring to bear expertise in—

''(i) management of large service organizations;

''(ii) customer service;

''(iii) management of large procurements;

''(iv) information and communications technology;

''(v) organizational development; and

''(vi) labor relations.

''(4) FUNCTIONS.—

''(A) IN GENERAL.—The Board shall—

''(i) review and provide advice on the Administration's modernization programs, budget, and cost accounting system;

''(ii) review the Administration's strategic plan and make recommendations on the nonsafety program portions of the plan, and provide advice on the safety programs of the plan;

''(iii) review the operational efficiency of the air traffic control system and make recommendations on the operational and performance metrics for that system;

''(iv) approve procurements of air traffic control equipment in excess of $100,000,000;

''(v) approve by July 31 of each year the Administrator's budget request for facilities and equipment prior to its submission to the Office of Management and budget, including which programs are proposed to be funded from the Air Traffic control system Modernization Account of the Airport and Airway Trust Fund;

''(vi) approve the Federal Aviation Administration's Capital Investment Plan prior to its submission to the Congress;

''(vii) annually approve the Operational Evolution Plan;

''(viii) approve the Administrator's selection of a Chief Operating Officer for the Air Traffic Organization and on the appointment and compensation of its managers; and

''(ix) approve the selection of the head of the Joint Planning Development Office.

''(B) MEETINGS.—The Board shall meet on a regular and periodic basis or at the call of the Chairman or of the Administrator.

''(C) ACCESS TO DOCUMENTS AND STAFF.—The Administration may give the Board appropriate access to relevant documents and personnel of the Administration, and the Administrator shall make available, consistent with the authority to withhold commercial and other proprietary information under section 552 of title 5, cost data associated with the acquisition and operation of air traffic control systems. Any member of the Board who receives commercial or other proprietary data from the Administrator shall be subject to the provisions of section 1905 of title 18, pertaining to unauthorized disclosure of such information.

''(5) FEDERAL ADVISORY COMMITTEE ACT NOT TO APPLY.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Board or such rulemaking committees as the Administrator shall designate.

''(6) ADMINISTRATIVE MATTERS.—

''(A) TERMS OF MEMBERS.—Members of the Board appointed under paragraph (2)(B) and (2)(C) shall be appointed for a term of 4 years.

''(B) REAPPOINTMENT.—No individual may be appointed to the Board for more than 8 years total.

''(C) VACANCY.—Any vacancy on the Board shall be filled in the same manner as the original position. Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed for a term of 4 years.

''(D) CONTINUATION IN OFFICE.—A member of the Board whose term expires shall continue to serve until the date on which the member's successor takes office.

''(E) REMOVAL.—Any member of the Board appointed under paragraph (2)(B) or (2)(C) may be removed by the President for cause.

''(F) CLAIMS AGAINST MEMBERS OF THE BOARD.—

''(i) IN GENERAL.—A member appointed to the Board shall have no personal liability under State or Federal law with respect to any claim arising out of or resulting from an act or omission by such member within the scope of service as a member of the Board.

''(ii) EFFECT ON OTHER LAW.—This subparagraph shall not be construed—

''(I) to affect any other immunity or protection that may be available to a member of the Board under applicable law with respect to such transactions;

''(II) to affect any other right or remedy against the United States under applicable law; or

''(III) to limit or alter in any way the immunities that are available under applicable law for Federal officers and employees.

''(G) ETHICAL CONSIDERATIONS.—Each member of the Board appointed under paragraph (2)(B) must certify that he or she—

''(i) does not have a pecuniary interest in, or own stock in or bonds of, an aviation or aeronautical enterprise, except an interest in a diversified mutual fund or an interest that is exempt from the application of section 208 of title 18;

''(ii) does not engage in another business related to aviation or aeronautics; and

''(iii) is not a member of any organization that engages, as a substantial part of its activities, in activities to influence aviation-related legislation.

''(H) CHAIRMAN; VICE CHAIRMAN.—The Board shall elect a chair and a vice chair from among its members, each of whom shall serve for a term of 2 years. The vice chair shall perform the duties of the chairman in the absence of the chairman.

''(I) COMPENSATON.—No member shall receive any compensation or other benefits from the Federal Government for serving on the Board, except for compensation benefits for injuries under subchapter I of chapter 81 of title 5 and except as provided under subparagraph (J).

''(J) EXPENSES.—Each member of the Board shall be paid actual travel expenses and per diem in lieu of subsistence expenses when away from his or her usual place of residence, in accordance with section 5703 of title 5.

''(K) BOARD RESOURCES.—From resources otherwise available to the Administrator, the Chairman shall appoint such staff to assist the board and provide impartial analysis, and the Administrator shall make available to the Board such information and administrative services and assistance, as may reasonably be required to enable the Board to carry out its responsibilities under this subsection.

''(L) QUORUM AND VOTING.—A simple majority of members of the Board duly appointed shall constitute a quorum. A majority vote of members present and voting shall be required for the Committee to take action.

''(7) AIR TRAFFIC CONTROL SYSTEM DEFINED.—In this subsection, the term 'air traffic control system' has the meaning given that term in section 40102(a).''.

SEC. 302. ADS–B SUPPORT PILOT PROGRAM.

(a) IN GENERAL.—Chapter 445, as amended by section 207, is amended by adding at the end the following:

''§ 44519. ADS–B support pilot program

''(a) IN GENERAL.—The Secretary may carry out a pilot program to support non-Federal acquisition of National Airspace System compliant Automatic Dependent Surveillance-Broadcast (ADS–B) ground stations if—

''(1) the Secretary determines that acquisition of the ground stations benefits the improvement of safety or capacity in the National Airspace System;

''(2) the ground stations provide the required transmit and receive data formats consistent with the National Airspace System architecture at the appropriate service delivery point; and

''(3) the ground stations acquired under this program are supplemental to ground stations established under programs administered by the Administrator of the Federal Aviation Administration.

''(b) PROJECT GRANTS.—

''(1) For purposes of carrying out the pilot program and notwithstanding the requirements of section 47114(d), the Secretary may make a project grant out of funds apportioned under section 47114(d)(2) to not more than 10 eligible sponsors to acquire and install ADS–B ground stations in order to serve any public-use airport.

''(2) The Secretary shall establish procurement procedures applicable to grants issued under this section. The procedures shall permit the sponsor to carry out the project using Federal Aviation Administration contracts. The procedures established by the Secretary may provide for the direct reimbursement (including administrative costs) of the Administrator by the sponsor using grant funds under this section, for the ordering of such equipment and its installation, or for the direct ordering of such equipment and its installation by the sponsor, using such grant funds, from the suppliers with which the Administrator has contracted.

''(c) MATCHING REQUIREMENT.—The amount of a grant to an eligible sponsor under subsection (b) may not exceed 90 percent of the costs of the acquisition and installation of the ground support equipment.

''(d) DEFINITIONS.—In this section:

''(1) ADS–B GROUND STATION.—The term 'ADS–B ground station' means electronic equipment that provides for ADS–B reception and broadcast services.

''(2) ELIGIBLE SPONSOR.—The term 'eligible sponsor' means a State or any consortium of 2 or more State or local governments meeting the definition of a sponsor under section 47102 of this title.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 445 is amended by inserting after the item relating to section 44518 the following:

''44519. ADS–B support pilot program.''.

SEC. 303. FACILITATION OF NEXT GENERATION AIR TRAFFIC SERVICES.

Section 106(l) is amended by adding at the end the following:

''(7) AIR TRAFFIC SERVICES.—In determining what actions to take, by rule or through an agreement or transaction under paragraph (6) or under section 44502, to permit non-government providers of communications, navigation, surveillance or other services to provide such services in the National Airspace System, or to require the usage of such services, the Administrator shall consider whether such actions would—

''(A) promote the safety of life and property;

''(B) improve the efficiency of the National Airspace System and reduce the regulatory burden upon National Airspace System users, based upon sound engineering principles, user operational requirements, and marketplace demands;

''(C) encourage competition and provide services to the largest feasible number of users; and

''(D) take into account the unique role served by general aviation.''.

SEC. 304. CLARIFICATION OF AUTHORITY TO ENTER INTO REIMBURSABLE AGREEMENTS.

Section 106(m) is amended by striking ''without'' in the last sentence and inserting ''with or without''.

SEC. 305. CLARIFICATION TO ACQUISITION REFORM AUTHORITY.

Section 40110(c) is amended—

(1) by inserting ''and'' after the semicolon in paragraph (3);

(2) by striking paragraph (4); and

(3) by redesignating paragraph (5) as paragraph (4).

SEC. 306. ASSISTANCE TO OTHER AVIATION AUTHORITIES.

Section 40113(e) is amended—

(1) by inserting ''(whether public or private)'' in paragraph (1) after ''authorities'';

(2) by striking ''safety.'' in paragraph (1) and inserting ''safety or efficiency. The Administrator is authorized to participate in, and submit offers in response to, competitions to provide these services, and to contract with foreign aviation authorities to provide these services consistent with the provisions under section 106(l)(6) of this title. The Administrator is also authorized, notwithstanding any other provision of law or policy, to accept payments in arrears.''; and

(3) by striking ''appropriation from which expenses were incurred in providing such services.'' in paragraph (3) and inserting ''appropriation current when the expenditures are or were paid, or the appropriation current when the amount is received.''.

SEC. 307. PRESIDENTIAL RANK AWARD PROGRAM.

Section 40122(g)(2) is amended—

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

(2) by striking ''Board.'' in subparagraph (H) and inserting ''Board;''; and

(3) by inserting at the end the following new subparagraph:

''(I) subsections (b), (c), and (d) of section 4507 (relating to Meritorious Executive or Distinguished Executive rank awards), and section subsections (b) and (c) of section 4507a (relating to Meritorious Senior Professional or Distinguished Senior Professional rank-awards), except that—

''(i) for purposes of applying such provisions to the personnel management system—

''(I) the term 'agency' means the Department of Transportation;

''(II) the term 'senior executive' means an Federal Aviation Administration executive;

''(III) the term 'career appointee' means an Federal Aviation Administration career executive; and

''(IV) the term 'senior career employee' means an Federal Aviation Administration career senior professional;

''(ii) receipt by a career appointee of the rank of Meritorious Executive or Meritorious Senior Professional entitles such individual to a lump-sum payment of an amount equal to 20 percent of annual basic pay, which shall be in addition to the basic pay paid under the Federal Aviation Administration Executive Compensation Plan; and

''(iii) receipt by a career appointee of the rank of Distinguished Executive or Distinguished Senior Professional entitles the individual to a lump-sum payment of an amount equal to 35 percent of annual basic pay, which shall be in addition to the basic pay paid under the Federal Aviation Administration Executive Compensation Plan.''.

SEC. 308. NEXT GENERATION FACILITIES NEEDS ASSESSMENT.

(a) FAA CRITERIA FOR FACILITIES REALIGNMENT.—Within 9 months after the date of enactment of this Act, the Administrator of the Federal Aviation Administration, after providing an opportunity for public comment, shall publish final criteria to be used in making the Administrator's recommendations for the realignment of services and facilities to assist in the transition to next generation facilities and help reduce capital, operating, maintenance, and administrative costs with no adverse effect on safety.

(b) REALIGNMENT RECOMMENDATIONS.—Within 9 months after publication of the criteria, the Administrator shall publish a list of the services and facilities that the Administrator recommends for realignment, including a justification for each recommendation, and a description of the costs and savings of such transition.

(c) REALIGNMENT DEFINED.—As used in this section, the term ''realignment'' includes any action which relocates or reorganizes functions, services, and personnel positions but does not include a reduction in personnel resulting from workload adjustments.

(d) STUDY BY BOARD.—The Air Traffic Control Modernization Oversight Board established by section 106(p) of title 49, United States Code, shall study the Administrator's recommendations for realignment and the opportunities, risks, and benefits of realigning services and facilities of the Federal Aviation Administration to help reduce capital, operating, maintenance, and administrative costs with no adverse effect on safety.

(e) REVIEW AND RECOMMENDATIONS.—

(1) After receiving the recommendations from the Administrator pursuant to subsection (b), the Board shall provide opportunity for public comment on such recommendations.

(2) Based on its review and analysis of the Administrator's recommendations and any public comment it may receive, the Board shall make its independent recommendations for realignment of aviation services or facilities and submit its recommendations in a report to the President, the Senate Committee on Commerce, Science, and Transportation, and the House of Representatives Committee on Transportation and Infrastructure.

(3) The Board shall explain and justify in its report any recommendation made by the Board that is different from the recommendations made by the Administrator pursuant to subsection (b).

(4) The Administrator may not consolidate any additional approach control facilities into the Southern California TRACON, or the Memphis TRACON until the Board's recommendations are completed.

SEC. 309. NEXT GENERATION AIR TRANSPORTATION SYSTEM PLANNING OFFICE.

(a) IMPROVED COOPERATION AND COORDINATION AMONG PARTICIPATING AGENCIES.—Section 709 of the Vision 100—Century of Aviation Reauthorization Act (49 U.S.C. 40101 note) is amended—

(1) by inserting ''(A)'' after ''(3)'' in subsection (a)(3);

(2) by inserting after subsection (a)(3) the following:

''(B) The Administrator of the Federal Aviation Administration, the Secretary of Defense, the Administrator of the National Aeronautics and Space Administration, the Secretary of Commerce, the Secretary of Homeland Security, and the head of any other Department or Federal agency from which the Secretary of Transportation requests assistance under subparagraph (A) shall designate an implementation office to be responsible for—

''(i) carrying out the Department or agency's Next Generation Air Transportation System implementation activities with the Office; and

''(ii) liaison and coordination with other Departments and agencies involved in Next Generation Air Transportation System activities; and

''(iii) managing all Next Generation Air Transportation System programs for the Department or agency, including necessary budgetary and staff resources, including, for the Federal Aviation Administration, those projects described in section 44501(b)(5) of title 49, United States Code).

''(C) The head of any such Department or agency shall ensure that—

''(i) the Department's or agency's Next Generation Air Transportation System responsibilities are clearly communicated to the designated office; and

''(ii) the performance of supervisory personnel in that office in carrying out the Department's or agency's Next Generation Air Transportation System responsibilities is reflected in their annual performance evaluations and compensation decisions.

''(D)(i) Within 6 months after the date of enactment of the Aviation Investment and Modernization Act of 2008, the head of each such Department or agency shall execute a memorandum of understanding with the Office and with the other Departments and agencies participating in the Next Generation Air Transportation System project that—

''(I) describes the respective responsibilities of each such Department and agency, including budgetary commitments; and

''(II) the budgetary and staff resources committed to the project.

''(ii) The memorandum shall be revised as necessary to reflect any changes in such responsibilities or commitments and be reflected in each Department or agency's budget request.'';

(3) by adding at the end of subsection (a) the following:

''(5) The Director of the Office shall be a voting member of the Federal Aviation Administration's Joint Resources Council and the Air Traffic Organization's Executive Council.'';

(4) by striking ''beyond those currently included in the Federal Aviation Administration's Operational Evolution Plan'' in subsection (b);

(5) by striking ''research and development roadmap'' in subsection (b)(3) and inserting ''implementation plan'';

(6) by striking ''and'' after the semicolon in subsection (b)(3)(B);

(7) by inserting after subsection (b)(3)(C) the following:

''(D) a schedule of rulemakings required to issue regulations and guidelines for implementation of the Next Generation Air Transportation System within a timeframe consistent with the integrated plan; and'';

(8) by inserting ''and key technologies'' after ''concepts'' in subsection (b)(4);

(9) by striking ''users'' in subsection (b)(4) and inserting ''users, an implementation plan,'';

(10) by adding at the end of subsection (b) the following:

''Within 6 months after the date of enactment of the Aviation Investment and Modernization Act of 2008, the Administrator shall develop the implementation plan described in paragraph (3) of this subsection and shall update it annually thereafter.''; and

(11) by striking ''2010.'' in subsection (e) and inserting ''2011.''.

(b) SENIOR POLICY COMMITTEE MEETINGS.—Section 710(a) of such Act (49 U.S.C. 40101 note) is amended by striking ''Secretary.'' and inserting ''Secretary and shall meet at least once each quarter.''.

SEC. 310. DEFINITION OF AIR NAVIGATION FACILITY.

Section 40102(a)(4) is amended—

(1) by striking subparagraph (B) and inserting the following:

''(B) runway lighting and airport surface visual and other navigation aids;'';

(2) by striking ''weather information, signaling, radio-directional finding, or radio or other electromagnetic communication; and'' in subparagraph (C) and inserting ''aeronautical and meteorological information to air traffic control facilities or aircraft, supplying communication, navigation or surveillance equipment for air-to-ground or air-to-air applications;'';

(3) by striking ''another structure'' in subparagraph (D) and inserting ''any structure or equipment'';

(4) by striking ''aircraft.'' in subparagraph (D) and inserting ''aircraft; and''; and

(5) by adding at the end the following:

''(E) buildings, equipment and systems dedicated to the National Airspace System.''.

SEC. 311. IMPROVED MANAGEMENT OF PROPERTY INVENTORY.

Section 40110(a)(2) is amended by striking ''compensation; and'' and inserting ''compensation, and the amount received may be credited to the appropriation current when the amount is received; and''.

SEC. 312. EDUCATIONAL REQUIREMENTS.

The Administrator of the Federal Aviation Administration shall make payments to the Department of Defense for the education of dependent children of those Federal Aviation Administration employees in Puerto Rico and Guam as they are subject to transfer by policy and practice and meet the eligibility requirements of section 2164(c) of title 10, United States Code.

SEC. 313. FAA PERSONNEL MANAGEMENT SYSTEM.

Section 40122(a)(2) is amended to read as follows:

''(2) DISPUTE RESOLUTION.—

''(A) MEDIATION.—If the Administrator does not reach an agreement under paragraph (1) or subsection (g)(2)(C) with the exclusive bargaining representatives, the services of the Federal Mediation and Conciliation Service shall be used to attempt to reach such agreement in accordance with part 1425 of title 29, Code of Federal Regulations. The Administrator and bargaining representatives may by mutual agreement adopt procedures for the resolution of disputes or impasses arising in the negotiation of a collective-bargaining agreement.

''(B) BINDING ARBITRATION.—If the services of the Federal Mediation and Conciliation Service under subparagraph (A) does not lead to an agreement, the Administrator and the bargaining representatives shall submit their issues in controversy to the Federal Service Impasses Panel in accordance with section 7119 of title 5. The Panel shall assist the parties in resolving the impasse by asserting jurisdiction and ordering binding arbitration by a private arbitration board consisting of 3 members in accordance with section 2471.6(a)(2)(ii) of title 5, Code of Federal Regulations. The executive director of the Panel shall request a list of not less than 15 names of arbitrators with Federal sector experience from the director of the Federal Mediation and Conciliation Service to be provided to the Administrator and the bargaining representatives. Within 10 days after receiving the list, the parties shall each select 1 person. The 2 arbitrators shall then select a third person from the list within 7 days. If the 2 arbitrators are unable to agree on the third person, the parties shall select the third person by alternately striking names from the list until only 1 name remains. If the parties do not agree on the framing of the issues to be submitted, the arbitration board shall frame the issues. The arbitration board shall give the parties a full and fair hearing, including an opportunity to present evidence in support of their claims, and an opportunity to present their case in person, by counsel, or by other representative as they may elect. Decisions of the arbitration board shall be conclusive and binding upon the parties. The arbitration board shall render its decision within 90 days after its appointment. The Administrator and the bargaining representative shall share costs of the arbitration equally. The arbitration board shall take into consideration the effect of its arbitration decisions on the Federal Aviation Administration's ability to attract and retain a qualified workforce and the Federal Aviation Administration's budget.

''(C) EFFECT.—Upon reaching a voluntary agreement or at the conclusion of the binding arbitration under subparagraph (B) above, the final agreement, except for those matters decided by the arbitration board, shall be subject to ratification by the exclusive representative, if so requested by the exclusive representative, and approval by the head of the agency in accordance with subsection (g)(2)(C).

''(D) ENFORCEMENT.—Enforcement of the provisions of this paragraph, and any agreement hereunder, shall be in the United States District Court for the District of Columbia.''.

SEC. 314. RULEMAKING AND REPORT ON ADS-B IMPLEMENTATION.

(a) REPORT.—Within 90 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall submit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure detailing the Administration program and schedule for integrating ADS-B technology into the National Airspace System. The report shall include—

(1) Phase 1 and Phase 2 activity to purchase and install necessary ADS-B ground stations; and

(2) detailed plans and schedules for implementation of advanced operational procedures and ADS-B air-to-air applications.

(b) RULEMAKING.—Not later than 12 months after the date of enactment of this Act the Administrator shall issue guidelines and regulations required for the implementation of ADS-B, including—

(1) the type of avionics (e.g., ADS-B avionics) required of aircraft for all classes of airspace;

(2) a schedule outlining when aircraft will be required to be equipped with such avionics;

(3) the expected costs associated with the avionics; and

(4) the expected uses and benefits of the avionics.

SEC. 315. FAA TASK FORCE ON AIR TRAFFIC CONTROL FACILITY CONDITIONS.

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

establish a special task force to be known as the ''FAA Task Force on Air Traffic Control Facility Conditions''.

(b) MEMBERSHIP.—

(1) COMPOSITION.—The Task Force shall be composed of 11 members of whom—

(A) 7 members shall be appointed by the Administrator; and

(B) 4 members shall be appointed by labor unions representing employees who work at field facilities of the Administration.

(2) QUALIFICATIONS.—Of the members appointed by the Administrator under paragraph (1)(A)—

(A) 4 members shall be specialists on toxic mold abatement, ''sick building syndrome,'' and other hazardous building conditions that can lead to employee health concerns and shall be appointed by the Administrator in consultation with the Director of the National Institute for Occupational Safety and Health; and

(B) 2 members shall be specialists on the rehabilitation of aging buildings.

(3) TERMS.—Members shall be appointed for the life of the Task Force.

(4) VACANCIES.—A vacancy in the Task Force shall be filled in the manner in which the original appointment was made.

(5) TRAVEL EXPENSES.—Members shall serve without pay but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with subchapter I of chapter 57 of title 5, United States Code.

(c) CHAIRPERSON.—The Administrator shall designate, from among the individuals appointed under subsection (b)(1), an individual to serve as chairperson of the Task Force.

(d) TASK FORCE PERSONNEL MATTERS.—

(1) STAFF.—The Task Force may appoint and fix the pay of such personnel as it considers appropriate.

(2) STAFF OF FEDERAL AGENCIES.—Upon request of the Chairperson of the Task Force, the head of any department or agency of the United States may detail, on a reimbursable basis, any of the personnel of that department or agency to the Task Force to assist it in carrying out its duties under this section.

(3) OTHER STAFF AND SUPPORT.—Upon request of the Task Force or a panel of the Task Force, the Administrator shall provide the Task Force or panel with professional and administrative staff and other support, on a reimbursable basis, to the Task Force to assist it in carrying out its duties under this section.

(e) OBTAINING OFFICIAL DATA.—The Task Force may secure directly from any department or agency of the United States information (other than information required by any statute of the United States to be kept confidential by such department or agency) necessary for the Task Force to carry out its duties under this section. Upon request of the chairperson of the Task Force, the head of that department or agency shall furnish such information to the Task Force.

(f) DUTIES.—

(1) STUDY.—The Task Force shall undertake a study of—

(A) the conditions of all air traffic control facilities across the Nation, including towers, centers, and terminal radar air control;

(B) reports from employees of the Administration relating to respiratory ailments and other health conditions resulting from exposure to mold, asbestos, poor air quality, radiation and facility-related hazards in facilities of the Administration;

(C) conditions of such facilities that could interfere with such employees' ability to effectively and safely perform their duties;

(D) the ability of managers and supervisors of such employees to promptly document and seek remediation for unsafe facility conditions;

(E) whether employees of the Administration who report facility-related illnesses are treated fairly;

(F) utilization of scientifically-approved remediation techniques in a timely fashion once hazardous conditions are identified in a facility of the Administration; and

(G) resources allocated to facility maintenance and renovation by the Administration.

(2) FACILITY CONDITION INDICES.—The Task Force shall review the facility condition indices of the Administration for inclusion in the recommendations under subsection (g).

(g) RECOMMENDATIONS.—Based on the results of the study and review of the facility condition indices under subsection (f), the Task Force shall make recommendations as it considers necessary to—

(1) prioritize those facilities needing the most immediate attention in order of the greatest risk to employee health and safety;

(2) ensure that the Administration is using scientifically approved remediation techniques in all facilities; and

(3) assist the Administration in making programmatic changes so that aging air traffic control facilities do not deteriorate to unsafe levels.

(h) REPORT.—Not later than 6 months after the date on which initial appointments of members to the Task Force are completed, the Task Force shall submit to the Administrator, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Commerce, Science, and Transportation of the Senate a report on the activities of the Task Force, including the recommendations of the Task Force under subsection (g).

(i) IMPLEMENTATION.—Within 30 days after receipt of the Task Force report under subsection (h), the Administrator shall submit to the House of Representatives Committee on Transportation and Infrastructure and the Senate Committee on Commerce, Science, and Transportation a report that includes a plan and timeline to implement the recommendations of the Task Force and to align future budgets and priorities of the Administration accordingly.

(j) TERMINATION.—The Task Force shall terminate on the last day of the 30-day period beginning on the date on which the report under subsection (h) is submitted.

(k) APPLICABILITY OF THE FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Task Force.

SEC. 316. STATE ADS-B EQUIPAGE BANK PILOT PROGRAM.

(a) IN GENERAL.—

(1) COOPERATIVE AGREEMENTS.—Subject to the provisions of this section, the Secretary of Transportation may enter into cooperative agreements with not to exceed 5 States for the establishment of State ADS-B equipage banks for making loans and providing other assistance to public entities for projects eligible for assistance under this section.

(b) FUNDING.—

(1) SEPARATE ACCOUNT.—An ADS-B equipage bank established under this section shall maintain a separate aviation trust fund account for Federal funds contributed to the bank under paragraph (2). No Federal funds contributed or credited to an account of an ADS-B equipage bank established under this section may be commingled with Federal funds contributed or credited to any other account of such bank.

(2) AUTHORIZATION.—There are authorized to be appropriated to the Secretary $25,000,000 for each of fiscal years 2009 through 2013.

(c) FORMS OF ASSISTANCE FROM ADS-B EQUIPAGE BANKS.—An ADS-B equipage bank established under this section may make loans or provide other assistance to a public entity in an amount equal to all or part of the cost of carrying out a project eligible for assistance under this section. The amount of any loan or other assistance provided for such project may be subordinated to any other debt financing for the project.

(d) QUALIFYING PROJECTS.—Federal funds in the ADS-B equipage account of an ADS-B equipage bank established under this section may be used only to provide assistance with respect to aircraft ADS-B avionics equipage.

(e) REQUIREMENTS.—In order to establish an ADS-B equipage bank under this section, each State establishing such a bank shall—

(1) contribute, at a minimum, in each account of the bank from non-Federal sources an amount equal to 50 percent of the amount of each capitalization grant made to the State and contributed to the bank;

(2) ensure that the bank maintains on a continuing basis an investment grade rating on its debt issuances or has a sufficient level of bond or debt financing instrument insurance to maintain the viability of the bank;

(3) ensure that investment income generated by funds contributed to an account of the bank will be—

(A) credited to the account;

(B) available for use in providing loans and other assistance to projects eligible for assistance from the account; and

(C) invested in United States Treasury securities, bank deposits, or such other financing instruments as the Secretary may approve to earn interest to enhance the leveraging of projects assisted by the bank;

(5) ensure that any loan from the bank will bear interest at or below market interest rates, as determined by the State, to make the project that is the subject of the loan feasible;

(6) ensure that the term for repaying any loan will not exceed 10 years after the date of the first payment on the loan; and

(7) require the bank to make an annual report to the Secretary on its status no later than September 30 of each year for which funds are made available under this section, and to make such other reports as the Secretary may require by guidelines.

TITLE IV—AIRLINE SERVICE AND SMALL COMMUNITY AIR SERVICE IMPROVEMENTS

SEC. 401. AIRLINE CONTINGENCY SERVICE REQUIREMENTS.

(a) IN GENERAL.—Chapter 417 is amended by adding at the end the following:

''SUBCHAPTER IV—AIRLINE CUSTOMER SERVICE

''§ 41781. AIRLINE CONTINGENCY SERVICE REQUIREMENTS.

''(a) IN GENERAL.—Not later than 60 days after the date of enactment of the Aviation Investment and Modernization Act of 2008, each air carrier shall submit a contingency service plan to the Secretary of Transportation for review and approval. The plan shall require the air carrier to implement, at a minimum, the following practices:

''(1) PROVISION OF FOOD AND WATER.—If the departure of a flight of an air carrier is substantially delayed, or disembarkation of passengers on an arriving flight that has landed is substantially delayed, the air carrier shall provide—

''(A) adequate food and potable water to passengers on such flight during such delay; and

''(B) adequate restroom facilities to passengers on such flight during such delay.

''(2) RIGHT TO DEPLANE.—

''(A) IN GENERAL.—An air carrier shall develop a plan, that incorporates medical considerations, to ensure that passengers are provided a clear timeframe under which they

will be permitted to deplane a delayed aircraft. The air carrier shall provide a copy of the plan to the Secretary of Transportation, who shall make the plan available to the public. In the absence of such a plan, except as provided in subparagraph (B), if more than 3 hours after passengers have boarded a flight, the aircraft doors are closed and the aircraft has not departed, the air carrier shall provide passengers with the option to deplane safely before the departure of such aircraft. Such option shall be provided to passengers not less often than once during each 3-hour period that the plane remains on the ground.

''(B) EXCEPTIONS.—Subparagraph (A) shall not apply—

''(i) if the pilot of such flight reasonably determines that such flight will depart not later than 30 minutes after the 3 hour delay; or

''(ii) if the pilot of such flight reasonably determines that permitting a passenger to deplane would jeopardize passenger safety or security.

''(C) APPLICATION TO DIVERTED FLIGHTS.—This section applies to aircraft without regard to whether they have been diverted to an airport other than the original destination.

''(b) POSTING CONSUMER RIGHTS ON WEBSITE.—An air carrier holding a certificate issued under section 41102 that conducts scheduled passenger air transportation shall publish conspicuously and update monthly on the Internet website of the air carrier a statement of the air carrier's customer service policy and of air carrier customers' consumer rights under Federal and State law.

''(c) REVIEW AND APPROVAL; MINIMUM STANDARDS.—The Secretary of Transportation shall review the contingency service plan submitted by an air carrier under subsection (a) and may approve it or disapprove it and return it to the carrier for modification and resubmittal. The Secretary may establish minimum standards for such plans and require air carriers to meet those standards.

''(d) AIR CARRIER.—In this section the term 'air carrier' means an air carrier holding a certificate issued under section 41102 that conducts scheduled passenger air transportation.''.

(b) REGULATIONS.—Not later than 60 days after the date of enactment of this Act, the Secretary of Transportation shall promulgate such regulations as the Secretary determines necessary to carry out the amendment made by subsection (a).

(c) CONFORMING AMENDMENT.—The chapter analysis for chapter 417 is amended by adding at the end the following:

SUBCHAPTER IV. AIRLINE CUSTOMER SERVICE

''41781. Airline contingency service requirements.''.

SEC. 402. PUBLICATION OF CUSTOMER SERVICE DATA AND FLIGHT DELAY HISTORY.

Section 41722 is amended by adding at the end the following:

''(f) CHRONICALLY DELAYED FLIGHTS.—

''(1) PUBLICATION OF LIST OF FLIGHTS.—An air carrier holding a certificate issued under section 41102 that conducts scheduled passenger air transportation shall publish and update monthly on the Internet website of the air carrier, or provide on request, a list of chronically delayed flights operated by the air carrier.

''(2) DISCLOSURE TO CUSTOMERS WHEN PURCHASING TICKETS.—An air carrier shall disclose the following information prominently to an individual before that individual books transportation on the air carrier's Internet website for any flight for which data is reported to the Department of Transportation under part 234 of title 14, Code of Federal Regulations, and for which the air carrier has primary responsibility for inventory control:

''(A) The on-time performance for the flight if it is a chronically delayed flight.

''(B) The cancellation rate for the flight if it is a chronically canceled flight.

''(3) CHRONICALLY DELAYED; CHRONICALLY CANCELED.—The Secretary of Transportation shall define the terms 'chronically delayed flight' and 'chronically canceled flight' for purposes of this subsection.''.

SEC. 403. EAS CONNECTIVITY PROGRAM.

Section 406(a) of the Vision 100—Century of Aviation Reauthorization Act (49 U.S.C. 40101 note) is amended by striking ''may'' and inserting ''shall''.

SEC. 404. EXTENSION OF FINAL ORDER ESTABLISHING MILEAGE ADJUSTMENT ELIGIBILITY.

Section 409(d) of the Vision 100—Century of Aviation Reauthorization Act (49 U.S.C. 40101 note) is amended by striking ''September 30, 2007.'' and inserting ''September 30, 2011.''.

SEC. 405. EAS CONTRACT GUIDELINES.

Section 41737(a)(1) is amended—

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

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

(3) by adding at the end the following:

''(D) include provisions under which the Secretary may encourage carriers to improve air service to small and rural communities by incorporating financial incentives in essential air service contracts based on specified performance goals; and

''(E) include provisions under which the Secretary may execute long-term essential air service contracts to encourage carriers to provide air service to small and rural communities where it would be in the public interest to do so.''.

SEC. 406. CONVERSION OF FORMER EAS AIRPORTS.

(a) IN GENERAL.—Section 41745 is amended—

(1) by redesignating subsections (c) through (g) as subsections (d) through (h), respectively; and

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

''(c) CONVERSION OF LOST ELIGIBILITY AIRPORTS.—

''(1) IN GENERAL.—The Secretary shall establish a program to provide general aviation conversion funding for airports serving eligible places that the Secretary has determined no longer qualify for a subsidy.

''(2) GRANTS.—A grant under this subsection—

''(A) may not exceed twice the compensation paid to provide essential air service to the airport in the fiscal year preceding the fiscal year in which the Secretary determines that the place served by the airport is no longer an eligible place; and

''(B) may be used—

''(i) for airport development (as defined in section 47102(3)) that will enhance general aviation capacity at the airport;

''(ii) to defray operating expenses, if such use is approved by the Secretary; or

''(iii) to develop innovative air service options, such as on-demand or air taxi operations, if such use is approved by the Secretary.

''(3) AIP REQUIREMENTS.—An airport sponsor that uses funds provided under this subsection for an airport development project shall comply with the requirements of subchapter I of chapter 471 applicable to airport development projects funded under that subchapter with respect to the project funded under this subsection.

''(4) LIMITATION.—The sponsor of an airport receiving funding under this subsection is not eligible for funding under section 41736.''.

(b) CONFORMING AMENDMENT.—Section 41745(f), as redesignated, is amended—

(1) by striking ''An eligible place'' and inserting ''Neither an eligible place, nor a place to which subsection (c) applies,''; and

(2) by striking ''not''.

SEC. 407. EAS REFORM.

Section 41742(a) is amended—

(1) by adding at the end of paragraph (1) ''Any amount in excess of $50,000,000 credited for any fiscal year to the account established under section 45303(c) shall be obligated for programs under section 406 of the Vision 100—Century of Aviation Reauthorization Act (49 U.S.C. 40101 note) and section 41745 of this title. Amounts appropriated pursuant to this section shall remain available until expended.''; and

(2) by striking ''$77,000,000'' in paragraph (2) and inserting ''$125,000,000''.

SEC. 408. CLARIFICATION OF AIR CARRIER FEE DISPUTES.

(a) IN GENERAL.—Section 47129 is amended—

(1) by striking the section heading and inserting the following:

''§ 47129. Resolution of airport-air carrier and foreign air carrier disputes concerning airport fees'' ;

(2) by inserting ''AND FOREIGN AIR CARRIER'' after ''CARRIER'' in the subsection caption for subsection (d);

(3) by inserting ''AND FOREIGN AIR CARRIER'' after ''CARRIER'' in the paragraph caption for subsection (d)(2);

(4) by striking ''air carrier'' each place it appears and inserting ''air carrier or foreign air carrier'';

(5) by striking ''air carrier's'' each place it appears and inserting ''air carrier's or foreign air carrier's'';

(6) by striking ''air carriers'' and inserting ''air carriers or foreign air carriers''; and

(7) by striking ''(as defined in section 40102 of this title)'' in subsection (a) and inserting ''(as those terms are defined in section 40102 of this title)''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 471 is amended by striking the item relating to section 47129 and inserting the following:

''47129. Resolution of airport-air carrier and foreign air carrier disputes concerning airport fees.''.

SEC. 409. SMALL COMMUNITY AIR SERVICE.

(a) PRIORITIES.—Section 41743(c)(5) is amended—

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

(2) by striking ''fashion.'' in subparagraph (E) and inserting ''fashion; and''; and

(3) by adding at the end the following:

''(F) multiple communities cooperate to submit a region or multistate application to improve air service.''.

(b) EXTENSION OF AUTHORIZATION.—Section 41743(e)(2) is amended by striking ''2008'' and inserting ''2011''.

SEC. 410. CONTRACT TOWER PROGRAM.

(a) COST-BENEFIT REQUIREMENT.—Section 47124(b)(1) is amended—

(1) by inserting ''(A)'' after ''(1)''; and

(2) by adding at the end the following:

''(B) If the Secretary determines that a tower already operating under this program has a benefit to cost ratio of less than 1.0, the airport sponsor or State or local government having jurisdiction over the airport shall not be required to pay the portion of the costs that exceeds the benefit for a period of 18 months after such determination is made.

''(C) If the Secretary finds that all or part of an amount made available to carry out the program continued under this paragraph is not required during a fiscal year, the Secretary may use during such fiscal year the

amount not so required to carry out the program established under paragraph (3) of this section.''.

(b) FUNDING.—Subparagraph (E) of section 47124(b)(3) is amended—

(1) by striking ''and'' after ''2006,''; and

(2) by inserting ''$8,500,000 for fiscal year 2008, $9,000,000 for fiscal year 2009, $9,500,000 for fiscal year 2010, and $10,000,000 for fiscal year 2011'' after ''2007,''; and

(3) by inserting after ''paragraph.'' the following: ''If the Secretary finds that all or part of an amount made available under this subparagraph is not required during a fiscal year to carry out this paragraph, the Secretary may use during such fiscal year the amount not so required to carry out the program continued under paragraph (b)(1) of this section.''.

(c) FEDERAL SHARE.—Subparagraph (C) of section 47124(b)(4) is amended by striking ''$1,500,000.'' and inserting ''$2,000,000.''.

(d) SAFETY AUDITS.—Section 41724 is amended by adding at the end the following:

''(c) SAFETY AUDITS.—The Secretary shall establish uniform standards and requirements for safety assessments of air traffic control towers that receive funding under this section in accordance with the Administration's safety management system.''.

SEC. 411. AIRFARES FOR MEMBERS OF THE ARMED FORCES.

(a) FINDINGS.—The Congress finds that—

(1) the Armed Forces is comprised of approximately 1,400,000 members who are stationed on active duty at more than 6,000 military bases in 146 different countries;

(2) the United States is indebted to the members of the Armed Forces, many of whom are in grave danger due to their engagement in, or exposure to, combat;

(3) military service, especially in the current war against terrorism, often requires members of the Armed Forces to be separated from their families on short notice, for long periods of time, and under very stressful conditions;

(4) the unique demands of military service often preclude members of the Armed Forces from purchasing discounted advance airline tickets in order to visit their loved ones at home; and

(5) it is the patriotic duty of the people of the United States to support the members of the Armed Forces who are defending the Nation's interests around the world at great personal sacrifice.

(b) SENSE OF CONGRESS.—It is the sense of Congress that each United States air carrier should—

(1) establish for all members of the Armed Forces on active duty reduced air fares that are comparable to the lowest airfare for ticketed flights; and

(2) offer flexible terms that allow members of the Armed Forces on active duty to purchase, modify, or cancel tickets without time restrictions, fees, and penalties.

SEC. 412. EXPANSION OF DOT AIRLINE CONSUMER COMPLAINT INVESTIGATIONS.

(a) IN GENERAL.—The Secretary of Transportation shall investigate consumer complaints regarding—

(1) flight cancellations;

(2) compliance with Federal regulations concerning overbooking seats flights;

(3) lost, damaged, or delayed baggage, and difficulties with related airline claims procedures;

(4) problems in obtaining refunds for unused or lost tickets or fare adjustments;

(5) incorrect or incomplete information about fares, discount fare conditions and availability, overcharges, and fare increases;

(6) the rights of passengers who hold frequent flier miles, or equivalent redeemable awards earned through customer-loyalty programs; and

(7) deceptive or misleading advertising.

(b) BUDGET NEEDS REPORT.—The Secretary shall provide, as an annex to its annual budget request, an estimate of resources which would have been sufficient to investigate all such claims the Department of Transportation received in the previous fiscal year. The annex shall be transmitted to the Congress when the President submits the budget of the United States to the Congress under section 1105 of title 31, United States Code.

SEC. 413. EAS MARKETING.

The Secretary of Transportation shall require all applications to provide service under subchapter II of chapter 417 of title 49, United States Code, include a marketing plan.

SEC. 414. EXTRAPERIMETAL AND INTRAPERIMETAL SLOTS AT RONALD REAGAN WASHINGTON NATIONAL AIRPORT.

(a) BEYOND PERIMETER EXEMPTIONS.—Section 41718 (a) is amended by striking ''24'' and inserting ''36''.

(b) WITHIN PERIMETER EXEMPTIONS.—Section 41718 (b) is amended by striking ''20'' and inserting ''28''.

(c) LIMITATIONS.—Section 41718(c) is amended—

(1) by striking ''3 operations.'' in paragraph (2) and inserting ''5 operations. Operations conducted by new entrant and limited incumbent air carriers shall be afforded a scheduling priority over operations conducted by other air carriers granted exemptions pursuant to section 41718 with the highest scheduling priority afforded to beyond-perimeter operations conducted by new entrant and limited incumbent air carriers.'';

(2) by striking ''six'' in paragraph (3)(A) and inserting ''8'';

(3) by striking ''ten'' in paragraph (3)(B) and inserting ''12''; and

(4) by striking ''four'' in paragraph (3)(C) and inserting ''8''.

SEC. 415. ESTABLISHMENT OF ADVISORY COMMITTEE FOR AVIATION CONSUMER PROTECTION.

(a) IN GENERAL.—The Secretary of Transportation shall establish an advisory committee for aviation consumer protection to advise the Secretary in carrying out air passenger service improvements, including those required by chapter 423 of title 49, United States Code.

(b) MEMBERSHIP.—The Secretary shall appoint members of the advisory committee comprised of one representative each of—

(1) air carriers;

(2) airport operators;

(3) State or local governments who has expertise in consumer protection matters; and

(4) a nonprofit public interest group who has expertise in consumer protection matters.

(c) VACANCIES.—A vacancy in the advisory committee shall be filled in the manner in which the original appointment was made.

(d) TRAVEL EXPENSES.—Members of the advisory committee shall serve without pay but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with subchapter I of chapter 57 of title 5, United States Code.

(e) CHAIRPERSON.—The Secretary shall designate, from among the individuals appointed under subsection (b), an individual to serve as chairperson of the advisory committee.

(f) DUTIES.—The duties of the advisory committee shall include—

(1) evaluating existing aviation consumer protection programs and providing recommendations for the improvement of such programs, if needed; and

(2) providing recommendations to establish additional aviation consumer protection programs, if needed.

(g) REPORT.—Not later than February 1 of each of the first 2 calendar years beginning after the date of enactment of this Act, the Secretary shall transmit to Congress a report containing—

(1) the recommendations made by the advisory committee during the preceding calendar year; and

(2) an explanation of how the Secretary has implemented each recommendation and, for each recommendation not implemented, the Secretary's reason for not implementing the recommendation.

SEC. 416. RURAL AVIATION IMPROVEMENT.

(a) COMMUNITIES ABOVE PER PASSENGER SUBSIDY CAP.—

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

''§ 41749. Essential air service for eligible places above per passenger subsidy cap

''(a) PROPOSALS.—A State or local government may submit a proposal to the Secretary of Transportation for compensation for an air carrier to provide air transportation to a place described in subsection (b).

''(b) PLACE DESCRIBED.—A place described in this subsection is a place—

''(1) that is otherwise an eligible place; and

''(2) for which the per passenger subsidy exceeds the dollar amount allowable under this subchapter.

''(c) DECISIONS.—Not later than 90 days after receiving a proposal under subsection (a) for compensation for an air carrier to provide air transportation to a place described in subsection (b), the Secretary shall—

''(1) decide whether to provide compensation for the air carrier to provide air transportation to the place; and

''(2) approve the proposal if the State or local government or a person is willing and able to pay the difference between—

''(A) the per passenger subsidy; and

''(B) the dollar amount allowable for such subsidy under this subchapter.

''(d) COMPENSATION PAYMENTS.—

''(1) IN GENERAL—The Secretary shall pay compensation under this section at such time and in such manner as the Secretary determines is appropriate.

''(2) DURATION OF PAYMENTS—The Secretary shall continue to pay compensation under this section only as long as—

''(A) the State or local government or person agreeing to pay compensation under subsection (c)(2) continues to pay such compensation; and

''(B) the Secretary decides the compensation is necessary to maintain air transportation to the place.

''(e) REVIEW—

''(1) IN GENERAL—The Secretary shall periodically review the type and level of air service provided under this section.

''(2) CONSULTATION—The Secretary may make appropriate adjustments in the type and level of air service to a place under this section based on the review under paragraph (1) and consultation with the affected community and the State or local government or person agreeing to pay compensation under subsection (c)(2).

''(f) ENDING, SUSPENDING, AND REDUCING AIR TRANSPORTATION—An air carrier providing air transportation to a place under this section may end, suspend, or reduce such air transportation if, not later than 30 days before ending, suspending, or reducing such air transportation, the air carrier provides notice of the intent of the air carrier to end, suspend, or reduce such air transportation to—

''(1) the Secretary;

''(2) the affected community; and

''(3) the State or local government or person agreeing to pay compensation under subsection (c)(2).''.

(2) CLERICAL AMENDMENT—The chapter analysis for chapter 417 is amended by adding after the item relating to section 41748 the following new item:

''41749. Essential air service for eligible places above per passenger subsidy cap.''.

(b) PREFERRED ESSENTIAL AIR SERVICE.—

(1) IN GENERAL.—Subchapter II of chapter 417, as amended by subsection (a), is further amended by adding after section 41749 the following:

''§ 41750. Preferred essential air service

''(a) PROPOSALS.—A State or local government may submit a proposal to the Secretary of Transportation for compensation for a preferred air carrier described in subsection (b) to provide air transportation to an eligible place.

''(b) PREFERRED AIR CARRIER DESCRIBED—A preferred air carrier described in this subsection is an air carrier that—

''(1) submits an application under section 41733(c) to provide air transportation to an eligible place;

''(2) is not the air carrier that submits the lowest cost bid to provide air transportation to the eligible place; and

''(3) is an air carrier that the affected community prefers to provide air transportation to the eligible place instead of the air carrier that submits the lowest cost bid.

''(c) DECISIONS—Not later than 90 days after receiving a proposal under subsection (a) for compensation for a preferred air carrier described in subsection (b) to provide air transportation to an eligible place, the Secretary shall—

''(1) decide whether to provide compensation for the preferred air carrier to provide air transportation to the eligible place; and

''(2) approve the proposal if the State or local government or a person is willing and able to pay the difference between—

''(A) the rate of compensation the Secretary would provide to the air carrier that submits the lowest cost bid to provide air transportation to the eligible place; and

''(B) the rate of compensation the preferred air carrier estimates to be necessary to provide air transportation to the eligible place.

''(d) COMPENSATION PAYMENTS—

''(1) IN GENERAL—The Secretary shall pay compensation under this section at such time and in such manner as the Secretary determines is appropriate.

''(2) DURATION OF PAYMENTS—The Secretary shall continue to pay compensation under this section only as long as—

''(A) the State or local government or person agreeing to pay compensation under subsection (c)(2) continues to pay such compensation; and

''(B) the Secretary decides the compensation is necessary to maintain air transportation to the eligible place.

''(e) REVIEW—

''(1) IN GENERAL—The Secretary shall periodically review the type and level of air service provided under this section.

''(2) CONSULTATION—The Secretary may make appropriate adjustments in the type and level of air service to an eligible place under this section based on the review under paragraph (1) and consultation with the affected community and the State or local government or person agreeing to pay compensation under subsection (c)(2).

''(f) ENDING, SUSPENDING, AND REDUCING AIR TRANSPORTATION—A preferred air carrier providing air transportation to an eligible place under this section may end, suspend, or reduce such air transportation if, not later than 30 days before ending, suspending, or reducing such air transportation, the preferred air carrier provides notice of the intent of the preferred air carrier to end, suspend, or reduce such air transportation to—

''(1) the Secretary;

''(2) the affected community; and

''(3) the State or local government or person agreeing to pay compensation under subsection (c)(2).''.

(2) CLERICAL AMENDMENT—The chapter analysis for chapter 417, as amended by subsection (a), is further amended by adding after the item relating to section 41749 the following new item:

''41750. Preferred essential air service.'.

(c) RESTORATION OF ELIGIBILITY TO A PLACE DETERMINED BY THE SECRETARY TO BE INELIGIBLE FOR SUBSIDIZED ESSENTIAL AIR SERVICE.——Section 41733 is amended by adding at the end the following new subsection:

''(f) RESTORATION OF ELIGIBILITY FOR SUBSIDIZED ESSENTIAL AIR SERVICE—

''(1) IN GENERAL—If the Secretary of Transportation terminates the eligibility of an otherwise eligible place to receive basic essential air service by an air carrier for compensation under subsection (c), a State or local government may submit to the Secretary a proposal for restoring such eligibility.

''(2) DETERMINATION BY SECRETARY—If the per passenger subsidy required by the proposal submitted by a State or local government under paragraph (1) does not exceed the per passenger subsidy cap provided under this subchapter, the Secretary shall issue an order restoring the eligibility of the otherwise eligible place to receive basic essential air service by an air carrier for compensation under subsection (c).'.

(d) OFFICE OF RURAL AVIATION.—

(1) ESTABLISHMENT—There is established within the Office of the Secretary of Transportation the Office of Rural Aviation.

(b) FUNCTIONS—The functions of the Office are—

(1) to develop a uniform 4-year contract for air carriers providing essential air service to communities under subchapter II of chapter 417 of title 49, United States Code;

(2) to develop a mechanism for comparing applications submitted by air carriers under section 41733(c) to provide essential air service to communities, including comparing—

(A) estimates from air carriers on—

(i) the cost of providing essential air service; and

(ii) the revenues air carriers expect to receive when providing essential air service; and

(B) estimated schedules for air transportation; and

(3) to select an air carrier from among air carriers applying to provide essential air service, based on the criteria described in paragraph (2).

(e) EXTENSION OF AUTHORITY TO MAKE AGREEMENTS UNDER THE ESSENTIAL AIR SERVICE PROGRAM.—Section 41743(e)(2) is amended by striking ''2008'' and inserting ''2011''.

(f) ADJUSTMENTS TO COMPENSATION FOR SIGNIFICANTLY INCREASED COSTS—Section 41737 is amended—

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

(2) by striking ''provided.'' in subsection (a)(1)(C) and inserting ''provided; and'';

(3) by adding at the end of subsection (a)(1) the following:

''(D) provide for an adjustment in compensation, for service or transportation to a place that was an eligible place as of November 1, 2007, to account for significant increases in fuel costs, in accordance with subsection (e).''; and

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

''(f) FUEL COST SUBSIDY DISREGARD.—Any amount provided as an adjustment in compensation pursuant to subsection (a)(1)(D) shall be disregarded for the purpose of determining whether the amount of compensation provided under this subchapter with respect to an eligible place exceeds the per passenger subsidy exceeds the dollar amount allowable under this subchapter.''.

(f) CONTINUED ELIGIBILITY.—Notwithstanding any provision of subchapter II of chapter 417 of title 49, United States Code, to the contrary, a community that was receiving service or transportation under that subchapter as an eligible place (as defined in section 41731(a)(1) of such title) as of November 1, 2007, shall continue to be eligible to receive service or transportation under that subchapter without regard to whether the per passenger subsidy required exceeds the per passenger subsidy cap provided under that subchapter.

TITLE V—AVIATION SAFETY

SEC. 501. RUNWAY SAFETY EQUIPMENT PLAN.

Not later than December 31, 2008, the Administrator of the Federal Aviation Administration shall issue a plan to develop an installation and deployment schedule for systems the Administration is installing to alert controllers and flight crews to potential runway incursions. The plan shall be integrated into the annual Federal Aviation Administration operational evolution plan.

SEC. 502. AIRCRAFT FUEL TANK SAFETY IMPROVEMENT.

Not later than December 31, 2008, the Federal Aviation Administration shall issue a final rule regarding the reduction of fuel tank flammability in transport category aircraft.

SEC. 503. JUDICIAL REVIEW OF DENIAL OF AIRMAN CERTIFICATES.

(a) JUDICIAL REVIEW OF NTSB DECISIONS.—Section 44703(d) is amended by adding at the end the following:

''(3) JUDICIAL REVIEW.—A person substantially affected by an order of the Board under this subsection, or the Administrator when the Administrator decides that an order of the Board will have a significant adverse impact on carrying out this part, may obtain judicial review of the order under section 46110 of this title. The Administrator shall be made a party to the judicial review proceedings. The findings of fact of the Board in any such case are conclusive if supported by substantial evidence.''.

(b) CONFORMING AMENDMENT.—Section 1153(c) is amended by striking ''section 44709 or'' and inserting ''section 44703(d), 44709, or''.

SEC. 504. RELEASE OF DATA RELATING TO ABANDONED TYPE CERTIFICATES AND SUPPLEMENTAL TYPE CERTIFICATES.

Section 44704(a) is amended by adding at the end the following:

''(5) RELEASE OF DATA.—

''(A) Notwithstanding any other provision of law, the Administrator may designate, without the consent of the owner of record, engineering data in the agency's possession related to a type certificate or a supplemental type certificate for an aircraft, engine, propeller or appliance as public data, and therefore releasable, upon request, to a person seeking to maintain the airworthiness of such product, if the Administrator determines that—

''(i) the certificate containing the requested data has been inactive for 3 years;

''(ii) the owner of record, or the owner of record's heir, of the type certificate or supplemental certificate has not been located despite a search of due diligence by the agency; and

''(iii) the designation of such data as public data will enhance aviation safety.

''(B) In this section, the term 'engineering data' means type design drawings and specifications for the entire product or change to the product, including the original design data, and any associated supplier data for individual parts or components approved as part of the particular aeronautical product certificate.''.

SEC. 505. DESIGN ORGANIZATION CERTIFICATES.

Section 44704(e) is amended—

(1) by striking ''Beginning 7 years after the date of enactment of this subsection,'' in paragraph (1) and inserting ''Effective January 1, 2013,'';

(2) by striking ''testing'' in paragraph (2) and inserting ''production''; and

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

''(3) ISSUANCE OF CERTIFICATE BASED ON DESIGN ORGANIZATION CERTIFICATION.—The Administrator may rely on the Design Organization for certification of compliance under this section.''.

SEC. 506. FAA ACCESS TO CRIMINAL HISTORY RECORDS OR DATABASE SYSTEMS.

(a) IN GENERAL.—Chapter 401 is amended by adding at the end thereof the following:

''§ 40130. FAA access to criminal history records or databases systems

''(a) ACCESS TO RECORDS OR DATABASES SYSTEMS.—

''(1) Notwithstanding section 534 of title 28 and the implementing regulations for such section (28 C.F.R. part 20), the Administrator of the Federal Aviation Administration is authorized to access a system of documented criminal justice information maintained by the Department of Justice or by a State but may do so only for the purpose of carrying out its civil and administrative responsibilities to protect the safety and security of the National Airspace System or to support the missions of the Department of Justice, the Department of Homeland Security, and other law enforcement agencies. The Administrator shall be subject to the same conditions or procedures established by the Department of Justice or State for access to such an information system by other governmental agencies with access to the system.

''(2) The Administrator may not use the access authorized under paragraph (1) to conduct criminal investigations.

''(b) DESIGNATED EMPLOYEES.—The Administrator shall, by order, designate those employees of the Administration who shall carry out the authority described in subsection (a). Such designated employees may—

''(1) have access to and receive criminal history, driver, vehicle, and other law enforcement information contained in the law enforcement databases of the Department of Justice, or of any jurisdiction in a State in the same manner as a police officer employed by a State or local authority of that State who is certified or commissioned under the laws of that State;

''(2) use any radio, data link, or warning system of the Federal Government and of any jurisdiction in a State that provides information about wanted persons, be-on-the-lookout notices, or warrant status or other officer safety information to which a police officer employed by a State or local authority in that State who is certified or commission under the laws of that State has access and in the same manner as such police officer; or

''(3) receive Federal, State, or local government communications with a police officer employed by a State or local authority in that State in the same manner as a police officer employed by a State or local authority in that State who is commissioned under the laws of that State.

''(c) SYSTEM OF DOCUMENTED CRIMINAL JUSTICE INFORMATION DEFINED.—In this section the term 'system of documented criminal justice information' means any law enforcement databases, systems, or communications containing information concerning identification, criminal history, arrests, convictions, arrest warrants, or wanted or missing persons, including the National Crime Information Center and its incorporated criminal history databases and the National Law Enforcement Telecommunications System.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 401 is amended by inserting after the item relating to section 40129 the following:

''40130. FAA access to criminal history records or databases systems.''.

SEC. 507. FLIGHT CREW FATIGUE.

(a) IN GENERAL.—Within 3 months after the date of enactment of this Act the Administrator of the Federal Aviation Administration shall conclude arrangements with the National Academy of Sciences for a study of pilot fatigue.

(b) STUDY.—The study shall include consideration of—

(1) research on fatigue, sleep, and circadian rhythms;

(2) sleep and rest requirements recommended by the National Transportation Safety Board; and

(3) international standards.

(c) REPORT.—Within 18 months after initiating the study, the National Academy shall submit a report to the Administrator containing its findings and recommendations, including recommendations with respect to Federal Aviation Regulations governing flight limitation and rest requirements.

(d) RULEMAKING.—After the Administrator receives the National Academy's report, the Federal Aviation Administration shall consider the findings of the National Academy in its rulemaking proceeding on flight time limitations and rest requirements.

(e) IMPLEMENTATION OF FLIGHT ATTENDANT FATIGUE STUDY RECOMMENDATIONS.—Within 60 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall initiate a process to carry out the recommendations of the CAMI study on flight attendant fatigue.

SEC. 508. INCREASING SAFETY FOR HELICOPTER EMERGENCY MEDICAL SERVICE OPERATORS.

(a) COMPLIANCE WITH 14 CFR PART 135 REGULATIONS.—No later than 18 months after the date of enactment of this Act, all helicopter emergency medical service operators shall comply with the regulations in part 135 of title 14, Code of Federal Regulations whenever there is a medical crew on board, without regard to whether there are patients on board the helicopter.

(b) IMPLEMENTATION OF FLIGHT RISK EVALUATION PROGRAM.—Within 60 days after the date of enactment of this Act, the Federal Aviation Administration shall initiate, and complete within 18 months, a rulemaking—

(1) to create a standardized checklist of risk evaluation factors based on its Notice 8000.301, issued in August, 2005; and

(2) to require helicopter emergency medical service operators to use the checklist to determine whether a mission should be accepted.

(c) COMPREHENSIVE CONSISTENT FLIGHT DISPATCH PROCEDURES.—Within 60 days after the date of enactment of this Act, the Federal Aviation Administration shall initiate, and complete within 18 months, a rulemaking—

(1) to create standardized flight dispatch procedures for helicopter emergency medical service operators based on the regulations in part 121 of title 14, Code of Federal Regulations; and

(2) to require such operators to use those procedures for flights.

(d) IMPROVING SITUATIONAL AWARENESS.—Any helicopter used for helicopter emergency medical service operations that is ordered, purchased, or otherwise obtained after the date of enactment of this Act shall have on board an operational terrain awareness and warning system that meets the technical specifications of section 135.154 of the Federal Aviation Regulations (14 C.F.R. 135.154).

(e) IMPROVING THE DATA AVAILABLE TO NTSB INVESTIGATORS AT CRASH SITES.—

(1) STUDY.—Within 1 year after the date of enactment of this Act, the Federal Aviation Administration shall complete a feasibility study of requiring flight data and cockpit voice recorders on new and existing helicopters used for emergency medical service operations. The study shall address, at a minimum, issues related to survivability, weight, and financial considerations of such a requirement.

(2) RULEMAKING.—Within 2 years after the date of enactment of this Act, the Federal Aviation Administration shall complete a rulemaking to require flight data and cockpit voice recorders on board such helicopters.

SEC. 509. CABIN CREW COMMUNICATION.

(a) IN GENERAL.—Section 44728 is amended—

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

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

''(f) MINIMUM LANGUAGE SKILLS.—

''(1) IN GENERAL.—No certificate holder may use any person to serve, nor may any person serve, as a flight attendant under this part, unless that person has the ability to read, speak, and write English well enough to—

''(A) read material written in English and comprehend the information;

''(B) speak and understand English sufficiently to provide direction to, and understand and answer questions from, English-speaking individuals;

''(C) write incident reports and statements and log entries and statements; and

''(D) carry out written and oral instructions regarding the proper performance of their duties.

''(2) FOREIGN FLIGHTS.—The requirements of paragraph (1) do not apply to service as a flight attendant on a flight operated by a certificate holder solely between points outside the United States.''.

(b) ADMINISTRATION.—The Administrator of the Federal Aviation Administration shall work with certificate holders to which section 44728(f) of title 49, United States Code, applies to facilitate compliance with the requirements of section 44728(f)(1) of that title.

SEC. 510. CLARIFICATION OF MEMORANDUM OF UNDERSTANDING WITH OSHA.

(a) IN GENERAL.—Within 6 months after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall—

(1) establish milestones, in consultation with the Occupational Safety and Health Administration, through a report to Congress for the completion of work begun under the August 2000 memorandum of understanding between the 2 Administrations and to address issues needing further action in the Administrations' joint report in December 2000; and

(2) initiate development of a policy statement to set forth the circumstances in which Occupational Safety and Health Administration requirements may be applied to crewmembers while working in the aircraft cabin.

(b) POLICY STATEMENT.—The policy statement to be developed under subsection (a)(2) shall satisfy the following principles:

(1) The establishment of a coordinating body similar to the Aviation Safety and

Health Joint Team established by the August 2000 memorandum of understanding that includes representatives designated by both Administrations—

(A) to examine the applicability of current and future Occupational Safety and Health Administration regulations;

(B) to recommend policies for facilitating the training of Federal Aviation Administration inspectors; and

(C) to make recommendations that will govern the inspection and enforcement of safety and health standards on board aircraft in operation and all work-related environments.

(2) Any standards adopted by the Federal Aviation Administration shall set forth clearly—

(A) the circumstances under which an employer is required to take action to address occupational safety and health hazards;

(B) the measures required of an employer under the standard; and

(C) the compliance obligations of an employer under the standard.

SEC. 511. ACCELERATION OF DEVELOPMENT AND IMPLEMENTATION OF REQUIRED NAVIGATION PERFORMANCE APPROACH PROCEDURES.

(a) IN GENERAL.—The Administrator of the Federal Aviation Administration shall set a target of achieving a minimum of 200 Required Navigation Performance procedures each fiscal year through fiscal year 2012, with 25 percent of that target number meeting the low visibility approach criteria.

(b) USE OF THIRD PARTIES.—The Administrator is authorized to provide third parties the ability to design, flight check, and implement Required Navigation Performance approach procedures.

SEC. 512. ENHANCED SAFETY FOR AIRPORT OPERATIONS.

From amounts appropriated for fiscal years 2009 through 2011 pursuant to section 48101(a) of title 49, United States Code, the Secretary shall make available such sums as may be necessary for use in relocating the radar facility at National Plan of Integrated Airport Systems airport number 54–0026 to improve the safety, efficiency, and security of air traffic control, navigation, low altitude communications and surveillance, and weather. The Administrator of the Federal Aviation Administration shall ensure that the radar is relocated before September 30, 2011.

SEC. 513. IMPROVED SAFETY INFORMATION.

Not later than December 31, 2008, the Administrator of the Federal Aviation Administration shall issue a final rule in docket No. FAA–2008–0188, *Re-registration and Renewal of Aircraft Registration*. The final rule shall include—

(1) provision for the expiration of a certificate for an aircraft registered as of the date of enactment of this Act, with re-registration requirements for those aircraft that remain eligible for registration;

(2) provision for the periodic expiration of all certificates issued after the effective date of the rule with a registration renewal process; and

(3) other measures to promote the accuracy and efficient operation and value of the Administration's aircraft registry.

SEC. 514. VOLUNTARY DISCLOSURE REPORTING PROCESS IMPROVEMENTS.

Within 180 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall—

(1) take such action as may be necessary to ensure that the Voluntary Disclosure Reporting Process requires inspectors—

(A) to evaluate corrective action proposed by an air carrier with respect to a matter disclosed by that air carrier is sufficiently comprehensive in scope and application and applies to all affected aircraft operated by that air carrier before accepting the proposed voluntary disclosure; and

(B) to verify that corrective action so identified by an air carrier is completed within the timeframe proposed; and

(C) to verify by inspection that the carrier's corrective action adequately corrects the problem that was disclosed; and

(2) establish a second level supervisory review of disclosures under the Voluntary Disclosure Reporting Process before any proposed disclosure is accepted and closed that will ensure that a matter disclosed by an air carrier—

(A) has not been previously identified by a Federal Aviation Administration inspector; and

(B) has not been previously disclosed by the carrier in the preceding 5 years.

SEC. 515. PROCEDURAL IMPROVEMENTS FOR INSPECTIONS.

(a) EMPLOYMENT BY INSPECTED AIR CARRIERS.—Within 90 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall initiate a rulemaking proceeding to revise its post-employment guidance to prohibit an inspector employed by an air carrier the inspector was responsible for inspecting from representing that air carrier before the Federal Aviation Administration or participating in negotiations or other contacts with the Federal Aviation Administration on behalf of that air carrier for a period of 2 years after terminating employment by the Federal Aviation Administration.

(b) INSPECTION TRACKING.—Within 90 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall implement a process for tracking field office review of air carrier compliance with Federal Aviation Administration air worthiness directives. In tracking air worthiness directive compliance, the Administrator shall ensure that—

(1) each air carriers under the Administration's air transportation oversight system is reviewed for 100 percent compliance on a 5-year cycle;

(2) Compliance reviews include physical inspections at each applicable carrier of a sample of the aircraft to which the air worthiness certificate applies; and

(3) the appropriate local and regional offices, and the Administrator, are alerted whenever a carrier is no longer in compliance with an air worthiness directive.

SEC. 516. INDEPENDENT REVIEW OF SAFETY ISSUES.

Within 30 days after the date of enactment of this Act, the Comptroller General shall initate a review and investigation of air safety issues identified by Federal Aviation Administration employees and reported to the Administrator. The Comptroller General shall report the Government Accountability Office's findings and recommendations to the Administrator, the Senate Committee on Commerce, Science, and Transportation, and the House of Representatives Committee on Transportation and Infrastructure on an annual basis.

SEC. 517. NATIONAL REVIEW TEAM.

(a) IN GENERAL.—Within 180 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall establish a national review team within the Administration to conduct periodic, random reviews of the Administration's oversight of air carriers and report annually its findings and recommendations to the Administrator, the Senate Commerce, Science, and Transportation Committee, and the House of Representatives Committee on Transportation and Infrastructure.

(b) INSPECTOR GENERAL REPORTS.—The Inspector General of the Department of Transportation shall provide progress reports to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on the review teams and their effectiveness.

(c) ADDITIONAL SAFETY INSPECTORS.—From amounts appropriated pursuant to section 106(k)(1) of title 49, United States Code, the Administrator of the Federal Aviation Administration may hire a net increase of 200 additional safety inspectors.

SEC. 518. FAA ACADEMY IMPROVEMENTS.

(a) REVIEW.—Within 1 year after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall conduct a comprehensive review and evaluation of its Academy and facility training efforts.

(b) FACILITY TRAINING PROGRAM.—The Administrator shall—

(1) clarify responsibility for oversight and direction of the Academy's facility training program at the national level;

(2) communicate information concerning that responsibility to facility managers; and

(3) establish standards to identify the number of developmental controllers that can be accommodated at each facility, based on—

(A) the number of available on-the-job-training instructors;

(B) available classroom space;

(C) the number of available simulators;

(D) training requirements; and

(E) the number of recently placed new personnel already in training.

SEC. 519. REDUCTION OF RUNWAY INCURSIONS AND OPERATIONAL ERRORS.

(a) PLAN.—The Administrator of the Federal Aviation Administration shall develop a plan for the reduction of runway incursions by reviewing every commercial service airport (as defined in section 47102 of title 49, United States Code) in the United States and initiating action to improve airport lighting, provide better signage, and improve runway and taxiway markings.

(b) PROCESS.—Within 1 year after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall develop a process for tracking and investigating operational errors and runway incursions that includes—

(1) identifying the office responsible for establishing regulations regarding operational errors and runway incursions;

(2) identifying who is responsible for tracking and investigating operational errors and runway incursions and taking remedial actions;

(3) identifying who is responsible for tracking operational errors and runway incursions, including a process for lower level employees to report to higher supervisory levels; and

(4) periodic random audits of the oversight process.

TITLE VI—AVIATION RESEARCH

SEC. 601. AIRPORT COOPERATIVE RESEARCH PROGRAM.

(a) IN GENERAL.—Section 44511(f) is amended—

(1) by striking ''establish a 4-year pilot'' in paragraph (1) and inserting ''maintain an''; and

(2) by inserting ''pilot'' in paragraph (4) before ''program'' the first time it appears; and

(3) by striking ''program, including recommendations as to the need for establishing a permanent airport cooperative research program.'' in paragraph (4) and inserting ''program.''.

(b) AIRPORT COOPERATIVE RESEARCH PROGRAM.—Not more than $15,000,000 per year for fiscal years 2008, 2009, 2010, and 2011 may be

appropriated to the Secretary of Transportation from the amounts made available each year under subsection (a) for the Airport Cooperative Research Program under section 44511 of this title, of which not less than $5,000,000 per year shall be for research activities related to the airport environment, including reduction of community exposure to civil aircraft noise, reduction of civil aviation emissions, or addressing water quality issues.

SEC. 602. REDUCTION OF NOISE, EMISSIONS, AND ENERGY CONSUMPTION FROM CIVILIAN AIRCRAFT.

(a) ESTABLISHMENT OF RESEARCH PROGRAM.—From amounts made available under section 48102(a) of title 49, United States Code, the Administrator of the Federal Aviation Administration shall establish a research program related to reducing civilian aircraft source noise and emissions through grants or other measures authorized under section 106(l)(6) of such title, including reimbursable agreements with other Federal agencies. The program shall include participation of educational and research institutions or private sector entities that have existing facilities and experience for developing and testing noise, emissions and energy reduction engine and aircraft technology, and developing alternative fuels.

(b) ESTABLISHING A CONSORTIUM.—Within 6 months after the date of enactment of this Act, the Administrator shall designate, using a competitive process, an institution, entity, or consortium described in subsection (a) as a Consortium for Aviation Noise, Emissions, and Energy Technology Research to perform research in accordance with this section. The Consortium shall conduct the research program in coordination with the National Aeronautics and Space Administration and other relevant agencies.

(c) PERFORMANCE OBJECTIVES.—By January 1, 2015, the research program shall accomplish the following objectives:

(1) Certifiable aircraft technology that increases aircraft fuel efficiency by 25 percent relative to 1997 subsonic aircraft technology.

(2) Certifiable engine technology that reduces landing and takeoff cycle nitrogen oxide emissions by 50 percent, without increasing other gaseous or particle emissions, over the International Civil Aviation Organization standard adopted in 2004.

(3) Certifiable aircraft technology that reduces noise levels by 10 dB (30 dB cumulative) relative to 1997 subsonic jet aircraft technology.

(4) Determination of the feasibility of use of alternative fuels in aircraft systems, including successful demonstration and quantification of benefits.

(5) Determination of the extent to which new engine and aircraft technologies may be used to retrofit or re-engine aircraft so as to increase the level of penetration into the commercial fleet.

SEC. 603. PRODUCTION OF CLEAN COAL FUEL TECHNOLOGY FOR CIVILIAN AIRCRAFT.

(a) ESTABLISHMENT OF RESEARCH PROGRAM.—From amounts made available under section 48102(a) of title 49, United States Code, the Secretary of Transportation shall establish a research program related to developing jet fuel from clean coal through grants or other measures authorized under section 106(l)(6) of such title, including reimbursable agreements with other Federal agencies. The program shall include participation by educational and research institutions that have existing facilities and experience in the development and deployment of technology that processes coal to aviation fuel.

(b) DESIGNATION OF INSTITUTION AS A CENTER OF EXCELLENCE.—Within 6 months after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall designate an institution described in subsection (a) as a Center of Excellence for Coal-to-Jet-Fuel Research.

SEC. 604. ADVISORY COMMITTEE ON FUTURE OF AERONAUTICS.

(a) ESTABLISHMENT.—There is established an advisory committee to be know as the ''Advisory Committee on the Future of Aeronautics''.

(b) MEMBERSHIP.—The Advisory Committee shall consist of 7 members appointed by the President from a list of 15 candidates proposed by the Director of the National Academy of Sciences.

(c) CHAIRPERSON.—The Advisory Committee members shall elect 1 member to serve as chairperson of the Advisory Committee.

(d) FUNCTIONS.—The Advisory Committee shall examine the best governmental and organizational structures for the conduct of civil aeronautics research and development, including options and recommendations for consolidating such research to ensure continued United States leadership in civil aeronautics. The Committee shall consider transferring responsibility for civil aeronautics research and development from the National Aeronautics and Space Administration to other existing departments or agencies of the Federal government or to a non-governmental organization such as academic consortia or not-for-profit organizations. In developing its recommendations, the Advisory Committee shall consider, as appropriate, the aeronautics research policies developed pursuant to section 101(d) of Public Law 109–155 and the requirements and priorities for aeronautics research established by title IV of Public Law 109–155.

(e) REPORT.—Not later than 12 months after the date on which the full membership of the Advisory Committee is appointed, the Advisory Committee shall submit a report to the Senate Committee on Commerce, Science, and Transportation and the House Committees on Science and Technology and on Transportation and Infrastructure on its findings and recommendations. The report may recommend a rank ordered list of acceptable solutions.

(f) TERMINATION.—The Advisory Committee shall terminate 60 days after the date on which it submits the report to the Congress.

SEC. 605. RESEARCH PROGRAM TO IMPROVE AIRFIELD PAVEMENTS.

(a) CONTINUATION OF PROGRAM.—The Administrator of the Federal Aviation Administration shall continue the program to consider awards to nonprofit concrete and asphalt pavement research foundations to improve the design, construction, rehabilitation, and repair of airfield pavements to aid in the development of safer, more cost effective, and more durable airfield pavements.

(b) USE OF GRANTS OR COOPERATIVE AGREEMENTS.—The Administrator may use grants or cooperative agreements in carrying out this section.

SEC. 606. WAKE TURBULENCE, VOLCANIC ASH, AND WEATHER RESEARCH.

Within 60 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall—

(1) initiate evaluation of proposals that would increase capacity throughout the air transportation system by reducing existing spacing requirements between aircraft of all sizes, including research on the nature of wake vortices;

(2) begin implementation of a system to improve volcanic ash avoidance options for aircraft, including the development of a volcanic ash warning and notification system for aviation; and

(3) establish research projects on—

(A) ground de-icing/anti-icing, ice pellets, and freezing drizzle;

(B) oceanic weather, including convective weather;

(C) en route turbulence prediction and detection; and

(D) all hazards during oceanic operations, where commercial traffic is high and only rudimentary satellite sensing is available, to reduce the hazards presented to commercial aviation.

SEC. 607. INCORPORATION OF UNMANNED AERIAL SYSTEMS INTO FAA PLANS AND POLICIES.

(a) RESEARCH.—

(1) EQUIPMENT.—Section 44504 is amended—

(A) by inserting ''unmanned and manned'' in subsection (a) after ''improve'';

(B) by striking ''and'' after the semicolon in subsection (b)(6);

(C) by striking ''aircraft.'' in subsection (b)(7) and inserting ''aircraft; and''; and

(D) by adding at the end of subsection (b) the following:

''(8) in conjunction with other Federal agencies as appropriate, to develop technologies and methods to assess the risk of and prevent defects, failures, and malfunctions of products, parts, and processes, for use in all classes of unmanned aerial systems that could result in a catastrophic failure.''.

(2) HUMAN FACTORS; SIMULATIONS.—Section 44505(b) is amended—

(A) by striking ''and'' after the semicolon in paragraph (4);

(B) by striking ''programs.'' in paragraph (5)(C) and inserting ''programs; and''; and

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

''(6) to develop a better understanding of the relationship between human factors and unmanned aerial systems air safety; and

''(7) to develop dynamic simulation models of integrating all classes of unmanned aerial systems into the National Air Space.''.

(b) NATIONAL ACADEMY OF SCIENCES ASSESSMENT.—

(1) IN GENERAL.—Within 3 months after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall enter into an arrangement with the National Academy of Science for an assessment of unmanned aerial systems that shall include consideration of—

(A) human factors regarding unmanned aerial systems operation;

(B) ''detect, sense and avoid technologies'' with respect to both cooperative and non-cooperative aircraft;

(C) spectrum issues and bandwidth requirements;

(D) operation in suboptimal winds and adverse weather conditions;

(E) mechanisms for letter others know where the unmanned aerial system is flying;

(F) airworthiness and system redundancy;

(G) flight termination systems for safety and security;

(H) privacy issues;

(I) technologies for unmanned aerial systems flight control;

(J) technologies for unmanned aerial systems propulsion;

(K) unmanned aerial systems operator qualifications, medical standards, and training requirements;

(L) unmanned aerial systems maintenance requirements and training requirements; and

(M) any other unmanned aerial systems-related issue the Administrator believes should be addressed.

(2) REPORT.—Within 12 months after initiating the study, the National Academy shall submit its report to the Administrator, the Senate Committee on Commerce, Science, and Transportation, and the House of Representatives Committee on Transportation

and Infrastructure containing its findings and recommendations.

(c) PILOT PROJECTS.—

(1) IN GENERAL.—The Administrator of the Federal Aviation Administration shall establish 3 2-year cost-shared pilot projects in sparsely populated, low-density Class G air traffic airspace to conduct experiments and collect data in order to accelerate the safe integration of unmanned aerial systems into the National Airspace System as follows:

(A) 1 project shall address operational issues required for integration of Category 1 unmanned aerial systems.

(B) 1 project shall address operational issues required for integration of Category 2 unmanned aerial systems.

(C) 1 project shall address operational issues required for integration of Category 3 unmanned aerial systems.

(2) USE OF CONSORTIA.—In conducting the pilot projects, the Administrator shall encourage the formation of consortia from the public and private sectors, educational institutions, and non-profit organization.

(3) REPORT.—Within 60 days after completing the pilot projects, the Administrator shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure setting forth the Administrator's findings and conclusions concerning the projects.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Administrator for fiscal years 2008 and 2009 such sums as may be necessary to conduct the pilot projects.

(d) FAA TASK LIST.—

(1) STREAMLINE UNMANNED AERIAL SYSTEMS CERTIFICATION PROCESS.—Within 30 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall develop and transmit an unmanned aerial systems ''roadmap'' to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.

(2) UPDATE POLICY STATEMENT.—Within 45 days after the date of enactment of this Act, the Administrator shall issue an updated policy statement on unmanned aerial systems under Docket No. FAA–2006–25714; Notice No. 07–01.

(3) ISSUE NPRM FOR CERTIFICATES.—Within 90 days after the date of enactment of this Act, the Administrator shall publish a notice of proposed rulemaking on issuing airworthiness certificates and experimental certificates to unmanned aerial systems operators for compensation or hire. The Administrator shall promulgate a final rule 90 days after the date on which the notice is published.

(4) NOTICE TO CONGRESS ON BASING UNMANNED AERIAL SYSTEMS REGULATIONS ON ULTRALIGHT REGULATIONS.—Within 90 days after the date of enactment of this Act, the Administrator shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on the potential of using part 103 of title 14, Code of Federal Regulations (relating to Ultralight Aircraft), as the regulatory basis for regulations on lightweight unmanned aerial systems.

(e) CONSOLIDATED RULEMAKING DEADLINE.—No later than April 30, 2010, the Federal Aviation Administration and other affected Federal agencies shall have initiated all of the rule makings regarding vehicle design requirements, operational requirements, airworthiness requirements, and flight crew certifications requirements necessary for integrating all categories of unmanned aerial systems into the national air space, taking into consideration the recommendations the Administrator receives from the National Academy of Sciences report under subsection (b), the unmanned aerial systems ''roadmap'' developed by the Administrator under subsection (d)(1), the recommendations of the Radio Technical Committee Aeronautics Special Committee 203 (RTCA–SC 203), and the data generated from the 3 pilot projects conducted under subsection (c).

SEC. 608. REAUTHORIZATION OF CENTER OF EXCELLENCE IN APPLIED RESEARCH AND TRAINING IN THE USE OF ADVANCED MATERIALS IN TRANSPORT AIRCRAFT.

Section 708(b) of the Vision 100—Century of Aviation Reauthorization Act (49 U.S.C. 44504 note) is amended by striking ''$500,000 for fiscal year 2004'' and inserting ''$1,000,000 for each of fiscal years 2008 through 2012''.

SEC. 609. PILOT PROGRAM FOR ZERO EMISSION AIRPORT VEHICLES.

(a) IN GENERAL.—Subchapter I of chapter 471 is amended by inserting after section 47136 the following:

''§ 47136A. Zero emission airport vehicles and infrastructure

''(a) IN GENERAL.—The Secretary of Transportation shall establish a pilot program under which the sponsor of a public-use airport may use funds made available under section 47117 or section 48103 for use at such airports or passenger facility revenue (as defined in section 40117(a)(6)) to carry out activities associated with the acquisition and operation of zero emission vehicles (as defined in section 88.120–94 of title 40, Code of Federal Regulations), including the construction or modification of infrastructure to facilitate the delivery of fuel and services necessary for the use of such vehicles. Any use of funds authorized by the preceding sentence shall be considered to be an authorized use of funds under section 47117 or section 48103, or an authorized use of passenger facility revenue (as defined in section 40117(a)(6)), as the case may be.

''(b) LOCATION IN AIR QUALITY NONATTAINMENT AREAS.—

''(1) IN GENERAL.—A public-use airport shall be eligible for participation in the pilot program only if the airport is located in an air quality nonattainment area (as defined in section 171(2) of the Clean Air Act (42 U.S.C. 7501(2))).

''(2) SHORTAGE OF CANDIDATES.—If the Secretary receives an insufficient number of applications from public-use airports located in such areas, then the Secretary may consider applications from public-use airports that are not located in such areas.

''(c) SELECTION CRITERIA.—In selecting from among applicants for participation in the program, the Secretary shall give priority consideration to applicants that will achieve the greatest air quality benefits measured by the amount of emissions reduced per dollar of funds expended under the program.

''(d) FEDERAL SHARE.—Notwithstanding any other provision of this subchapter, the Federal share of the costs of a project carried out under the program shall be 50 percent.

''(e) TECHNICAL ASSISTANCE.—

''(1) IN GENERAL.—The sponsor of a public-use airport carrying out activities funded under the program may not use more than 10 percent of the amounts made available under the program in any fiscal year for technical assistance in carrying out such activities.

''(2) ELIGIBLE CONSORTIUM.—To the maximum extent practicable, participants in the program shall use an eligible consortium (as defined in section 5506 of this title) in the region of the airport to receive technical assistance described in paragraph (1).

''(f) MATERIALS IDENTIFYING BEST PRACTICES.—The Secretary may develop and make available materials identifying best practices for carrying out activities funded under the program based on projects carried out under section 47136 and other sources.''.

(b) REPORT ON EFFECTIVENESS OF PROGRAM.—Not later than 18 months after the date of enactment of this section, the Secretary of Transportation shall transmit a report to the Senate Committee on Commerce, Science, and Transportation the House of Representatives Committee on Transportation and Infrastructure containing—

(1) an evaluation of the effectiveness of the pilot program;

(2) an identification of all public-use airports that expressed an interest in participating in the program; and

(3) a description of the mechanisms used by the Secretary to ensure that the information and know-how gained by participants in the program is transferred among the participants and to other interested parties, including other public-use airports.

(c) CONFORMING AMENDMENT.—The chapter analysis for chapter 471 is amended by inserting after the item relating to section 47136 the following:

''47136A. Zero emission airport vehicles and infrastructure''.

SEC. 610. REDUCTION OF EMISSIONS FROM AIRPORT POWER SOURCES.

(a) IN GENERAL.—Subchapter I of chapter 471 is amended by inserting after section 47140 the following:

''§ 47140A. Reduction of emissions from airport power sources

''(a) IN GENERAL.—The Secretary of Transportation shall establish a program under which the sponsor of each airport eligible to receive grants under section 48103 is encouraged to assess the airport's energy requirements, including heating and cooling, base load, back-up power, and power for on-road airport vehicles and ground support equipment, in order to identify opportunities to reduce harmful emissions and increase energy efficiency at the airport.

''(b) GRANTS.—The Secretary may make grants under section 48103 to assist airport sponsors that have completed the assessment described in subsection (a) to acquire or construct equipment, including hydrogen equipment and related infrastructure, that will reduce harmful emissions and increase energy efficiency at the airport. To be eligible for such a grant, the sponsor of such an airport shall submit an application to the Secretary, at such time, in such manner, and containing such information as the Secretary may require.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 471 is amended by inserting after the item relating to section 47140 the following:

''47140A. Reduction of emissions from airport power sources''.

TITLE VII—MISCELLANEOUS

SEC. 701. GENERAL AUTHORITY.

(a) THIRD PARTY LIABILITY.—Section 44303(b) is amended by striking ''December 31, 2006,'' and inserting ''December 31, 2012,''.

(b) EXTENSION OF PROGRAM AUTHORITY.—Section 44310 is amended by striking ''March 30, 2008.'' and inserting ''October 1, 2017.''.

SEC. 702. HUMAN INTERVENTION MANAGEMENT STUDY.

Within 6 months after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall develop a Human Intervention Management Study program for cabin crews employed by commercial air carriers in the United States.

SEC. 703. AIRPORT PROGRAM MODIFICATIONS.

The Administrator of the Federal Aviation Administration—

(1) shall establish a formal, structured certification training program for the airport concessions disadvantaged business enterprise program; and

(2) may appoint 3 additional staff to implement the programs of the airport concessions disadvantaged business enterprise initiative.

SEC. 704. MISCELLANEOUS PROGRAM EXTENSIONS.

(a) EXTENSION OF METROPOLITAN WASHINGTON AIRPORTS AUTHORITY.—Section 49108 is amended by striking ''2008,'' and inserting ''2011,''.

(b) MARSHALL ISLANDS, FEDERATED STATES OF MICRONESIA, AND PALAU.—Section 47115(j) is amended by striking ''2007,'' and inserting ''2011,''.

(c) MIDWAY ISLAND AIRPORT.—Section 186(d) of the Vision 100—Century of Aviation Reauthorization Act (17 Stat. 2518) is amended by striking ''October 1, 2007,'' and inserting ''October 1, 2011,''.

SEC. 705. EXTENSION OF COMPETITIVE ACCESS REPORTS.

Section 47107(s) is amended by striking paragraph (3).

SEC. 706. UPDATE ON OVERFLIGHTS.

(a) IN GENERAL.—Section 45301(b) is amended to read as follows:

''(b) LIMITATIONS.—

''(1) IN GENERAL.—In establishing fees under subsection (a), the Administrator shall ensure that the fees required by subsection (a) are reasonably related to the Administration's costs, as determined by the Administrator, of providing the services rendered. Services for which costs may be recovered include the costs of air traffic control, navigation, weather services, training, and emergency services which are available to facilitate safe transportation over the United States, and other services provided by the Administrator or by programs financed by the Administrator to flights that neither take off nor land in the United States. The determination of such costs by the Administrator is not subject to judicial review.

''(2) ADJUSTMENT OF FEES.—The Administrator shall adjust the overflight fees established by subsection (a)(1) by expedited rulemaking and begin collections under the adjusted fees by October 1, 2009. In developing the adjusted overflight fees, the Administrator shall seek and consider the recommendations, if any, offered by the Aviation Rulemaking Committee for Overflight Fees that are intended to ensure that overflight fees are reasonably related to the Administrator's costs of providing air traffic control and related services to overflights. In addition, the Administrator may periodically modify the fees established under this section either on the Administrator's own initiative or on a recommendation from the Air Traffic Control Modernization Board.

''(3) COST DATA.—The adjustment of overflight fees under paragraph (2) shall be based on the costs to the Administration of providing the air traffic control and related activities, services, facilities, and equipment using the available data derived from the Administration's cost accounting system and cost allocation system to users, as well as budget and operational data.

''(4) AIRCRAFT ALTITUDE.—Nothing in this section shall require the Administrator to take into account aircraft altitude in establishing any fee for aircraft operations in en route or oceanic airspace.

''(5) COSTS DEFINED.—In this subsection, the term 'costs' means those costs associated with the operation, maintenance, debt service, and overhead expenses of the services provided and the facilities and equipment used in such services, including the projected costs for the period during which the services will be provided.

''(6) PUBLICATION; COMMENT.—The Administrator shall publish in the Federal Register any fee schedule under this section, including any adjusted overflight fee schedule, and the associated collection process as a proposed rule, pursuant to which public comment will be sought and a final rule issued.''.

(b) ADMINISTRATIVE PROVISION.—Section 45303(c)(2) is amended to read as follows:

''(2) shall be available to the Administrator for expenditure for purposes authorized by Congress for the Federal Aviation Administration, however, fees established by section 45301(a)(1) of title 49 of the United States Code shall be available only to pay the cost of activities and services for which the fee is imposed, including the costs to determine, assess, review, and collect the fee; and''.

SEC. 707. TECHNICAL CORRECTIONS.

Section 40122(g), as amended by section 307 of this Act, is further amended—

(1) by striking ''2302(b), relating to whistleblower protection,'' in paragraph (2)(A) and inserting ''2302,'';

(2) by striking ''and'' after the semicolon in paragraph (2)(H).

(3) by striking ''Plan.'' in paragraph (2)(I)(iii) and inserting ''Plan; and'';

(4) by adding at the end of paragraph (2) the following:

''(J) sections 6381 through 6387, relating to Family and Medical Leave.''; and

(5) by adding at the end of paragraph (3) ''Notwithstanding any other provision of law, retroactive to April 1, 1996, the Board shall have the same remedial authority over such employee appeals that it had as of March 31, 1996.''.

SEC. 708. FAA TECHNICAL TRAINING AND STAFFING.

(a) STUDY.—

(1) IN GENERAL.—The Comptroller General shall conduct a study of the training of airway transportation systems specialists of the Federal Aviation Administration that includes—

(A) an analysis of the type of training provided to such specialists;

(B) an analysis of the type of training that such specialists need to be proficient in the maintenance of the latest technologies;

(C) actions that the Administration has undertaken to ensure that such specialists receive up-to-date training on such technologies;

(D) the amount and cost of training provided by vendors for such specialists;

(E) the amount and cost of training provided by the Administration after developing in-house training courses for such specialists;

(F) the amount and cost of travel required of such specialists in receiving training; and

(G) a recommendation regarding the most cost-effective approach to providing such training.

(2) REPORT.—Within 1 year after the date of enactment of this Act, the Comptroller General shall transmit a report on the study containing the Comptroller General's findings and recommendations to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.

(b) STUDY BY NATIONAL ACADEMY OF SCIENCES.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall contract with the National Academy of Sciences to conduct a study of the assumptions and methods used by the Federal Aviation Administration to estimate staffing needs for Federal Aviation Administration air traffic controllers, system specialists, and engineers to ensure proper maintenance, certification, and operation of the National Airspace System. The National Academy of Sciences shall consult with the Exclusive Bargaining Representative certified under section 7111 of title 5, United States Code, and the Administration (including the Civil Aeronautical Medical Institute) and examine data entailing human factors, traffic activity, and the technology at each facility.

(2) CONTENTS.—The study shall include—

(A) recommendations for objective staffing standards that maintain the safety of the National Airspace System; and

(B) the approximate length of time for developing such standards.

(3) REPORT.—Not later than 24 months after executing a contract under subsection (a), the National Academy of Sciences shall transmit a report containing its findings and recommendations to the Congress.

(c) SAFETY STAFFING MODEL.—Within 18 months after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall develop a staffing model for aviation safety inspectors. In developing the model, the Administrator shall consult with representatives of the aviation safety inspectors and other interested parties.

SEC. 709. COMMERCIAL AIR TOUR OPERATORS IN NATIONAL PARKS.

(a) SECRETARY OF THE INTERIOR AND OVERFLIGHTS OF NATIONAL PARKS.—

(1) Section 40128 is amended—

(A) by striking paragraph (8) of subsection (f);

(B) by striking ''Director'' each place it appears and inserting ''Secretary of the Interior'';

(C) by striking ''National Park Service'' in subsection (a)(2)(B)(vi) and inserting ''Department of the Interior''; and

(D) by striking ''National Park Service'' in subsection (b)(4)(C) and inserting ''Department of the Interior''.

(2) The National Parks Air Tour Management Act of 2000 (49 U.S.C. 40128 note) is amended—

(A) by striking ''Director'' in section 804(b) and inserting ''Secretary of the Interior'';

(B) in section 805—

(i) by striking ''Director of the National Park Service'' in subsection (a) and inserting ''Secretary of the Interior'';

(ii) by striking ''Director'' each place it appears and inserting ''Secretary of the Interior'';

(iii) by striking ''National Park Service'' each place it appears in subsection (b) and inserting ''Department of the Interior'';

(iv) by striking ''National Park Service'' in subsection (d)(2) and inserting ''Department of the Interior''; and

(C) in section 807—

(i) by striking ''National Park Service'' in subsection (a)(1) and inserting ''Department of the Interior''; and

(ii) by striking ''Director of the National Park Service'' in subsection (b) and inserting ''Secretary of the Interior''.

(b) ALLOWING OVERFLIGHTS IN CASE OF AGREEMENT.—Paragraph (1) of subsection (a) of section 40128 is amended—

(1) by striking ''and'' in subparagraph (B);

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

(3) by adding at the end the following:

''(D) in accordance with a voluntary agreement between the commercial air tour operator and appropriate representatives of the national park or tribal lands, as the case may be.''.

(c) ADDITIONAL EXEMPTIONS TO AIR TOUR MANAGEMENT PLANS.—Subsection (a) of section 40128 is further amended by adding at the end the following:

''(5) WAIVER FOR NATIONAL PARKS WITH 100 OR FEWER COMMERCIAL AIR TOUR OPERATIONS PER YEAR.—

''(A) IN GENERAL.—Subject to subparagraph (B), and without further administrative or environmental process, the Secretary may waive the requirements of this section with respect to a national park over which 100 or fewer commercial air tour operations are conducted in a year.

''(B) EXCEPTION TO WAIVER IF NECESSARY TO PROTECT PARK RESOURCES.—

''(i) IN GENERAL.—The Secretary may not waive the requirements of this section if the Secretary determines that an air tour management plan is necessary to protect park resources and values.

''(ii) NOTICE AND PUBLICATION.—The Secretary shall inform the Administrator in writing of the determinations under clause (i), and the Secretary and the Administrator shall publish in the Federal Register a list of the national parks that fall under this subparagraph.

''(6) WAIVER WITH RESPECT TO VOLUNTARY AGREEMENTS.—

''(A) IN GENERAL.—The Secretary may waive the requirements of this section if a commercial air tour operator enters into a voluntary agreement with a national park to manage commercial air tour operations over the national park.

''(B) PURPOSE OF VOLUNTARY AGREEMENTS.—A voluntary agreement described in subparagraph (A) shall seek to protect park resources and visitor experiences without compromising aviation safety, and may—

''(i) include provisions described in subparagraph (B) through (E) of subsection (b)(3);

''(ii) include provisions to ensure the stability of, and compliance with, the provisions of the voluntary agreement; and

''(iii) set forth a fee schedule for operating over the national park.

''(C) CONSULTATION.—Before entering into a voluntary agreement described in subparagraph (A), a national park shall consult with any Indian tribe over whose tribal lands a commercial air tour operator may conduct commercial air tour operations pursuant to the voluntary agreement.

''(D) REVIEW AND APPROVAL BY THE SECRETARY AND THE ADMINISTRATOR.—

''(i) REVIEW.—Before executing a voluntary agreement described in subparagraph (A), a national park shall submit the voluntary agreement to the Secretary and the Administrator for review and approval.

''(ii) APPROVAL.—Not later than 60 days after receiving the agreement from the national park, the Secretary and the Administrator shall inform the national park of the determination of the Secretary and the Administrator regarding the approval of the agreement.

''(E) RESCISSION OF VOLUNTARY AGREEMENT.—

''(i) BY THE SECRETARY.—The Secretary may rescind a voluntary agreement described in subparagraph (A) if the Secretary determines that the agreement does not adequately protect park resources or visitor experiences.

''(ii) BY THE ADMINISTRATOR.—The Administrator may rescind a voluntary agreement described in subparagraph (A) if the Administrator determines that the agreement adversely affects aviation safety or the management of the national airspace system.

''(iii) EFFECT OF RESCISSION.—If the Secretary or the Administrator rescinds a voluntary agreement described in subparagraph (A), the commercial air tour operator that was a party to the agreement shall operate under the requirements for interim operating authority of subsection (c) until an air tour management plan for the national park becomes effective.''.

(d) MODIFICATION OF INTERIM OPERATING AUTHORITY.—Subsection (c)(2)(I) of section 40128 is amended to read as follows:

''(I) may allow for modifications of the interim operating authority without further environmental process, if—

''(i) adequate information on the existing and proposed operations of the commercial air tour operator is provided to the Administrator and the Secretary by the operator seeking operating authority;

''(ii) the Administrator determines that the modifications would not adversely affect aviation safety or the management of the national airspace system; and

''(iii) the Secretary agrees that the modifications would not adversely affect park resources and visitor experiences.''.

(e) REPORTING REQUIREMENTS FOR COMMERCIAL AIR TOUR OPERATORS.—

(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, and annually thereafter, each commercial air tour conducting commercial air tour operations over a national park shall report to the Administrator of the Federal Aviation Administration and the Secretary of the Interior on—

(A) the number of commercial air tour operations conducted by such operator over the national park each day;

(B) any relevant characteristics of commercial air tour operations, including the routes, altitudes, duration, and time of day of flights; and

(C) such other information as the Administrator and the Secretary may determine necessary to administer the provisions of the National Parks Air Tour Management Act of 2000 (49 U.S.C. 40128 note).

(2) FORMAT.—The report required by paragraph (1) shall be submitted in such form as the Administrator and the Secretary determine to be appropriate.

(3) EFFECT OF FAILURE TO REPORT.—The Administrator shall rescind the operating authority of a commercial air tour operator that fails to file a report not later than 180 days after the date for the submittal of the report described in paragraph (1).

(4) AUDIT OF REPORTS.—Not later than 2 years after the date of the enactment of this Act, and at such times thereafter as the Inspector General of the Department of Transportation determines necessary, the Inspector General shall audit the reports required by paragraph (1).

(f) COLLECTION OF FEES FROM AIR TOUR OPERATIONS.—

(1) IN GENERAL.—The Secretary of the Interior may assess a fee in an amount determined by the Secretary under paragraph (2) on a commercial air tour operator conducting commercial air tour operations over a national park.

(2) AMOUNT OF FEE.—In determining the amount of the fee assessed under paragraph (1), the Secretary shall consider the cost of developing air tour management plans for each national park.

(3) EFFECT OF FAILURE TO PAY FEE.—The Administrator of the Federal Aviation Administration shall revoke the operating authority of a commercial air tour operator conducting commercial air tour operations over any national park, including the Grand Canyon National Park, that has not paid the fee assessed by the Secretary under paragraph (1) by the date that is 180 days after the date on which the Secretary determines the fee shall be paid.

(g) AUTHORIZATION OF APPROPRIATIONS FOR AIR TOUR MANAGEMENT PLANS.—

(1) IN GENERAL.—There are authorized to be appropriated $10,000,000 to the Secretary of the Interior for the development of air tour management plans under section 40128(b) of title 49, United States Code.

(2) USE OF FUNDS.—The funds authorized to be appropriated by paragraph (1) shall be used to develop air tour management plans for the national parks the Secretary determines would most benefit from such a plan.

(h) GUIDANCE TO DISTRICT OFFICES ON COMMERCIAL AIR TOUR OPERATORS.—The Administrator of the Federal Aviation Administration shall provide to the Administration's district offices clear guidance on the ability of commercial air tour operators to obtain—

(1) increased safety certifications;

(2) exemptions from regulations requiring safety certifications; and

(3) other information regarding compliance with the requirements of this Act and other Federal and State laws and regulations.

(i) OPERATING AUTHORITY OF COMMERCIAL AIR TOUR OPERATORS.—

(1) TRANSFER OF OPERATING AUTHORITY.—

(A) IN GENERAL.—Subject to subparagraph (B), a commercial air tour operator that obtains operating authority from the Administrator under section 40128 of title 49, United States Code, to conduct commercial air tour operations may transfer such authority to another commercial air tour operator at any time.

(B) NOTICE.—Not later than 30 days before the date on which a commercial air tour operator transfers operating authority under subparagraph (A), the operator shall notify the Administrator and the Secretary of the intent of the operator to transfer such authority.

(C) REGULATIONS.—Not later than 180 days after the date of the enactment of this Act, the Administrator shall prescribe regulations to allow transfers of operating authority described in subparagraph (A).

(2) TIME FOR DETERMINATION REGARDING OPERATING AUTHORITY.—Notwithstanding any other provision of law, the Administrator shall determine whether to grant a commercial air tour operator operating authority under section 40128 of title 49, United States Code, not later than 180 days after the earlier of the date on which—

(A) the operator submits an application; or

(B) an air tour management plan is completed for the national park over which the operator seeks to conduct commercial air tour operations.

(3) INCREASE IN INTERIM OPERATING AUTHORITY.—The Administrator and the Secretary may increase the interim operating authority while an air tour management plan is being developed for a park if—

(A) the Secretary determines that such an increase does not adversely impact park resources or visitor experiences; and

(B) the Administrator determines that granting interim operating authority does not adversely affect aviation safety or the management of the national airspace system.

(4) ENFORCEMENT OF OPERATING AUTHORITY.—The Administrator is authorized and directed to enforce the requirements of this Act and any agency rules or regulations related to operating authority.

SEC. 710. PHASEOUT OF STAGE 1 AND 2 AIRCRAFT.

(a) IN GENERAL.—Subchapter II of chapter 475 is amended by adding at the end the following:

''§ 47534. Prohibition on operating certain aircraft weighing 75,000 pounds or less not complying with Stage 3 noise levels

''(a) PROHIBITION.—Except as provided in subsection (b), (c), or (d), a person may not operate a civil subsonic turbojet with a maximum weight of 75,000 pounds or less to or from an airport in the United States unless the Secretary of Transportation finds that

the aircraft complies with stage 3 noise levels.

''(b) EXCEPTION.—Subsection (a) shall not apply to aircraft operated only outside the 48 contiguous States.

''(c) OPT-OUT.—Subsection (a) shall not apply at an airport where the airport operator has notified the Secretary that it wants to continue to permit the operation of civil subsonic turbojets with a maximum weight of 75,000 pounds or less that do not comply with stage 3 noise levels. The Secretary shall post the notices received under this subsection on its website or in another place easily accessible to the public.

''(d) LIMITATION.—The Secretary shall permit a person to operate Stage 1 and Stage 2 aircraft with a maximum weight of 75,000 pounds or less to or from an airport in the contiguous 48 States in order—

''(1) to sell, lease, or use the aircraft outside the 48 contiguous States;

''(2) to scrap the aircraft;

''(3) to obtain modifications to the aircraft to meet stage 3 noise levels;

''(4) to perform scheduled heavy maintenance or significant modifications on the aircraft at a maintenance facility located in the contiguous 48 states;

''(5) to deliver the aircraft to an operator leasing the aircraft from the owner or return the aircraft to the lessor;

''(6) to prepare or park or store the aircraft in anticipation of any of the activities described in paragraphs (1) through (5); or

''(7) to divert the aircraft to an alternative airport in the 48 contiguous States on account of weather, mechanical, fuel air traffic control or other safety reasons while conducting a flight in order to perform any of the activities described in paragraphs (1) through (6).

''(e) STATUTORY CONSTRUCTION.—Nothing in the section may be construed as interfering with, nullifying, or otherwise affecting determinations made by the Federal Aviation Administration, or to be made by the Administration, with respect to applications under part 161 of title 14, Code of Federal Regulations, that were pending on the date of enactment of the Aircraft Noise Reduction Act of 2006.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 47531 is amended by striking ''47529, or 47530'' and inserting ''47529, 47530, or 47534''.

(2) Section 47532 is amended by striking ''47528-47531'' and inserting ''47528 through 47531 or 47534''.

(3) The chapter analysis for chapter 475 is amended by inserting after the item relating to section 47533 the following:

''47534. Prohibition on operating certain aircraft weighing 75,000 pounds or less not complying with stage 3 noise levels''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect 5 years after the date of enactment of this Act.

SEC. 711. WEIGHT RESTRICTIONS AT TETERBORO AIRPORT.

On and after the date of the enactment of this Act, the Administrator of the Federal Aviation Administration is prohibited from taking actions designed to challenge or influence weight restrictions or prior permission rules at Teterboro Airport in Teterboro, New Jersey.

SEC. 712. PILOT PROGRAM FOR REDEVELOPMENT OF AIRPORT PROPERTIES.

(a) IN GENERAL.—Within 1 year after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall establish a pilot program at up to 4 public-use airports for airport sponsors that have submitted a noise compatibility program to the Federal Aviation Administration, from funds apportioned under section 47504 or section 40117 of title 49, United States Code, in partnership with affected neighboring local jurisdictions, to support joint planning, engineering design, and environmental permitting for the assembly and redevelopment of property purchased with noise mitigation funds or passenger facility charge funds, to encourage airport-compatible land uses and generate economic benefits to the local airport authority and adjacent community.

(b) NOISE COMPATABILITY MEASURES.—Section 47504(a)(2) is amended—

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

(2) by striking ''operations.'' in subparagraph (E) and inserting ''operations;''; and

(3) by adding at the end the following:

''(F) joint comprehensive land use planning including master plans, traffic studies, environmental evaluation and economic and feasibility studies, with neighboring local jurisdictions undertaking community redevelopment in the area where the land or other property interests acquired by the airport operator pursuant to this subsection is located, to encourage and enhance redevelopment opportunities that reflect zoning and uses that will prevent the introduction of additional incompatible uses and enhance redevelopment potential; and

''(G) utility upgrades and other site preparation efforts.''.

(c) GRANT REQUIREMENTS.—The Administrator may not make a grant under subsection (a) unless the grant is made—

(1) to enable the airport operator and local jurisdictions undertaking the community redevelopment effort to expedite redevelopment efforts;

(2) subject to a requirement that the local jurisdiction governing the property interests in question has adopted zoning regulations that permit airport compatible redevelopment; and

(3) subject to a requirement that, in determining the part of the proceeds from disposing of the land that is subject to repayment or reinvestment under section 47107(c)(2)(A) of title 49, United States Code, the total amount of the grant issued under this section shall be added to the amount of any grants issued for acquisition of land.

(d) DEMONSTRATION GRANTS.—

(1) IN GENERAL.—The Administrator shall provide grants under subsection (a) for demonstration projects distributed geographically and targeted to airports that demonstrate—

(A) a readiness to implement cooperative land use management and redevelopment plans with the adjacent community; and

(B) the probability of clear economic benefit to the local community and financial return to the airport through the implementation of the redevelopment plan.

(2) FEDERAL SHARE.—

(A) Notwithstanding any other provision of law, the Federal share of the allowable costs of a project carried out under the pilot program shall be 80 percent.

(B) In determining the allowable costs, the Administrator shall deduct from the total costs of the activities described in subsection (a) that portion of the costs which is equal to that portion of the total property to be redeveloped under this section that is not owned or to be acquired by the airport operator pursuant to the noise compatibility program or that is not owned by the affected neighboring local jurisdictions or other public entities.

(3) MAXIMUM AMOUNT.—Not more than $5,000,000 in funds made available under section 47117(e) of title 49, United States Code, may be expended under the pilot program at any single public-use airport.

(4) EXCEPTION.—Amounts paid to the Administrator under subsection (c)(3)—

(A) shall be in addition to amounts authorized under section 48203 of title 49, United States Code;

(B) shall not be subject to any limitation on grant obligations for any fiscal year; and

(C) shall remain available until expended.

(e) USE OF PASSENGER REVENUE.—An airport sponsor that owns or operates an airport participating in the pilot program may use passenger facility revenue collected under section 40117 of title 49, United States Code, to pay any project cost described in subsection (a) that is not financed by a grant under the program.

(f) SUNSET.—This section, other than the amendments made by subsections (b), shall not be in effect after September 30, 2011.

(g) REPORT TO CONGRESS.—The Administrator shall report to Congress within 18 months after making the first grant under this section on the effectiveness of this program on returning Part 150 lands to productive use.

SEC. 713. AIR CARRIAGE OF INTERNATIONAL MAIL.

(a) CONTRACTING AUTHORITY.—Section 5402 of title 39, United States Code, is amended by striking subsections (b) and (c) and inserting the following:

''(b) INTERNATIONAL MAIL.—

''(1) IN GENERAL.—

''(A) Except as otherwise provided in this subsection, the Postal Service may contract for the transportation of mail by aircraft between any of the points in foreign air transportation only with certificated air carriers. A contract may be awarded to a certificated air carrier to transport mail by air between any of the points in foreign air transportation that the Secretary of Transportation has authorized the carrier to serve either directly or through a code-share relationship with one or more foreign air carriers.

''(B) If the Postal Service has sought offers or proposals from certificated air carriers to transport mail in foreign air transportation between points, or pairs of points within a geographic region or regions, and has not received offers or proposals that meet Postal Service requirements at a fair and reasonable price from at least 2 such carriers, the Postal Service may seek offers or proposals from foreign air carriers. Where service in foreign air transportation meeting the Postal Service's requirements is unavailable at a fair and reasonable price from at least 2 certificated air carriers, either directly or through a code-share relationship with one or more foreign air carriers, the Postal Service may contract with foreign air carriers to provide the service sought if, when the Postal Service seeks offers or proposals from foreign air carriers, it also seeks an offer or proposal to provide that service from any certificated air carrier providing service between those points, or pairs of points within a geographic region or regions, on the same terms and conditions that are being sought from foreign air carriers.

''(C) For purposes of this subsection, the Postal Service shall use a methodology for determining fair and reasonable prices for the Postal Service designated region or regions developed in consultation with, and with the concurrence of, certificated air carriers representing at least 51 percent of available ton miles in the markets of interest.

''(D) For purposes of this subsection, ceiling prices determined pursuant to the methodology used under subparagraph (C) shall be presumed to be fair and reasonable if they do not exceed the ceiling prices derived from—

''(i) a weighted average based on market rate data furnished by the International Air

Transport Association or a subsidiary unit thereof; or

''(ii) if such data are not available from those sources, such other neutral, regularly updated set of weighted average market rates as the Postal Service, with the concurrence of certificated air carriers representing at least 51 percent of available ton miles in the markets of interest, may designate.

''(E) If, for purposes of subparagraph (D)(ii), concurrence cannot be attained, then the most recently available market rate data described in this subparagraph shall continue to apply for the relevant market or markets.

''(2) CONTRACT PROCESS.—The Postal Service shall contract for foreign air transportation as set forth in paragraph (1) through an open procurement process that will provide—

''(A) potential offerors with timely notice of business opportunities in sufficient detail to allow them to make a proposal;

''(B) requirements, proposed terms and conditions, and evaluation criteria to potential offerors; and

''(C) an opportunity for unsuccessful offerors to receive prompt feedback upon request.

''(3) EMERGENCY OR UNANTICIPATED CONDITIONS; INADEQUATE LIFT SPACE.—The Postal Service may enter into contracts to transport mail by air in foreign air transportation with a certificated air carrier or a foreign air carrier without complying with the requirements of paragraphs (b)(1) and (2) if—

''(A) emergency or unanticipated conditions exist that make it impractical for the Postal Service to comply with such requirements; or

''(B) its demand for lift exceeds the space available to it under existing contracts and—

''(i) there is insufficient time available to seek additional lift using procedures that comply with those requirements without compromising the Postal Service's service commitments to its own customers; and

''(ii) the Postal Service first offers any certificated air carrier holding a contract to carry mail between the relevant points the opportunity to carry such excess volumes under the terms of its existing contract.

''(c) GOOD FAITH EFFORT REQUIRED.—The Postal Service and potential offerors shall put a good-faith effort into resolving disputes concerning the award of contracts made under subsection (b).''.

(b) CONFORMING AMENDMENTS TO TITLE 49.—

(1) Section 41901(a) is amended by striking ''39.'' and inserting ''39, and in foreign air transportation under section 5402(b) and (c) of title 39.''.

(2) Section 41901(b)(1) is amended by striking ''in foreign air transportation or''.

(3) Section 41902 is amended—

(A) by striking ''in foreign air transportation or'' in subsection (a);

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

''(b) STATEMENTS ON PLACES AND SCHEDULES.—Every air carrier shall file with the United States Postal Service a statement showing—

''(1) the places between which the carrier is authorized to transport mail in Alaska;

''(2) every schedule of aircraft regularly operated by the carrier between places described in paragraph (1) and every change in each schedule; and

''(3) for each schedule, the places served by the carrier and the time of arrival at, and departure from, each such place.'';

(C) by striking ''subsection (b)(3)'' each place it appears in subsections (c)(1) and (d) and inserting ''subsection (b)(2)''; and

(D) by striking subsections (e) and (f).

(4) Section 41903 is amended by striking ''in foreign air transportation or'' each place it appears.

(5) Section 41904 is amended—

(A) by striking ''**to or in foreign countries**'' in the section heading;

(B) by striking ''to or in a foreign country'' and inserting ''between two points outside the United States''; and

(C) by inserrting after ''transportation.'' the following: ''Nothing in this section shall affect the authority of the Postal Service to make arrangements with noncitizens for the carriage of mail in foreign air transportation under subsections 5402(b) and (c) of title 39.''.

(6) Section 41910 is amended by striking the first sentence and inserting ''The United States Postal Service may weigh mail transported by aircraft between places in Alaska and make statistical and –administrative computations necessary in the interest of mail service.''.

(7) Chapter 419 is amended—

(A) by striking sections 41905, 41907, 41908, and 41911; and

(B) redesignating sections 41906, 41909, 41910, and 49112 as sections 41905, 41906, 41907, and 41908, respectively.

(8) The chapter analysis for chapter 419 is amended by redesignating the items relating to sections 41906, 41909, 41910, and 49112 as relating to sections 41905, 41906, 41907, and 41908, respectively.

(9) Section 101(f) of title 39, United States Code, is amended by striking ''mail and shall make a fair and equitable distribution of mail business to carriers providing similar modes of transportation services to the Postal Service.'' and inserting ''mail.''.

(9) Subsections (b) and (c) of section 3401 of title 39, United States Code, are amended—

(A) by striking ''at rates fixed and determined by the Secretary of Transportation in accordance with section 41901 of title 49'' and inserting ''or, for carriage of mail in foreign air transportation, other air carriers, air taxi operators or foreign air carriers as permitted by section 5402 of this title'';

(B) by striking ''at rates not to exceed those so fixed and determined for scheduled United States air carriers'';

(C) by striking ''scheduled'' each place it appears and inserting ''certificated''; and

(D) by striking the last sentence in each such subsection.

(10) Section 5402(a) of title 39, United States Code, is amended—

(A) by inserting '' 'foreign air carrier'. '' after '' 'interstate air transportation', '' in paragraph (2);

(B) by redesignating paragraphs (7) through (23) as paragraphs (8) through (24) and inserting after paragraph (6) the following:

''(7) the term 'certificated air carrier' means an air carrier that holds a ——certificate of public convenience and necessity issued under section 41102(a) of ——title 49;''; and

(C) by redesignating paragraphs (9) through (24), as redesignated, as paragraphs (10) through (25), respectively, and inserting after paragraph (8) the following:

''(9) the term 'code-share relationship' means a relationship pursuant to which any certificated air carrier or foreign air carrier's designation code is used to identify a flight operated by another air carrier or foreign air carrier;''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2008.

SEC. 714. TRANSPORTING MUSICAL INSTRUMENTS.

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

''§ 41724. Musical instruments

''(a) IN GENERAL.—

''(1) SMALL INSTRUMENTS AS CARRY-ON BAGGAGE.—An air carrier providing air transportation shall permit a passenger to carry a violin, guitar, or other musical instrument in the aircraft cabin without charge if—

''(A) the instrument can be stowed safely in a suitable baggage compartment in the aircraft cabin or under a passenger seat; and

''(B) there is space for such stowage at the time the passenger boards the aircraft.

''(2) LARGER INSTRUMENTS AS CARRY-ON BAGGAGE.—An air carrier providing air transportation shall permit a passenger to carry a musical instrument that is too large to meet the requirements of paragraph (1) in the aircraft cabin without charge if—

''(A) the instrument is contained in a case or covered so as to avoid injury to other passengers;

''(B) the weight of the instrument, including the case or covering, does not exceed 165 pounds;

''(C) the instrument can be secured by a seat belt to avoid shifting during flight;

''(D) the instrument does not restrict access to, or use of, any required emergency exit, regular exit, or aisle;

''(E) the instrument does not obscure any passenger's view of any illuminated exit, warning, or other informational sign;

''(F) neither the instrument nor the case contains any object not otherwise permitted to be carried in an aircraft cabin because of a law or regulation of the United States; and

''(G) the passenger wishing to carry the instrument in the aircraft cabin has purchased an additional seat to accommodate the instrument.

''(3) LARGE INSTRUMENTS AS CHECKED BAGGAGE.—An air carrier shall transport as baggage, without charge, a musical instrument that is the property of a passenger traveling in air transportation that may not be carried in the aircraft cabin if—

''(A) the sum of the length, width, and height measured in inches of the outside linear dimensions of the instrument (including the case) does not exceed 120 inches; and

''(B) the weight of the instrument does not exceed 100 pounds.

''(b) REGULATIONS.—The Secretary may prescribe such regulations as may be necessary or appropriate to implement subsection (a).''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 417 is amended by inserting after the item relating to section 41723 the following:

''41724. Musical instruments''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect 30 days after the date of enactment of this Act.

SEC. 715. RECYCLING PLANS FOR AIRPORTS.

(a) AIRPORT PLANNING.—section 47102(5) is amended by striking ''planning.'' and inserting ''planning and a plan for recycling and minimizing the generation of airport solid waste, consistent with applicable State and local recycling laws, including the cost of a waste audit.''.

(b) MASTER PLAN.—Section 47106(a) is amended—

(1) by striking ''and'' at the end of paragraph (4);

(2) by striking ''proposed.'' in paragraph (5) and inserting ''proposed; and''; and

(3) by adding at the end the following:

''(6) if the project is for an airport that has an airport master plan, the master plan addresses—

''(A) the feasibility of solid waste recycling at the airport;

''(B) minimizing the generation of solid waste at the airport;

''(C) operation and maintenance requirements;

''(D) the review of waste management contracts;

''(E) the potential for cost savings or the generation of revenue; and

''(F) training and education requirements.''.

SEC. 716. CONSUMER INFORMATION PAMPHLET.

Within 6 months after the date of enactment of this Act, the Secretary of Transportation shall develop and make available to the public in written and electronic form a consumer and parental information pamphlet that includes—

(1) a summary of the unaccompanied minor policies of major air carriers serving United States airports;

(2) a summary of such carriers' policies pertaining to passenger air travel by children aged 17 and under;

(3) recommendations to parents about who the appropriate authorities are to notify if a minor is traveling unsupervised and without parental consent on a major air carrier; and

(4) any additional recommendations the Secretary deems appropriate or necessary.

TITLE VIII—AMERICAN INFRASTRUCTURE INVESTMENT AND IMPROVEMENT

SECTION 800. SHORT TITLE, ETC.

(a) SHORT TITLE; AMENDMENT OF 1986 CODE.—This title may be cited as the ''American Infrastructure Investment and Improvement Act of 2008''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

Subtitle A—Airport and Airway Trust Fund Provisions and Related Taxes

SEC. 801. EXTENSION OF TAXES FUNDING AIRPORT AND AIRWAY TRUST FUND.

(a) FUEL TAXES.—Subparagraph (B) of section 4081(d)(2) is amended by striking ''June 30, 2008'' and inserting ''September 30, 2011''.

(b) TICKET TAXES.—

(1) PERSONS.—Clause (ii) of section 4261(j)(1)(A) is amended by striking ''June 30, 2008'' and inserting ''September 30, 2011''.

(2) PROPERTY.—Clause (ii) of section 4271(d)(1)(A) is amended by striking ''June 30, 2008'' and inserting ''September 30, 2011''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 1, 2008.

SEC. 802. EXTENSION OF AIRPORT AND AIRWAY TRUST FUND EXPENDITURE AUTHORITY.

(a) IN GENERAL.—Paragraph (1) of section 9502(d) is amended—

(1) by striking ''July 1, 2008'' in the matter preceding subparagraph (A) and inserting ''October 1, 2011'', and

(2) by striking the semicolon at the end of subparagraph (A) and inserting ''or the Aviation Investment and Modernization Act of 2008;''.

(b) CONFORMING AMENDMENT.—Paragraph (2) of section 9502(e) is amended by striking ''July 1, 2008'' and inserting ''October 1, 2011''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 1, 2008.

SEC. 803. MODIFICATION OF EXCISE TAX ON KEROSENE USED IN AVIATION.

(a) RATE OF TAX ON AVIATION-GRADE KEROSENE.—

(1) IN GENERAL.—Subparagraph (A) of section 4081(a)(2) (relating to rates of tax) is amended by striking ''and'' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting '', and'', and by adding at the end the following new clause:

''(iv) in the case of aviation-grade kerosene, 35.9 cents per gallon.''.

(2) FUEL REMOVED DIRECTLY INTO FUEL TANK OF AIRPLANE USED IN NONCOMMERCIAL AVIATION.—Subparagraph (C) of section 4081(a)(2) is amended to read as follows:

''(C) TAXES IMPOSED ON FUEL USED IN COMMERCIAL AVIATION.—In the case of aviation-grade kerosene which is removed from any refinery or terminal directly into the fuel tank of an aircraft for use in commercial aviation by a person registered for such use under section 4101, the rate of tax under subparagraph (A)(iv) shall be 4.3 cents per gallon.''.

(3) EXEMPTION FOR AVIATION-GRADE KEROSENE REMOVED INTO AN AIRCRAFT.—Subsection (e) of section 4082 is amended—

(A) by striking ''kerosene'' and inserting ''aviation-grade kerosene'',

(B) by striking ''section 4081(a)(2)(A)(iii)'' and inserting ''section 4081(a)(2)(A)(iv)'', and

(C) by striking ''KEROSENE'' in the heading and inserting ''AVIATION-GRADE KEROSENE''.

(4) CONFORMING AMENDMENTS.—

(A) Clause (iii) of section 4081(a)(2)(A) is amended by inserting ''other than aviation-grade kerosene'' after ''kerosene''.

(B) The following provisions are each amended by striking ''kerosene'' and inserting ''aviation-grade kerosene'':

(i) Section 4081(a)(3)(A)(ii).

(ii) Section 4081(a)(3)(A)(iv).

(iii) Section 4081(a)(3)(D).

(C) Section 4081(a)(3)(D) is amended—

(i) by striking ''paragraph (2)(C)(i)'' in clause (i) and inserting ''paragraph (2)(C)'', and

(ii) by striking ''paragraph (2)(C)(ii)'' in clause (ii) and inserting ''paragraph (2)(A)(iv)''.

(D) Section 4081(a)(4) is amended—

(i) in the heading by striking ''KEROSENE'' and inserting ''AVIATION-GRADE KEROSENE'', and

(ii) by striking ''paragraph (2)(C)(i)'' and inserting ''paragraph (2)(C)''.

(E) Section 4081(d)(2) is amended by striking ''(a)(2)(C)(ii)'' and inserting ''(a)(2)(A)(iv)''.

(b) RETAIL TAX ON AVIATION FUEL.—

(1) EXEMPTION FOR PREVIOUSLY TAXED FUEL.—Paragraph (2) of section 4041(c) is amended by inserting ''at the rate specified in subsection (a)(2)(A)(iv) thereof'' after ''section 4081''.

(2) RATE OF TAX.—Paragraph (3) of section 4041(c) is amended to read as follows:

''(3) RATE OF TAX.—The rate of tax imposed by this subsection shall be the rate of tax in effect under section 4081(a)(2)(A)(iv) (4.3 cents per gallon with respect to any sale or use for commercial aviation).''.

(c) REFUNDS RELATING TO AVIATION-GRADE KEROSENE.—

(1) KEROSENE USED IN COMMERCIAL AVIATION.—Clause (ii) of section 6427(l)(4)(A) is amended by striking ''specified in section 4041(c) or 4081(a)(2)(A)(iii), as the case may be,'' and inserting ''so imposed''.

(2) KEROSENE USED IN AVIATION.—Paragraph (4) of section 6427(l) is amended—

(A) by striking subparagraph (B) and redesignating subparagraph (C) as subparagraph (B), and

(B) by amending subparagraph (B), as redesignated by subparagraph (A), to read as follows:

''(B) PAYMENTS TO ULTIMATE, REGISTERED VENDOR.—With respect to any kerosene used in aviation (other than kerosene to which paragraph (6) applies), if the ultimate purchaser of such kerosene waives (at such time and in such form and manner as the Secretary shall prescribe) the right to payment under paragraph (1) and assigns such right to the ultimate vendor, then the Secretary shall pay (without interest) the amount which would be paid under paragraph (1) to such ultimate vendor, but only if such ultimate vendor—

''(i) is registered under section 4101, and

''(ii) meets the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1).''.

(3) AVIATION-GRADE KEROSENE NOT USED IN AVIATION.—Subsection (l) of section 6427 is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

''(5) REFUNDS FOR AVIATION-GRADE KEROSENE NOT USED IN AVIATION.—If tax has been imposed under section 4081 at the rate specified in section 4081(a)(2)(A)(iv) and the fuel is used other than in an aircraft, the Secretary shall pay (without interest) to the ultimate purchaser of such fuel an amount equal to the amount of tax imposed on such fuel reduced by the amount of tax that would be imposed under section 4041 if no tax under section 4081 had been imposed.''.

(4) CONFORMING AMENDMENTS.—

(A) Section 4082(d)(2)(B) is amended by striking ''6427(l)(5)(B)'' and inserting ''6427(l)(6)(B)''.

(B) Section 6427(i)(4) is amended—

(i) by striking ''(4)(C)'' the first two places it occurs and inserting ''(4)(B)'', and

(ii) by striking '', (l)(4)(C)(ii), and'' and inserting ''and''.

(C) The heading of section 6427(l) is amended by striking ''DIESEL FUEL AND KEROSENE'' and inserting ''DIESEL FUEL, KEROSENE, AND AVIATION FUEL''.

(D) Section 6427(l)(1) is amended by striking ''paragraph (4)(C)(i)'' and inserting ''paragraph (4)(B)''.

(E) Section 6427(l)(4) is amended—

(i) by striking ''KEROSENE USED IN AVIATION'' in the heading and inserting ''AVIATION-GRADE KEROSENE USED IN COMMERCIAL AVIATION'', and

(ii) in subparagraph (A)—

(I) by striking ''kerosene'' and inserting ''aviation-grade kerosene'',

(II) by striking ''KEROSENE USED IN COMMERCIAL AVIATION'' in the heading and inserting ''IN GENERAL''.

(d) TRANSFERS TO THE AIRPORT AND AIRWAY TRUST FUND.—

(1) IN GENERAL.—Subparagraph (C) of section 9502(b)(1) is amended to read as follows:

''(C) section 4081 with respect to aviation gasoline and aviation-grade kerosene, and''.

(2) TRANSFERS ON ACCOUNT OF CERTAIN REFUNDS.—

(A) IN GENERAL.—Subsection (d) of section 9502 is amended—

(i) in paragraph (2) by striking ''(other than subsection (l)(4) thereof)'', and

(ii) in paragraph (3) by striking ''(other than payments made by reason of paragraph (4) of section 6427(l))''.

(B) CONFORMING AMENDMENTS.—

(i) Section 9503(b)(4) is amended by striking ''or'' at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting a comma, and by inserting after subparagraph (D) the following:

''(E) section 4081 to the extent attributable to the rate specified in clause (ii) or (iv) of section 4081(a)(2)(A), or

''(F) section 4041(c).''.

(ii) Section 9503(c) is amended by striking the last paragraph (relating to transfers from the Trust Fund for certain aviation fuel taxes).

(iii) Section 9502(a) is amended—

(I) by striking ''appropriated, credited, or paid into'' and inserting ''appropriated or credited to'', and

(II) by striking '', section 9503(c)(7),''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to fuels removed, entered, or sold after December 31, 2008.

(f) FLOOR STOCKS TAX.—

(1) IMPOSITION OF TAX.—In the case of aviation fuel which is held on January 1, 2009, by any person, there is hereby imposed a floor stocks tax on aviation fuel equal to—

(A) the tax which would have been imposed before such date on such fuel had the amendments made by this section been in effect at all times before such date, reduced by

(B) the sum of—

(i) the tax imposed before such date on such fuel under section 4081 of the Internal Revenue Code of 1986, as in effect on such date, and

(ii) in the case of kerosene held exclusively for such person's own use, the amount which such person would (but for this clause) reasonably expect (as of such date) to be paid as a refund under section 6427(l) of such Code with respect to such kerosene.

(2) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—A person holding aviation fuel on January 1, 2009, shall be liable for such tax.

(B) TIME AND METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be paid at such time and in such manner as the Secretary of the Treasury shall prescribe.

(3) TRANSFER OF FLOOR STOCK TAX REVENUES TO TRUST FUNDS.—For purposes of determining the amount transferred to the Airport and Airway Trust Fund, the tax imposed by this subsection shall be treated as imposed by section 4081(a)(2)(A)(iv) of the Internal Revenue Code of 1986.

(4) DEFINITIONS.—For purposes of this subsection—

(A) AVIATION FUEL.—The term ''aviation fuel'' means aviation-grade kerosene and aviation gasoline, as such terms are used within the meaning of section 4081 of the Internal Revenue Code of 1986.

(B) HELD BY A PERSON.—Aviation fuel shall be considered as held by a person if title thereto has passed to such person (whether or not delivery to the person has been made).

(C) SECRETARY.—The term ''Secretary'' means the Secretary of the Treasury or the Secretary's delegate.

(5) EXCEPTION FOR EXEMPT USES.—The tax imposed by paragraph (1) shall not apply to any aviation fuel held by any person exclusively for any use to the extent a credit or refund of the tax is allowable under the Internal Revenue Code of 1986 for such use.

(6) EXCEPTION FOR CERTAIN AMOUNTS OF FUEL.—

(A) IN GENERAL.—No tax shall be imposed by paragraph (1) on any aviation fuel held on January 1, 2009, by any person if the aggregate amount of such aviation fuel held by such person on such date does not exceed 2,000 gallons. The preceding sentence shall apply only if such person submits to the Secretary (at the time and in the manner required by the Secretary) such information as the Secretary shall require for purposes of this subparagraph.

(B) EXEMPT FUEL.—For purposes of subparagraph (A), there shall not be taken into account any aviation fuel held by any person which is exempt from the tax imposed by paragraph (1) by reason of paragraph (6).

(C) CONTROLLED GROUPS.—For purposes of this subsection—

(i) CORPORATIONS.—

(I) IN GENERAL.—All persons treated as a controlled group shall be treated as 1 person.

(II) CONTROLLED GROUP.—The term ''controlled group'' has the meaning given to such term by subsection (a) of section 1563 of the Internal Revenue Code of 1986; except that for such purposes the phrase ''more than 50 percent'' shall be substituted for the phrase ''at least 80 percent'' each place it appears in such subsection.

(ii) NONINCORPORATED PERSONS UNDER COMMON CONTROL.—Under regulations prescribed by the Secretary, principles similar to the principles of subparagraph (A) shall apply to a group of persons under common control if 1 or more of such persons is not a corporation.

(7) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4081 of the Internal Revenue Code of 1986 on the aviation fuel involved shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply with respect to the floor stock taxes imposed by paragraph (1) to the same extent as if such taxes were imposed by such section.

SEC. 804. AIR TRAFFIC CONTROL SYSTEM MODERNIZATION ACCOUNT.

(a) IN GENERAL.—Section 9502 (relating to the Airport and Airway Trust Fund) is amended by adding at the end the following new subsection:

''(g) ESTABLISHMENT OF AIR TRAFFIC CONTROL SYSTEM MODERNIZATION ACCOUNT.—

''(1) CREATION OF ACCOUNT.—There is established in the Airport and Airway Trust Fund a separate account to be known as the 'Air Traffic Control System Modernization Account' consisting of such amounts as may be transferred or credited to the Air Traffic Control System Modernization Account as provided in this subsection or section 9602(b).

''(2) TRANSFERS TO AIR TRAFFIC CONTROL SYSTEM MODERNIZATION ACCOUNT.—On October 1, 2008, and annually thereafter, the Secretary shall transfer to the Air Traffic Control System Modernization Account from amounts appropriated to the Airport and Airway Trust Fund under subsection (b) which are attributable to taxes on aviation-grade kerosene an amount equal to $400,000,000.

''(3) EXPENDITURES FROM ACCOUNT.—Amounts in the Air Traffic Control System Modernization Account shall be available subject to appropriation for expenditures relating to the modernization of the air traffic control system (including facility and equipment account expenditures).''.

(b) CONFORMING AMENDMENT.—Section 9502(d)(1) is amended by striking ''Amounts'' and inserting ''Except as provided in subsection (g), amounts''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 805. TREATMENT OF FRACTIONAL AIRCRAFT OWNERSHIP PROGRAMS.

(a) FUEL SURTAX.—

(1) IN GENERAL.—Subchapter B of chapter 31 is amended by adding at the end the following new section:

''SEC. 4043. SURTAX ON FUEL USED IN AIRCRAFT PART OF A FRACTIONAL OWNERSHIP PROGRAM.

''(a) IN GENERAL.—There is hereby imposed a tax on any liquid used during any calendar quarter by any person as a fuel in an aircraft which is—

''(1) registered in the United States, and

''(2) part of a fractional ownership aircraft program.

''(b) AMOUNT OF TAX.—The rate of tax imposed by subsection (a) is 14.1 cents per gallon.

''(c) FRACTIONAL OWNERSHIP AIRCRAFT PROGRAM.—For purposes of this section—

''(1) IN GENERAL.—The term 'fractional ownership aircraft program' means a program under which—

''(A) a single fractional ownership program manager provides fractional ownership program management services on behalf of the fractional owners,

''(B) 2 or more airworthy aircraft are part of the program,

''(C) there are 1 or more fractional owners per program aircraft, with at least 1 program aircraft having more than 1 owner,

''(D) each fractional owner possesses at least a minimum fractional ownership interest in 1 or more program aircraft,

''(E) there exists a dry-lease exchange arrangement among all of the fractional owners, and

''(F) there are multi-year program agreements covering the fractional ownership, fractional ownership program management services, and dry-lease aircraft exchange aspects of the program.

''(2) MINIMUM FRACTIONAL OWNERSHIP INTEREST.—The term 'minimum fractional ownership interest' means, with respect to each type of aircraft—

''(A) a fractional ownership interest equal to or greater than 1/16 of at least 1 subsonic, fixed wing or powered lift program aircraft, or

''(B) a fractional ownership interest equal to or greater than 1/32 of a least 1 rotorcraft program aircraft.

''(3) DRY-LEASE EXCHANGE ARRANGEMENT.—A 'dry-lease aircraft exchange' means an agreement, documented by the written program agreements, under which the program aircraft are available, on an as needed basis without crew, to each fractional owner.

''(d) TERMINATION.—This section shall not apply to liquids used as a fuel in an aircraft after September 30, 2011.''.

(2) CONFORMING AMENDMENT.—Section 4082(e) is amended by inserting ''(other than an aircraft described in section 4043(a))'' after ''an aircraft''.

(3) TRANSFER OF REVENUES TO AIRPORT AND AIRWAY TRUST FUND.—Section 9502(b)(1) is amended by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively, and by inserting after subparagraph (A) the following new subparagraph:

''(B) section 4043 (relating to surtax on fuel used in aircraft part of a fractional ownership program),''.

(4) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 31 is amended by adding at the end the following new item:

''Sec. 4043. Surtax on fuel used in aircraft part of a fractional ownership program.''.

(b) FRACTIONAL OWNERSHIP PROGRAMS TREATED AS NON-COMMERCIAL AVIATION.—Subsection (b) of section 4083 is amended by adding at the end the following new sentence: ''Such term shall not include the use of any aircraft which is part of a fractional ownership aircraft program (as defined by section 4043(c)).''.

(c) EXEMPTION FROM TAX ON TRANSPORTATION OF PERSONS.—Section 4261, as amended by this Act, is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

''(j) EXEMPTION FOR AIRCRAFT IN FRACTIONAL OWNERSHIP AIRCRAFT PROGRAMS.—No tax shall be imposed by this section or section 4271 on any air transportation by an aircraft which is part of a fractional ownership aircraft program (as defined by section 4043(c)).''.

(d) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendments made by subsections (a) shall apply to fuel used after December 31, 2008.

(2) SUBSECTION (b).—The amendment made by subsection (b) shall apply to uses of aircraft after December 31, 2008.

(3) SUBSECTION (c).—The amendments made by subsection (c) shall apply to taxable transportation provided after December 31, 2008.

SEC. 806. TERMINATION OF EXEMPTION FOR SMALL AIRCRAFT ON NONESTABLISHED LINES.

(a) IN GENERAL.—Section 4281 is amended to read as follows:

"SEC. 4281. SMALL AIRCRAFT OPERATED SOLELY FOR SIGHTSEEING.

''The taxes imposed by sections 4261 and 4271 shall not apply to transportation by an aircraft having a maximum certificated takeoff weight of 6,000 pounds or less at any time during which such aircraft is being operated on a flight the sole purpose of which is sightseeing. For purposes of the preceding sentence, the term 'maximum certificated takeoff weight' means the maximum such weight contained in the type certificate or airworthiness certificate.''.

(b) CONFORMING AMENDMENT.—The item relating to section 4281 in the table of sections for part III of subchapter C of chapter 33 is amended by striking ''on nonestablished lines'' and inserting ''operated solely for sightseeing''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable transportation provided after December 31, 2008.

SEC. 807. TRANSPARENCY IN PASSENGER TAX DISCLOSURES.

(a) IN GENERAL.—Section 7275 (relating to penalty for offenses relating to certain airline tickets and advertising) is amended—

(1) by redesignating subsection (c) as subsection (d),

(2) by striking ''subsection (a) or (b)'' in subsection (d), as so redesignated, and inserting ''subsection (a), (b), or (c)'', and

(3) by inserting after subsection (b) the following new subsection:

''(c) NON-TAX CHARGES.—

''(1) IN GENERAL.—In the case of transportation by air for which disclosure on the ticket or advertising for such transportation of the amounts paid for passenger taxes is required by subsection (a)(2) or (b)(1)(B), it shall be unlawful for the disclosure of the amount of such taxes on such ticket or advertising to include any amounts not attributable to the taxes imposed by subsection (a), (b), or (c) of section 4261.

''(2) INCLUSION IN TRANSPORTATION COST.—Nothing in this subsection shall prohibit the inclusion of amounts not attributable to the taxes imposed by subsection (a), (b), or (c) of section 4261 in the disclosure of the amount paid for transportation as required by subsection (a)(1) or (b)(1)(A), or in a separate disclosure of amounts not attributable to such taxes.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable transportation provided after December 31, 2008.

Subtitle B—Increased Funding for Highway Trust Fund

SEC. 811. REPLENISH EMERGENCY SPENDING FROM HIGHWAY TRUST FUND.

(a) IN GENERAL.—Section 9503(b) is amended—

(1) by adding at the end the following new paragraph:

''(7) EMERGENCY SPENDING REPLENISHMENT.—There is hereby appropriated to the Highway Trust Fund $3,400,000,000.'', and

(2) by striking ''AMOUNTS EQUIVALENT TO CERTAIN TAXES AND PENALTIES'' in the heading and inserting ''CERTAIN AMOUNTS''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 812. SUSPENSION OF TRANSFERS FROM HIGHWAY TRUST FUND FOR CERTAIN REPAYMENTS AND CREDIT.

Section 9503(c)(2) is amended by adding at the end the following new subparagraph:

''(D) TEMPORARY SUSPENSION.—This paragraph shall not apply to 85 percent of the amounts estimated by the Secretary to be attributable to the 6-month period beginning on the date of the enactment of the American Infrastructure Investment and Improvement Act of 2008.''.

SEC. 813. TAXATION OF TAXABLE FUELS IN FOREIGN TRADE ZONES.

(a) TAX IMPOSED ON REMOVALS AND ENTRIES IN FOREIGN TRADE ZONES.—

(1) IN GENERAL.—Subsection (a) of section 4083 (relating to definitions) is amended by adding at the end the following new paragraph:

''(4) UNITED STATES.—The term 'United States' includes any foreign trade zone or bonded warehouse located in the United States.''.

(2) CONFORMING AMENDMENT.—Section 4081(a)(1)(A) (relating to imposition of tax) is amended—

(A) in clause (i), by inserting ''in the United States'' after ''refinery''; and

(B) in clause (ii), by inserting ''in the United States'' after ''terminal''.

(b) TREATMENT OF TAXABLE FUEL IN FOREIGN TRADE ZONES.—Paragraph (2) of section 81c(a) of title 19, United States Code, is amended by inserting ''(other than the provisions relating to taxable fuel (as defined under section 4083(a) of the Internal Revenue Code of 1986))'' after ''thereunder''.

(c) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendments made by subsection (a) shall apply to removals and entries after December 31, 2008.

(2) SUBSECTION (b).—The amendment made by subsection (b) shall take effect on January 1, 2009.

SEC. 814. CLARIFICATION OF PENALTY FOR SALE OF FUEL FAILING TO MEET EPA REGULATIONS.

(a) IN GENERAL.—Subsection (a) of section 6720A (relating to penalty with respect to certain adulterated fuels) is amended by striking ''applicable EPA regulations (as defined in section 45H(c)(3))'' and inserting ''the requirements for diesel fuel under section 211 of the Clean Air Act, as determined by the Secretary,''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to any transfer, sale, or holding out for sale or resale occurring after the date of the enactment of this Act.

SEC. 815. TREATMENT OF QUALIFIED ALCOHOL FUEL MIXTURES AND QUALIFIED BIODIESEL FUEL MIXTURES AS TAXABLE FUELS.

(a) IN GENERAL.—

(1) QUALIFIED ALCOHOL FUEL MIXTURES.—Paragraph (2) of section 4083(a) (relating to gasoline) is amended—

(A) by striking ''and'' at the end of subparagraph (A),

(B) by redesignating subparagraph (B) as subparagraph (C), and

(C) by inserting after subparagraph (A) the following new subparagraph:

''(B) includes any qualified mixture (as defined in section 40(b)(1)(B)) which is a mixture of alcohol and special fuel, and''.

(2) QUALIFIED BIODIESEL FUEL MIXTURES.—Subparagraph (A) of section 4083(a)(3) (relating to diesel fuel) is amended by striking ''and'' at the end of clause (ii), by redesignating clause (iii) as clause (iv), and inserting after clause (ii) the following new clause:

''(iii) any qualified biodiesel mixture (as defined in section 40A(b)(1)(B)), and''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to fuels removed, entered, or sold after December 31, 2008.

SEC. 816. CALCULATION OF VOLUME OF ALCOHOL FOR FUEL CREDITS.

(a) IN GENERAL.—Paragraph (4) of section 40(d) (relating to volume of alcohol) is amended by striking ''5 percent'' and inserting ''2 percent''.

(b) CONFORMING AMENDMENT FOR EXCISE TAX CREDIT.—Section 6426(b) (relating to alcohol fuel mixture credit) is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

''(5) VOLUME OF ALCOHOL.—For purposes of determining under subsection (a) the number of gallons of alcohol with respect to which a credit is allowable under subsection (a), the volume of alcohol shall include the volume of any denaturant (including gasoline) which is added under any formulas approved by the Secretary to the extent that such denaturants do not exceed 2 percent of the volume of such alcohol (including denaturants).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel sold or used after December 31, 2008.

SEC. 817. BULK TRANSFER EXCEPTION NOT TO APPLY TO FINISHED GASOLINE.

(a) IN GENERAL.—Subparagraph (B) of section 4081(a)(1) (relating to tax on removal, entry, or sale) is amended by adding at the end the following new clause:

''(iii) EXCEPTION FOR FINISHED GASOLINE.—Clause (i) shall not apply to any finished gasoline.''.

(b) EXCEPTION TO TAX ON FINISHED GASOLINE FOR PRIOR TAXABLE REMOVALS.—Paragraph (1) of section 4081(a) is amended by adding at the end the following new subparagraph:

''(C) EXEMPTION FOR PREVIOUSLY TAXED FINISHED GASOLINE.—The tax imposed by this paragraph shall not apply to the removal of gasoline described in subparagraph (B)(iii) from any terminal if there was a prior taxable removal or entry of such fuel under clause (i), (ii), or (iii) of subparagraph (A). The preceding sentence shall not apply to the volume of any product added to such gasoline at the terminal unless there was a prior taxable removal or entry of such product under clause (i), (ii), or (iii) of subparagraph (A).''.

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to fuel removed, entered, or sold after December 31, 2008.

SEC. 818. INCREASE AND EXTENSION OF OIL SPILL LIABILITY TRUST FUND TAX.

(a) INCREASE IN RATE.—

(1) IN GENERAL.—Section 4611(c)(2)(B) (relating to rates) is amended by striking ''5 cents'' and inserting ''10 cents''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply on and after the first day of the first calendar quarter beginning more than 60 days after the date of the enactment of this Act.

(b) EXTENSION.—

(1) IN GENERAL.—Section 4611(f) (relating to application of Oil Spill Liability Trust Fund financing rate) is amended by striking paragraphs (2) and (3) and inserting the following new paragraph:

''(2) TERMINATION.—The Oil Spill Liability Trust Fund financing rate shall not apply after September 30, 2018.''.

(2) CONFORMING AMENDMENT.—Section 4611(f)(1) is amended by striking ''paragraphs (2) and (3)'' and inserting ''paragraph (2)''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date of the enactment of this Act.

SEC. 819. APPLICATION OF RULES TREATING INVERTED CORPORATIONS AS DOMESTIC CORPORATIONS TO CERTAIN TRANSACTIONS OCCURRING AFTER MARCH 20, 2002.

(a) IN GENERAL.—Section 7874(b) (relating to inverted corporations treated as domestic corporations) is amended to read as follows:

''(b) INVERTED CORPORATIONS TREATED AS DOMESTIC CORPORATIONS.—

''(1) IN GENERAL.—Notwithstanding section 7701(a)(4), a foreign corporation shall be treated for purposes of this title as a domestic corporation if such corporation would be a surrogate foreign corporation if subsection

(a)(2) were applied by substituting '80 percent' for '60 percent'.

''(2) SPECIAL RULE FOR CERTAIN TRANSACTIONS OCCURRING AFTER MARCH 20, 2002.—

''(A) IN GENERAL.—If—

''(i) paragraph (1) does not apply to a foreign corporation, but

''(ii) paragraph (1) would apply to such corporation if, in addition to the substitution under paragraph (1), subsection (a)(2) were applied by substituting 'March 20, 2002' for 'March 4, 2003' each place it appears,

then paragraph (1) shall apply to such corporation but only with respect to taxable years of such corporation beginning after the date of the enactment of the American Infrastructure Investment and Improvement Act of 2008.

''(B) SPECIAL RULES.—Subject to such rules as the Secretary may prescribe, in the case of a corporation to which paragraph (1) applies by reason of this paragraph—

''(i) the corporation shall be treated, as of the close of its first taxable year ending after the date of the enactment of the American Infrastructure Investment and Improvement Act of 2008, as having transferred all of its assets, liabilities, and earnings and profits to a domestic corporation in a transaction with respect to which no tax is imposed under this title,

''(ii) the bases of the assets transferred in the transaction to the domestic corporation shall be the same as the bases of the assets in the hands of the foreign corporation, subject to any adjustments under this title for built-in losses,

''(iii) the basis of the stock of any shareholder in the domestic corporation shall be the same as the basis of the stock of the shareholder in the foreign corporation for which it is treated as exchanged, and

''(iv) the transfer of any earnings and profits by reason of clause (i) shall be disregarded in determining any deemed dividend or foreign tax creditable to the domestic corporation with respect to such transfer.

''(C) REGULATIONS.—The Secretary may prescribe such regulations as may be necessary or appropriate to carry out this paragraph, including regulations to prevent the avoidance of the purposes of this paragraph.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 820. DENIAL OF DEDUCTION FOR PUNITIVE DAMAGES.

(a) DISALLOWANCE OF DEDUCTION.—

(1) IN GENERAL.—Section 162(g) (relating to treble damage payments under the antitrust laws) is amended—

(A) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively,

(B) by striking ''If'' and inserting:

''(1) TREBLE DAMAGES.—If'', and

(C) by adding at the end the following new paragraph:

''(2) PUNITIVE DAMAGES.—No deduction shall be allowed under this chapter for any amount paid or incurred for punitive damages in connection with any judgment in, or settlement of, any action. This paragraph shall not apply to punitive damages described in section 104(c).''.

(2) CONFORMING AMENDMENT.—The heading for section 162(g) is amended by inserting ''OR PUNITIVE DAMAGES'' after ''LAWS''.

(b) INCLUSION IN INCOME OF PUNITIVE DAMAGES PAID BY INSURER OR OTHERWISE.—

(1) IN GENERAL.—Part II of subchapter B of chapter 1 (relating to items specifically included in gross income) is amended by adding at the end the following new section:

''SEC. 91. PUNITIVE DAMAGES COMPENSATED BY INSURANCE OR OTHERWISE.

''Gross income shall include any amount paid to or on behalf of a taxpayer as insurance or otherwise by reason of the taxpayer's liability (or agreement) to pay punitive damages.''.

(2) REPORTING REQUIREMENTS.—Section 6041 (relating to information at source) is amended by adding at the end the following new subsection:

''(h) SECTION TO APPLY TO PUNITIVE DAMAGES COMPENSATION.—This section shall apply to payments by a person to or on behalf of another person as insurance or otherwise by reason of the other person's liability (or agreement) to pay punitive damages.''.

(3) CONFORMING AMENDMENT.—The table of sections for part II of subchapter B of chapter 1 is amended by adding at the end the following new item:

''Sec. 91. Punitive damages compensated by insurance or otherwise.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to damages paid or incurred on or after the date of the enactment of this Act.

SEC. 821. MOTOR FUEL TAX ENFORCEMENT ADVISORY COMMISSION.

(a) IN GENERAL.—Section 11141 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users is amended to read as follows:

''SEC. 11141. MOTOR FUEL TAX ENFORCEMENT ADVISORY COMMISSION.

''(a) ESTABLISHMENT.—There is established a Motor Fuel Tax Enforcement Advisory Commission (in this section referred to as the 'Commission').

''(b) MEMBERSHIP.—

''(1) APPOINTMENT.—The Commission shall be composed of 14 members, of which—

''(A) 1 shall be appointed by the Administrator of the Federal Highway Administration as a representative of the Federal Highway Administration,

''(B) 1 shall be appointed by the Inspector General for the Department of Transportation as a representative the Office of Inspector General for the Department of Transportation,

''(C) 1 shall be appointed by the Secretary of Transportation as a representative of the Department of Transportation,

''(D) 1 shall be appointed by the Secretary of Homeland Security to be a representative of the Department of Homeland Security,

''(E) 1 shall be appointed by the Secretary of Defense to be a representative of the Department of Defense,

''(F) 1 shall be appointed by the Attorney General to be a representative of the Department of Justice,

''(G) 2 shall be appointed by the Chairman of the Committee on Finance of the Senate,

''(H) 2 shall be appointed by the Ranking Member of the Committee on Finance of the Senate,

''(I) 2 shall be appointed by Chairman of the Committee on Ways and Means of the House of Representatives, and

''(J) 2 shall be appointed by Ranking Member of the Committee on Ways and Means of the House of Representatives.

''(2) QUALIFICATION FOR CERTAIN MEMBERS.—Of the members appointed under subparagraphs (G), (H), (I) and (J)—

''(A) at least 1 shall be representative from the Federation of State Tax Administrators,

''(B) at least 1 shall be a representative from any State department of transportation,

''(C) at least 1 shall be a representative from the retail fuel industry, and

''(D) at least 1 shall be a representative from industries relating to fuel distribution (such a refiners, distributors, pipeline operators, and terminal operators).

''(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 of the Commission shall serve without pay but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

''(6) CHAIRMAN.—The Chairman of the Commission shall be elected by the members.

''(c) DUTIES.—

''(1) IN GENERAL.—The Commission shall—

''(A) review motor fuel revenue collections, historical and current;

''(B) review the progress of investigations;

''(C) develop and review legislative proposals with respect to motor fuel taxes;

''(D) monitor the progress of administrative regulation projects relating to motor fuel taxes;

''(E) evaluate and make recommendations to the President and Congress regarding—

''(i) the effectiveness of existing Federal enforcement programs regarding motor fuel taxes,

''(ii) enforcement personnel allocation, and

''(iii) proposals for regulatory projects, legislation, and funding.

''(2) REPORT.—Not later than September 30, 2009, the Commission shall submit to Congress a final report that contains a detailed statement on the findings and conclusions of the Commission, together with recommendations for such legislation and administrative action as the Commission considers appropriate or necessary.

''(d) POWERS.—

''(1) HEARINGS.—The Commission may hold such hearings for the purpose of carrying out this Act, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out this Act. The Commission may administer oaths and affirmations to witnesses appearing before the Commission.

''(2) OBTAINING DATA.—The Commission may secure directly from any department or agency of the United States, information (other than information required by any law 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. The Commission shall also gather evidence through such means as it may determine appropriate, including through holding hearings and soliciting comments by means of Federal Register notices.

''(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, hold, administer, and utilize gifts, donations, and requests of property, both real and personal, for the purposes of aiding or facilitating the work of the Commission. Gifts and bequests of money, and the proceeds from the sale of any other property received as gifts or bequests, shall be deposited in the Treasury in a separate fund and shall be disbursed upon order of the Commission. For purposes of Federal income, estate, and gift taxation, property accepted under this section shall be considered as a gift or bequest to or for the use of the United States.

''(e) SUPPORT SERVICES.—

''(1) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Commission, the Secretary of Transportation shall provide to

the Commission administrative support services necessary to enable the Commission to carry out its duties under this Act.

''(2) 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.

''(3) VOLUNTARY SERVICES.—

''(A) IN GENERAL.—Notwithstanding the provisions of section 1342 of title 31, United States Code, the Commission is authorized to accept and utilize the services of volunteers serving without compensation. The Commission may reimburse such volunteers for local travel and office supplies, and for other travel expenses, including per diem in lieu of subsistence as authorized by section 5703, United States Code.

''(B) TREATMENT OF VOLUNTEERS.—A person providing volunteer services to the Commission shall be considered an employee of the Federal Government in the performance of those services for the purposes of the following provisions of law:

''(i) chapter 81 of title 5, United States Code, relating to compensation for work-related injuries;

''(ii) chapter 171 of title 28, United States Code, relating to tort claims; and

''(iii) chapter 11 of title 18, United States Code, relating to conflicts of interest.

''(4) CONSULTATION.—Upon request of the Commission, representatives of the Department of the Treasury and the Internal Revenue Service shall be available for consultation to assist the Commission in carrying out its duties under this section.

''(5) COOPERATION.—The staff of the Department of Transportation, the Department of Homeland Security, the Department of Justice, and the Department of Defense shall cooperate with the Commission as necessary.

''(f) INAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

''(g) TERMINATION.—

''(1) IN GENERAL.—The Commission shall terminate on the date that is 90 days after the date on which the Commission submits the report required under subsection (c)(2).

''(2) RECORDS.—Not later than the date on which the Commission terminates, the Commission shall transmit all records of the Commission to the National Archives.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 822. HIGHWAY TRUST FUND CONFORMING EXPENDITURE AMENDMENT.

(a) IN GENERAL.—Subsections (c)(1) and (e)(3) of section 9503 are each amended by inserting '', as amended by An Act to authorize additional funds for emergency repairs and reconstruction of the Interstate I-35 bridge located in Minneapolis, Minnesota, that collapsed on August 1, 2007, to waive the $100,000,000 limitation on emergency relief funds for those emergency repairs and reconstruction, and for other purposes,'' after ''Users''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of An Act to authorize additional funds for emergency repairs and reconstruction of the Interstate I-35 bridge located in Minneapolis, Minnesota, that collapsed on August 1, 2007, to waive the $100,000,000 limitation on emergency relief funds for those emergency repairs and reconstruction, and for other purposes.

Subtitle C—Additional Infrastructure Modifications and Revenue Provisions

SEC. 831. RESTRUCTURING OF NEW YORK LIBERTY ZONE TAX CREDITS.

(a) IN GENERAL.—Part I of subchapter Y of chapter 1 is amended by redesignating section 1400L as 1400K and by adding at the end the following new section:

''SEC. 1400L. NEW YORK LIBERTY ZONE TAX CREDITS.

''(a) IN GENERAL.—In the case of a New York Liberty Zone governmental unit, there shall be allowed as a credit against any taxes imposed for any payroll period by section 3402 for which such governmental unit is liable under section 3403 an amount equal to so much of the portion of the qualifying project expenditure amount allocated under subsection (b)(3) to such governmental unit for the calendar year as is allocated by such governmental unit to such period under subsection (b)(4).

''(b) QUALIFYING PROJECT EXPENDITURE AMOUNT.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualifying project expenditure amount' means, with respect to any calendar year, the sum of—

''(A) the total expenditures paid or incurred during such calendar year by all New York Liberty Zone governmental units and the Port Authority of New York and New Jersey for any portion of qualifying projects located wholly within the City of New York, New York, and

''(B) any such expenditures—

''(i) paid or incurred in any preceding calendar year which begins after the date of enactment of this section, and

''(ii) not previously allocated under paragraph (3).

''(2) QUALIFYING PROJECT.—The term 'qualifying project' means any transportation infrastructure project, including highways, mass transit systems, railroads, airports, ports, and waterways, in or connecting with the New York Liberty Zone (as defined in section 1400K(h)), which is designated as a qualifying project under this section jointly by the Governor of the State of New York and the Mayor of the City of New York, New York.

''(3) GENERAL ALLOCATION.—

''(A) IN GENERAL.—The Governor of the State of New York and the Mayor of the City of New York, New York, shall jointly allocate to each New York Liberty Zone governmental unit the portion of the qualifying project expenditure amount which may be taken into account by such governmental unit under subsection (a) for any calendar year in the credit period.

''(B) AGGREGATE LIMIT.—The aggregate amount which may be allocated under subparagraph (A) for all calendar years in the credit period shall not exceed $2,000,000,000.

''(C) ANNUAL LIMIT.—

''(i) IN GENERAL.—The aggregate amount which may be allocated under subparagraph (A) for any calendar year in the credit period shall not exceed the sum of—

''(I) the applicable limit, plus

''(II) the aggregate amount authorized to be allocated under this paragraph for all preceding calendar years in the credit period which was not so allocated.

''(ii) APPLICABLE LIMIT.—For purposes of clause (i), the applicable limit for any calendar year in the credit period is $169,000,000 and in the case of any calendar year after 2020, zero.

''(D) UNALLOCATED AMOUNTS AT END OF CREDIT PERIOD.—If, as of the close of the credit period, the amount under subparagraph (B) exceeds the aggregate amount allocated under subparagraph (A) for all calendar years in the credit period, the Governor of the State of New York and the Mayor of the City of New York, New York, may jointly allocate to New York Liberty Zone governmental units for any calendar year in the 5-year period following the credit period an amount equal to—

''(i) the lesser of—

''(I) such excess, or

''(II) the qualifying project expenditure amount for such calendar year, reduced by

''(ii) the aggregate amount allocated under this subparagraph for all preceding calendar years.

''(4) ALLOCATION TO PAYROLL PERIODS.—Each New York Liberty Zone governmental unit which has been allocated a portion of the qualifying project expenditure amount under paragraph (3) for a calendar year may allocate such portion to payroll periods beginning in such calendar year as such governmental unit determines appropriate.

''(c) CARRYOVER OF UNUSED ALLOCATIONS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), if the amount allocated under subsection (b)(3) to a New York Liberty Zone governmental unit for any calendar year exceeds the aggregate taxes imposed by section 3402 for which such governmental unit is liable under section 3403 for periods beginning in such year, such excess shall be carried to the succeeding calendar year and added to the allocation of such governmental unit for such succeeding calendar year. No amount may be carried under the preceding sentence to a calendar year after 2025.

''(2) REALLOCATION.—If a New York Liberty Zone governmental unit does not use an amount allocated to it under subsection (b)(3) within the time prescribed by the Governor of the State of New York and the Mayor of the City of New York, New York, then such amount shall after such time be treated for purposes of subsection (b)(3) in the same manner as if it had never been allocated.

''(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) CREDIT PERIOD.—The term 'credit period' means the 12-year period beginning on January 1, 2009.

''(2) NEW YORK LIBERTY ZONE GOVERNMENTAL UNIT.—The term 'New York Liberty Zone governmental unit' means—

''(A) the State of New York,

''(B) the City of New York, New York, and

''(C) any agency or instrumentality of such State or City.

''(3) TREATMENT OF FUNDS.—Any expenditure for a qualifying project taken into account for purposes of the credit under this section shall be considered State and local funds for the purpose of any Federal program.

''(4) TREATMENT OF CREDIT AMOUNTS FOR PURPOSES OF WITHHOLDING TAXES.—For purposes of this title, a New York Liberty Zone governmental unit shall be treated as having paid to the Secretary, on the day on which wages are paid to employees, an amount equal to the amount of the credit allowed to such entity under subsection (a) with respect to such wages, but only if such governmental unit deducts and withholds wages for such payroll period under section 3401 (relating to wage withholding).

''(e) REPORTING.—The Governor of the State of New York and the Mayor of the City of New York, New York, shall jointly submit to the Secretary an annual report—

''(1) which certifies—

''(A) the qualifying project expenditure amount for the calendar year, and

''(B) the amount allocated to each New York Liberty Zone governmental unit under subsection (b)(3) for the calendar year, and

''(2) includes such other information as the Secretary may require to carry out this section.

''(f) GUIDANCE.—The Secretary may prescribe such guidance as may be necessary or appropriate to ensure compliance with the purposes of this section.

''(g) TERMINATION.—No credit shall be allowed under subsection (a) for any calender year after 2025.''.

(b) TERMINATION OF SPECIAL ALLOWANCE AND EXPENSING.—Section 1400K(b)(2)(A)(v), as redesignated by subsection (a), is amended by striking ''the termination date'' and inserting ''the date of the enactment of the American Infrastructure Investment and Improvement Act of 2008 or the termination date if pursuant to a binding contract in effect on such enactment date''.

(c) CONFORMING AMENDMENTS.—

(1) Section 38(c)(3)(B) is amended by striking ''section 1400L(a)'' and inserting ''section 1400K(a)''.

(2) Section 168(k)(2)(D)(ii) is amended by striking ''section 1400L(c)(2)'' and inserting ''1400K(c)(2)''.

(3) The table of sections for part I of subchapter Y of chapter 1 is amended by striking ''1400L'' and inserting ''1400K''.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to periods beginning after December 31, 2008.

(2) TERMINATION OF SPECIAL ALLOWANCE AND EXPENSING.—The amendment made by subsection (b) shall take effect on the date of the enactment of this Act.

SEC. 832. PARTICIPANTS IN GOVERNMENT SECTION 457 PLANS ALLOWED TO TREAT ELECTIVE DEFERRALS AS ROTH CONTRIBUTIONS.

(a) IN GENERAL.—Section 402A(e)(1) (defining applicable retirement plan) is amended by striking ''and'' at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting '', and'', and by adding at the end the following:

''(C) an eligible deferred compensation plan (as defined in section 457(b)) of an eligible employer described in section 457(e)(1)(A).''.

(b) ELECTIVE DEFERRALS.—Section 402A(e)(2) (defining elective deferral) is amended to read as follows:

''(2) ELECTIVE DEFERRAL.—The term 'elective deferral' means—

''(A) any elective deferral described in subparagraph (A) or (C) of section 402(g)(3), and

''(B) any elective deferral of compensation by an individual under an eligible deferred compensation plan (as defined in section 457(b)) of an eligible employer described in section 457(e)(1)(A).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

SEC. 833. INCREASED INFORMATION RETURN PENALTIES.

(a) FAILURE TO FILE CORRECT INFORMATION RETURNS.—

(1) IN GENERAL.—Section 6721(a)(1) (relating to imposition of penalty) is amended—

(A) by striking ''$50'' and inserting ''$250'', and

(B) by striking ''$250,000'' and inserting ''$3,000,000''.

(2) REDUCTION WHERE CORRECTION IN SPECIFIED PERIOD.—

(A) CORRECTION WITHIN 30 DAYS.—Section 6721(b)(1) is amended—

(i) by striking ''$15'' and inserting ''$50'',

(ii) by striking ''in lieu of $50'' and inserting ''in lieu of $250'', and

(iii) by striking ''$75,000'' and inserting ''$500,000''.

(B) FAILURES CORRECTED ON OR BEFORE AUGUST 1.—Section 6721(b)(2) is amended—

(i) by striking ''$30'' and inserting ''$100'',

(ii) by striking ''$50'' and inserting ''$250'', and

(iii) by striking ''$150,000'' and inserting ''$1,500,000''.

(3) LOWER LIMITATION FOR PERSONS WITH GROSS RECEIPTS OF NOT MORE THAN $5,000,000.—Section 6721(d)(1) is amended—

(A) in subparagraph (A)—

(i) by striking ''$100,000'' and inserting ''$1,000,000'', and

(ii) by striking ''$250,000'' and inserting ''$3,000,000'',

(B) in subparagraph (B)—

(i) by striking ''$25,000'' and inserting ''$175,000'', and

(ii) by striking ''$75,000'' and inserting ''$500,000'', and

(C) in subparagraph (C)—

(i) by striking ''$50,000'' and inserting ''$500,000'', and

(ii) by striking ''$150,000'' and inserting ''$1,500,000''.

(4) PENALTY IN CASE OF INTENTIONAL DISREGARD.—Section 6721(e) is amended—

(A) by striking ''$100'' in paragraph (2) and inserting ''$500'',

(B) by striking ''$250,000'' in paragraph (3)(A) and inserting ''$3,000,000''.

(b) FAILURE TO FURNISH CORRECT PAYEE STATEMENTS.—

(1) IN GENERAL.—Section 6722(a) is amended—

(A) by striking ''$50'' and inserting ''$250'', and

(B) by striking ''$100,000'' and inserting ''$1,000,000''.

(2) PENALTY IN CASE OF INTENTIONAL DISREGARD.—Section 6722(c) is amended—

(A) by striking ''$100'' in paragraph (1) and inserting ''$500'', and

(B) by striking ''$100,000'' in paragraph (2)(A) and inserting ''$1,000,000''.

(c) FAILURE TO COMPLY WITH OTHER INFORMATION REPORTING REQUIREMENTS.—Section 6723 is amended—

(1) by striking ''$50'' and inserting ''$250'', and

(2) by striking ''$100,000'' and inserting ''$1,000,000''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to information returns required to be filed on or after January 1, 2009.

SEC. 834. EXEMPTION OF CERTAIN COMMERCIAL CARGO FROM HARBOR MAINTENANCE TAX.

(a) IN GENERAL.—Section 4462 is amended—

(1) by redesignating subsection (i) as subsection (j), and

(2) by inserting after subsection (h) the following new subsection:

''(i) EXEMPTION FOR CERTAIN CARGO TRANSPORTED ON THE GREAT LAKES SAINT LAWRENCE SEAWAY SYSTEM.—

''(1) IN GENERAL.—No tax shall be imposed under section 4461(a) with respect to—

''(A) commercial cargo (other than bulk cargo) loaded at a port in the United States located in the Great Lakes Saint Lawrence Seaway System and unloaded at another port in the United States located in such system, and

''(B) commercial cargo (other than bulk cargo) unloaded at a port in the United States located in the Great Lakes Saint Lawrence Seaway System which was loaded at a port in Canada located in such system.

''(2) BULK CARGO.—For purposes of this subsection, the term 'bulk cargo' shall have the meaning given such term by section 53101(1) of title 46, United States Code (as in effect on the date of the enactment of this section).

''(3) GREAT LAKES SAINT LAWRENCE SEAWAY SYSTEM.—For purposes of this subsection, the term 'Great Lakes Saint Lawrence Seaway System' means the waterway between Duluth, Minnesota and Sept. Iles, Quebec, encompassing the five Great Lakes, their connecting channels, and the Saint Lawrence River.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 835. CREDIT TO HOLDERS OF QUALIFIED RAIL INFRASTRUCTURE BONDS.

(a) IN GENERAL.—Subpart H of part IV of subchapter A of chapter 1 (relating to credits against tax) is amended by adding at the end the following new section:

''SEC. 54A. CREDIT TO HOLDERS OF QUALIFIED RAIL INFRASTRUCTURE BONDS.

''(a) ALLOWANCE OF CREDIT.—If a taxpayer holds a qualified rail infrastructure bond on 1 or more credit allowance dates of the bond occurring during any taxable year, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of the credits determined under subsection (b) with respect to such dates.

''(b) AMOUNT OF CREDIT.—

''(1) IN GENERAL.—The amount of the credit determined under this subsection with respect to any credit allowance date for a qualified rail infrastructure bond is 25 percent of the annual credit determined with respect to such bond.

''(2) ANNUAL CREDIT.—The annual credit determined with respect to any qualified rail infrastructure bond is the product of—

''(A) the credit rate determined by the Secretary under paragraph (3) for the day on which such bond was sold, multiplied by

''(B) the outstanding face amount of the bond.

''(3) DETERMINATION.—For purposes of paragraph (2), with respect to any qualified rail infrastructure bond, the Secretary shall determine daily or cause to be determined daily a credit rate which shall apply to the first day on which there is a binding, written contract for the sale or exchange of the bond. The credit rate for any day is the credit rate which the Secretary or the Secretary's designee estimates will permit the issuance of qualified rail infrastructure bonds with a specified maturity or redemption date, without discount and without interest cost to the qualified issuer.

''(4) CREDIT ALLOWANCE DATE.—For purposes of this section, the term 'credit allowance date' means—

''(A) March 15,

''(B) June 15,

''(C) September 15, and

''(D) December 15.

Such term also includes the last day on which the bond is outstanding.

''(5) SPECIAL RULE FOR ISSUANCE AND REDEMPTION.—In the case of a bond which is issued during the 3-month period ending on a credit allowance date, the amount of the credit determined under this subsection with respect to such credit allowance date shall be a ratable portion of the credit otherwise determined based on the portion of the 3-month period during which the bond is outstanding. A similar rule shall apply when the bond is redeemed or matures.

''(c) LIMITATION BASED ON AMOUNT OF TAX.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess of—

''(1) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(2) the sum of the credits allowable under this part (other than this subpart, subpart C, and section 1400N(l)).

''(d) QUALIFIED RAIL INFRASTRUCTURE BOND.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified rail infrastructure bond' means any bond issued as part of an issue if—

''(A) the bond is issued by a qualified issuer pursuant to an allocation by the Secretary to such issuer of a portion of the national qualified rail infrastructure bond annual limitation under subsection (f)(2) by not later than the end of the calendar year following the year of such allocation,

''(B) 95 percent or more of the proceeds of such issue are to be used for capital expenditures incurred for 1 or more qualified projects,

''(C) the qualified issuer designates such bond for purposes of this section and the bond is in registered form, and

''(D) the issue meets the requirements of subsection (h).

''(2) QUALIFIED PROJECT; SPECIAL USE RULES.—

''(A) IN GENERAL.—The term 'qualified project' means a project eligible under section 26101(b) of title 49, United States Code (determined without regard to paragraph (2) thereof), which the Secretary determines was selected using the criteria of subsection (c) of such section 26101 by the Secretary of Transportation, that makes a substantial contribution to improving a rail transportation corridor for intercity passenger rail use.

''(B) CERTIFICATION REQUIRED REGARDING CERTAIN PROJECTS.—The Secretary shall not consider a project to be a qualified project unless an applicant certifies to the Secretary that—

''(i) if a project involves a rail transportation corridor which includes the use of rights-of-way owned by a freight railroad, the applicant has entered into a written agreement with such freight railroad regarding the use of the rights-of-way and has received assurances that collective bargaining agreements between such freight railroad and its employees (including terms regarding the contracting of work performed on such corridor) shall remain in full force and effect during the term of such written agreement,

''(ii) any person which provides railroad transportation over infrastructure improved or acquired pursuant to this section, is a rail carrier as defined by section 10102 of title 49, United States Code, and

''(iii) the applicant shall, with respect to improvements to rail infrastructure made pursuant to this section, comply with the standards applicable to construction work in such title 49, in the same manner in which the National Railroad Passenger Corporation is required to comply with such standards.

''(C) REFINANCING RULES.—For purposes of paragraph (1)(B), a qualified project may be refinanced with proceeds of a qualified rail infrastructure bond only if the indebtedness being refinanced (including any obligation directly or indirectly refinanced by such indebtedness) was originally incurred after the date of the enactment of this section.

''(D) REIMBURSEMENT.—For purposes of paragraph (1)(B), a qualified rail infrastructure bond may be issued to reimburse for amounts paid after the date of the enactment of this section with respect to a qualified project, but only if—

''(i) prior to the payment of the original expenditure, the issuer declared its intent to reimburse such expenditure with the proceeds of a qualified rail infrastructure bond,

''(ii) not later than 60 days after payment of the original expenditure, the qualified issuer adopts an official intent to reimburse the original expenditure with such proceeds, and

''(iii) the reimbursement is made not later than 18 months after the date the original expenditure is paid.

''(E) TREATMENT OF CHANGES IN USE.—For purposes of paragraph (1)(B), the proceeds of an issue shall not be treated as used for a qualified project to the extent that a qualified issuer takes any action within its control which causes such proceeds not to be used for a qualified project. The Secretary shall prescribe regulations specifying remedial actions that may be taken (including conditions to taking such remedial actions) to prevent an action described in the preceding sentence from causing a bond to fail to be a qualified rail infrastructure bond.

''(e) MATURITY LIMITATIONS.—

''(1) DURATION OF TERM.—A bond shall not be treated as a qualified rail infrastructure bond if the maturity of such bond exceeds the maximum term determined by the Secretary under paragraph (2) with respect to such bond.

''(2) MAXIMUM TERM.—During each calendar month, the Secretary shall determine the maximum term permitted under this paragraph for bonds issued during the following calendar month. Such maximum term shall be the term which the Secretary estimates will result in the present value of the obligation to repay the principal on the bond being equal to 50 percent of the face amount of such bond. Such present value shall be determined without regard to the requirements of paragraph (3) and using as a discount rate the average annual interest rate of tax-exempt obligations having a term of 10 years or more which are issued during the month. If the term as so determined is not a multiple of a whole year, such term shall be rounded to the next highest whole year.

''(3) RATABLE PRINCIPAL AMORTIZATION REQUIRED.—A bond shall not be treated as a qualified rail infrastructure bond unless it is part of an issue which provides for an equal amount of principal to be paid by the qualified issuer during each 12-month period that the issue is outstanding (other than the first 12-month period).

''(f) ANNUAL LIMITATION ON AMOUNT OF BONDS DESIGNATED.—

''(1) NATIONAL ANNUAL LIMITATION.—There is a national qualified rail infrastructure bond annual limitation for each calendar year. Such limitation is $900,000,000 for 2009, 2010, and 2011, and, except as provided in paragraph (3), zero thereafter.

''(2) ALLOCATION BY SECRETARY.—The national qualified rail infrastructure bond annual limitation for a calendar year shall be allocated by the Secretary among qualified projects in such manner as the Secretary determines appropriate.

''(3) CARRYOVER OF UNUSED LIMITATION.—If for any calendar year, the national qualified rail infrastructure bond annual limitation for such year exceeds the amount of bonds allocated during such year, such limitation for the following calendar year shall be increased by the amount of such excess. Any carryforward of a limitation may be carried only to the first 2 years following the unused limitation year. For purposes of the preceding sentence, a limitation shall be treated as used on a first-in first-out basis.

''(g) CREDIT TREATED AS INTEREST.—For purposes of this title, the credit determined under subsection (a) shall be treated as interest which is includible in gross income.

''(h) SPECIAL RULES RELATING TO EXPENDITURES.—

''(1) IN GENERAL.—An issue shall be treated as meeting the requirements of this subsection if, as of the date of issuance, the qualified issuer reasonably expects—

''(A) at least 95 percent of the proceeds of the issue are to be spent for 1 or more qualified projects within the 5-year period beginning on the date of issuance of the qualified rail infrastructure bond,

''(B) a binding commitment with a third party to spend at least 10 percent of the proceeds of the issue will be incurred within the 6-month period beginning on the date of issuance of the qualified rail infrastructure bond, and

''(C) such projects will be completed with due diligence and the proceeds from the sale of the issue will be spent with due diligence.

''(2) EXTENSION OF PERIOD.—Upon submission of a request prior to the expiration of the period described in paragraph (1)(A), the Secretary may extend such period if the qualified issuer establishes that the failure to satisfy the 5-year requirement is due to reasonable cause and the related projects will continue to proceed with due diligence.

''(3) FAILURE TO SPEND REQUIRED AMOUNT OF BOND PROCEEDS WITHIN 5 YEARS.—To the extent that less than 95 percent of the proceeds of such issue are expended by the close of the 5-year period beginning on the date of issuance (or if an extension has been obtained under paragraph (2), by the close of the extended period), the qualified issuer shall redeem all of the nonqualified bonds within 90 days after the end of such period. For purposes of this paragraph, the amount of the nonqualified bonds required to be redeemed shall be determined in the same manner as under section 142.

''(i) SPECIAL RULES RELATING TO ARBITRAGE.—A bond which is part of an issue shall not be treated as a qualified rail infrastructure bond unless, with respect to the issue of which the bond is a part, the qualified issuer satisfies the arbitrage requirements of section 148 with respect to proceeds of the issue.

''(j) SPECIAL RULES RELATING TO POOL BONDS.—No portion of a pooled financing bond may be allocable to loan unless the borrower has entered into a written loan commitment for such portion prior to the issue date of such issue.

''(k) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) BOND.—The term 'bond' includes any obligation.

''(2) POOLED FINANCING BOND.—The term 'pooled financing bond' shall have the meaning given such term by section 149(f)(4)(A).

''(3) QUALIFIED ISSUER.—The term 'qualified issuer' means 1 or more States or an interstate compact of States.

''(4) STATE.—The term 'State' includes the District of Columbia and any possession of the United States.

''(5) S CORPORATIONS AND PARTNERSHIPS.—In the case of a qualified rail infrastructure bond held by an S corporation or partnership, the allocation of the credit allowed by this section to the shareholders of the corporation or partners of such partnership shall be treated as a distribution.

''(6) BONDS HELD BY REGULATED INVESTMENT COMPANIES.—If any qualified rail infrastructure bond is held by a regulated investment company, the credit determined under subsection (a) shall be allowed to shareholders of such company under procedures prescribed by the Secretary.

''(7) REPORTING.—Issuers of qualified rail infrastructure bonds shall submit reports similar to the reports required under section 149(e).

''(8) TERMINATION.—This section shall not apply with respect to any bond issued after December 31, 2013.''.

(b) REPORTING.—Subsection (d) of section 6049 (relating to returns regarding payments of interest) is amended by adding at the end the following new paragraph:

''(9) REPORTING OF CREDIT ON QUALIFIED RAIL INFRASTRUCTURE BONDS.—

''(A) IN GENERAL.—For purposes of subsection (a), the term 'interest' includes amounts includible in gross income under section 54A(g) and such amounts shall be treated as paid on the credit allowance date (as defined in section 54A(b)(4)).

''(B) REPORTING TO CORPORATIONS, ETC.—Except as otherwise provided in regulations, in the case of any interest described in subparagraph (A), subsection (b)(4) shall be applied without regard to subparagraphs (A), (H), (I), (J), (K), and (L)(i) of such subsection.

''(C) REGULATORY AUTHORITY.—The Secretary may prescribe such regulations as are necessary or appropriate to carry out the

purposes of this paragraph, including regulations which require more frequent or more detailed reporting.''.

(c) CONFORMING AMENDMENTS.—

(1) The table of sections for subpart H of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

''Sec. 54A. Credit to holders of qualified rail infrastructure bonds.''.

(2) Section 54(c)(2) is amended by inserting '', section 54A,'' after ''subpart C''.

(d) ISSUANCE OF REGULATIONS.—The Secretary of Treasury shall issue regulations required under section 54A of the Internal Revenue Code of 1986 (as added by this section) not later than 120 days after the date of the enactment of this Act.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after the date of the enactment of this Act.

SEC. 836. REPEAL OF SUSPENSION OF CERTAIN PENALTIES AND INTEREST.

(a) IN GENERAL.—Section 6404 is amended by striking subsection (g).

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to notices provided by the Secretary of the Treasury, or his delegate after the date which is 6 months after the date of the enactment of the Small Business and Work Opportunity Tax Act of 2007.

(2) EXCEPTION FOR CERTAIN TAXPAYERS.—The amendments made by this section shall not apply to any taxpayer with respect to whom a suspension of any interest, penalty, addition to tax, or other amount is in effect on the date which is 6 months after the date of the enactment of the Small Business and Work Opportunity Tax Act of 2007.

SEC. 837. DENIAL OF DEDUCTION FOR CERTAIN FINES, PENALTIES, AND OTHER AMOUNTS.

(a) IN GENERAL.—Subsection (f) of section 162 (relating to trade or business expenses) is amended to read as follows:

''(f) FINES, PENALTIES, AND OTHER AMOUNTS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), no deduction otherwise allowable shall be allowed under this chapter for any amount paid or incurred (whether by suit, agreement, or otherwise) to, or at the direction of, a government or entity described in paragraph (4) in relation to—

''(A) the violation of any law, or

''(B) an investigation or inquiry into the potential violation of any law which is initiated by such government or entity.

''(2) EXCEPTION FOR AMOUNTS CONSTITUTING RESTITUTION OR PAID TO COME INTO COMPLIANCE WITH LAW.—Paragraph (1) shall not apply to any amount which—

''(A) the taxpayer establishes—

''(i) constitutes restitution (or remediation of property) for damage or harm caused by, or which may be caused by, the violation of any law or the potential violation of any law, or

''(ii) is paid to come into compliance with any law which was violated or involved in the investigation or inquiry, and

''(B) is identified as an amount described in clause (i) or (ii) of subparagraph (A), as the case may be, in the court order or settlement agreement, except that the requirement of this subparagraph shall not apply in the case of any settlement agreement which requires the taxpayer to pay or incur an amount not greater than $1,000,000.

A taxpayer shall not meet the requirements of subparagraph (A) solely by reason an identification under subparagraph (B). This paragraph shall not apply to any amount paid or incurred as reimbursement to the government or entity for the costs of any investigation or litigation unless such amount is paid or incurred for a cost or fee regularly charged for any routine audit or other customary review performed by the government or entity.

''(3) EXCEPTION FOR AMOUNTS PAID OR INCURRED AS THE RESULT OF CERTAIN COURT ORDERS.—Paragraph (1) shall not apply to any amount paid or incurred by order of a court in a suit in which no government or entity described in paragraph (4) is a party.

''(4) CERTAIN NONGOVERNMENTAL REGULATORY ENTITIES.—An entity is described in this paragraph if it is—

''(A) a nongovernmental entity which exercises self-regulatory powers (including imposing sanctions) in connection with a qualified board or exchange (as defined in section 1256(g)(7)), or

''(B) to the extent provided in regulations, a nongovernmental entity which exercises self-regulatory powers (including imposing sanctions) as part of performing an essential governmental function.

''(5) EXCEPTION FOR TAXES DUE.—Paragraph (1) shall not apply to any amount paid or incurred as taxes due.''.

(b) REPORTING OF DEDUCTIBLE AMOUNTS.—

(1) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 is amended by inserting after section 6050V the following new section:

''SEC. 6050W. INFORMATION WITH RESPECT TO CERTAIN FINES, PENALTIES, AND OTHER AMOUNTS.

''(a) REQUIREMENT OF REPORTING.—

''(1) IN GENERAL.—The appropriate official of any government or entity which is described in section 162(f)(4) which is involved in a suit or agreement described in paragraph (2) shall make a return in such form as determined by the Secretary setting forth—

''(A) the amount required to be paid as a result of the suit or agreement to which paragraph (1) of section 162(f) applies,

''(B) any amount required to be paid as a result of the suit or agreement which constitutes restitution or remediation of property, and

''(C) any amount required to be paid as a result of the suit or agreement for the purpose of coming into compliance with any law which was violated or involved in the investigation or inquiry.

''(2) SUIT OR AGREEMENT DESCRIBED.—

''(A) IN GENERAL.—A suit or agreement is described in this paragraph if—

''(i) it is—

''(I) a suit with respect to a violation of any law over which the government or entity has authority and with respect to which there has been a court order, or

''(II) an agreement which is entered into with respect to a violation of any law over which the government or entity has authority, or with respect to an investigation or inquiry by the government or entity into the potential violation of any law over which such government or entity has authority, and

''(ii) the aggregate amount involved in all court orders and agreements with respect to the violation, investigation, or inquiry is $600 or more.

''(B) ADJUSTMENT OF REPORTING THRESHOLD.—The Secretary may adjust the $600 amount in subparagraph (A)(ii) as necessary in order to ensure the efficient administration of the internal revenue laws.

''(3) TIME OF FILING.—The return required under this subsection shall be filed not later than—

''(A) 30 days after the date on which a court order is issued with respect to the suit or the date the agreement is entered into, as the case may be, or

''(B) the date specified by the Secretary.

''(b) STATEMENTS TO BE FURNISHED TO INDIVIDUALS INVOLVED IN THE SETTLEMENT.—Every person required to make a return under subsection (a) shall furnish to each person who is a party to the suit or agreement a written statement showing—

''(1) the name of the government or entity, and

''(2) the information supplied to the Secretary under subsection (a)(1).

The written statement required under the preceding sentence shall be furnished to the person at the same time the government or entity provides the Secretary with the information required under subsection (a).

''(c) APPROPRIATE OFFICIAL DEFINED.—For purposes of this section, the term 'appropriate official' means the officer or employee having control of the suit, investigation, or inquiry or the person appropriately designated for purposes of this section.''.

(2) CONFORMING AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by inserting after the item relating to section 6050V the following new item:

''Sec. 6050W. Information with respect to certain fines, penalties, and other amounts.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred on or after the date of the enactment of this Act, except that such amendments shall not apply to amounts paid or incurred under any binding order or agreement entered into before such date. Such exception shall not apply to an order or agreement requiring court approval unless the approval was obtained before such date.

SEC. 838. REVISION OF TAX RULES ON EXPATRIATION.

(a) IN GENERAL.—Subpart A of part II of subchapter N of chapter 1 is amended by inserting after section 877 the following new section:

''SEC. 877A. TAX RESPONSIBILITIES OF EXPATRIATION.

''(a) GENERAL RULES.—For purposes of this subtitle—

''(1) MARK TO MARKET.—All property of a covered expatriate shall be treated as sold on the day before the expatriation date for its fair market value.

''(2) RECOGNITION OF GAIN OR LOSS.—In the case of any sale under paragraph (1)—

''(A) notwithstanding any other provision of this title, any gain arising from such sale shall be taken into account for the taxable year of the sale, and

''(B) any loss arising from such sale shall be taken into account for the taxable year of the sale to the extent otherwise provided by this title, except that section 1091 shall not apply to any such loss.

Proper adjustment shall be made in the amount of any gain or loss subsequently realized for gain or loss taken into account under the preceding sentence, determined without regard to paragraph (3).

''(3) EXCLUSION FOR CERTAIN GAIN.—

''(A) IN GENERAL.—The amount which would (but for this paragraph) be includible in the gross income of any individual by reason of paragraph (1) shall be reduced (but not below zero) by $600,000.

''(B) ADJUSTMENT FOR INFLATION.—

''(i) IN GENERAL.—In the case of any taxable year beginning in a calendar year after 2008, the dollar amount in subparagraph (A) shall be increased by an amount equal to—

''(I) such dollar amount, multiplied by

''(II) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, by substituting 'calendar year 2007' for 'calendar year 1992' in subparagraph (B) thereof.

''(ii) ROUNDING.—If any amount as adjusted under clause (i) is not a multiple of $1,000,

such amount shall be rounded to the nearest multiple of $1,000.

''(b) ELECTION TO DEFER TAX.—

''(1) IN GENERAL.—If the taxpayer elects the application of this subsection with respect to any property treated as sold by reason of subsection (a), the time for payment of the additional tax attributable to such property shall be extended until the due date of the return for the taxable year in which such property is disposed of (or, in the case of property disposed of in a transaction in which gain is not recognized in whole or in part, until such other date as the Secretary may prescribe).

''(2) DETERMINATION OF TAX WITH RESPECT TO PROPERTY.—For purposes of paragraph (1), the additional tax attributable to any property is an amount which bears the same ratio to the additional tax imposed by this chapter for the taxable year solely by reason of subsection (a) as the gain taken into account under subsection (a) with respect to such property bears to the total gain taken into account under subsection (a) with respect to all property to which subsection (a) applies.

''(3) TERMINATION OF EXTENSION.—The due date for payment of tax may not be extended under this subsection later than the due date for the return of tax imposed by this chapter for the taxable year which includes the date of death of the expatriate (or, if earlier, the time that the security provided with respect to the property fails to meet the requirements of paragraph (4), unless the taxpayer corrects such failure within the time specified by the Secretary).

''(4) SECURITY.—

''(A) IN GENERAL.—No election may be made under paragraph (1) with respect to any property unless adequate security is provided with respect to such property.

''(B) ADEQUATE SECURITY.—For purposes of subparagraph (A), security with respect to any property shall be treated as adequate security if—

''(i) it is a bond which is furnished to, and accepted by, the Secretary, which is conditioned on the payment of tax (and interest thereon), and which meets the requirements of section 6325, or

''(ii) it is another form of security for such payment (including letters of credit) that meets such requirements as the Secretary may prescribe.

''(5) WAIVER OF CERTAIN RIGHTS.—No election may be made under paragraph (1) unless the taxpayer makes an irrevocable waiver of any right under any treaty of the United States which would preclude assessment or collection of any tax imposed by reason of this section.

''(6) ELECTIONS.—An election under paragraph (1) shall only apply to property described in the election and, once made, is irrevocable.

''(7) INTEREST.—For purposes of section 6601, the last date for the payment of tax shall be determined without regard to the election under this subsection.

''(c) EXCEPTION FOR CERTAIN PROPERTY.—Subsection (a) shall not apply to—

''(1) any deferred compensation item (as defined in subsection (d)(4)),

''(2) any specified tax deferred account (as defined in subsection (e)(2)), and

''(3) any interest in a nongrantor trust (as defined in subsection (f)(3)).

''(d) TREATMENT OF DEFERRED COMPENSATION ITEMS.—

''(1) WITHHOLDING ON ELIGIBLE DEFERRED COMPENSATION ITEMS.—

''(A) IN GENERAL.—In the case of any eligible deferred compensation item, the payor shall deduct and withhold from any taxable payment to a covered expatriate with respect to such item a tax equal to 30 percent thereof.

''(B) TAXABLE PAYMENT.—For purposes of subparagraph (A), the term 'taxable payment' means with respect to a covered expatriate any payment to the extent it would be includible in the gross income of the covered expatriate if such expatriate continued to be subject to tax as a citizen or resident of the United States. A deferred compensation item shall be taken into account as a payment under the preceding sentence when such item would be so includible.

''(2) OTHER DEFERRED COMPENSATION ITEMS.—In the case of any deferred compensation item which is not an eligible deferred compensation item—

''(A)(i) with respect to any deferred compensation item to which clause (ii) does not apply, an amount equal to the present value of the covered expatriate's accrued benefit shall be treated as having been received by such individual on the day before the expatriation date as a distribution under the plan, and

''(ii) with respect to any deferred compensation item referred to in paragraph (4)(D), the rights of the covered expatriate to such item shall be treated as becoming transferable and not subject to a substantial risk of forfeiture on the day before the expatriation date,

''(B) no early distribution tax shall apply by reason of such treatment, and

''(C) appropriate adjustments shall be made to subsequent distributions from the plan to reflect such treatment.

''(3) ELIGIBLE DEFERRED COMPENSATION ITEMS.—For purposes of this subsection, the term 'eligible deferred compensation item' means any deferred compensation item with respect to which—

''(A) the payor of such item is—

''(i) a United States person, or

''(ii) a person who is not a United States person but who elects to be treated as a United States person for purposes of paragraph (1) and meets such requirements as the Secretary may provide to ensure that the payor will meet the requirements of paragraph (1), and

''(B) the covered expatriate—

''(i) notifies the payor of his status as a covered expatriate, and

''(ii) makes an irrevocable waiver of any right to claim any reduction under any treaty with the United States in withholding on such item.

''(4) DEFERRED COMPENSATION ITEM.—For purposes of this subsection, the term 'deferred compensation item' means—

''(A) any interest in a plan or arrangement described in section 219(g)(5),

''(B) any interest in a foreign pension plan or similar retirement arrangement or program,

''(C) any item of deferred compensation, and

''(D) any property, or right to property, which the individual is entitled to receive in connection with the performance of services to the extent not previously taken into account under section 83 or in accordance with section 83.

''(5) EXCEPTION.—Paragraphs (1) and (2) shall not apply to any deferred compensation item which is attributable to services performed outside the United States while the covered expatriate was not a citizen or resident of the United States.

''(6) SPECIAL RULES.—

''(A) APPLICATION OF WITHHOLDING RULES.—Rules similar to the rules of subchapter B of chapter 3 shall apply for purposes of this subsection.

''(B) APPLICATION OF TAX.—Any item subject to the withholding tax imposed under paragraph (1) shall be subject to tax under section 871.

''(C) COORDINATION WITH OTHER WITHHOLDING REQUIREMENTS.—Any item subject to withholding under paragraph (1) shall not be subject to withholding under section 1441 or chapter 24.

''(e) TREATMENT OF SPECIFIED TAX DEFERRED ACCOUNTS.—

''(1) ACCOUNT TREATED AS DISTRIBUTED.—In the case of any interest in a specified tax deferred account held by a covered expatriate on the day before the expatriation date—

''(A) the covered expatriate shall be treated as receiving a distribution of his entire interest in such account on the day before the expatriation date,

''(B) no early distribution tax shall apply by reason of such treatment, and

''(C) appropriate adjustments shall be made to subsequent distributions from the account to reflect such treatment.

''(2) SPECIFIED TAX DEFERRED ACCOUNT.—For purposes of paragraph (1), the term 'specified tax deferred account' means an individual retirement plan (as defined in section 7701(a)(37)) other than any arrangement described in subsection (k) or (p) of section 408, a qualified tuition program (as defined in section 529), a Coverdell education savings account (as defined in section 530), a health savings account (as defined in section 223), and an Archer MSA (as defined in section 220).

''(f) SPECIAL RULES FOR NONGRANTOR TRUSTS.—

''(1) IN GENERAL.—In the case of a distribution (directly or indirectly) of any property from a nongrantor trust to a covered expatriate—

''(A) the trustee shall deduct and withhold from such distribution an amount equal to 30 percent of the taxable portion of the distribution, and

''(B) if the fair market value of such property exceeds its adjusted basis in the hands of the trust, gain shall be recognized to the trust as if such property were sold to the expatriate at its fair market value.

''(2) TAXABLE PORTION.—For purposes of this subsection, the term 'taxable portion' means, with respect to any distribution, that portion of the distribution which would be includible in the gross income of the covered expatriate if such expatriate continued to be subject to tax as a citizen or resident of the United States.

''(3) NONGRANTOR TRUST.—For purposes of this subsection, the term 'nongrantor trust' means the portion of any trust that the individual is not considered the owner of under subpart E of part I of subchapter J. The determination under the preceding sentence shall be made immediately before the expatriation date.

''(4) SPECIAL RULES RELATING TO WITHHOLDING.—For purposes of this subsection—

''(A) rules similar to the rules of subsection (d)(6) shall apply, and

''(B) the covered expatriate shall be treated as having waived any right to claim any reduction under any treaty with the United States in withholding on any distribution to which paragraph (1)(A) applies.

''(g) DEFINITIONS AND SPECIAL RULES RELATING TO EXPATRIATION.—For purposes of this section—

''(1) COVERED EXPATRIATE.—

''(A) IN GENERAL.—The term 'covered expatriate' means an expatriate who meets the requirements of subparagraph (A), (B), or (C) of section 877(a)(2).

''(B) EXCEPTIONS.—An individual shall not be treated as meeting the requirements of subparagraph (A) or (B) of section 877(a)(2) if—

''(i) the individual—

''(I) became at birth a citizen of the United States and a citizen of another country and, as of the expatriation date, continues to be a citizen of, and is taxed as a resident of, such other country, and

''(II) has been a resident of the United States (as defined in section 7701(b)(1)(A)(ii)) for not more than 10 taxable years during the 15-taxable year period ending with the taxable year during which the expatriation date occurs, or

''(ii)(I) the individual's relinquishment of United States citizenship occurs before such individual attains age 18½, and

''(II) the individual has been a resident of the United States (as so defined) for not more than 10 taxable years before the date of relinquishment.

''(C) COVERED EXPATRIATES ALSO SUBJECT TO TAX AS CITIZENS OR RESIDENTS.—In the case of any covered expatriate who is subject to tax as a citizen or resident of the United States for any period beginning after the expatriation date, such individual shall not be treated as a covered expatriate during such period for purposes of subsections (d)(1) and (f) and section 2801.

''(2) EXPATRIATE.—The term 'expatriate' means—

''(A) any United States citizen who relinquishes his citizenship, and

''(B) any long-term resident of the United States who ceases to be a lawful permanent resident of the United States (within the meaning of section 7701(b)(6)).

''(3) EXPATRIATION DATE.—The term 'expatriation date' means—

''(A) the date an individual relinquishes United States citizenship, or

''(B) in the case of a long-term resident of the United States, the date on which the individual ceases to be a lawful permanent resident of the United States (within the meaning of section 7701(b)(6)).

''(4) RELINQUISHMENT OF CITIZENSHIP.—A citizen shall be treated as relinquishing his United States citizenship on the earliest of—

''(A) the date the individual renounces his United States nationality before a diplomatic or consular officer of the United States pursuant to paragraph (5) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(5)),

''(B) the date the individual furnishes to the United States Department of State a signed statement of voluntary relinquishment of United States nationality confirming the performance of an act of expatriation specified in paragraph (1), (2), (3), or (4) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(1)–(4)),

''(C) the date the United States Department of State issues to the individual a certificate of loss of nationality, or

''(D) the date a court of the United States cancels a naturalized citizen's certificate of naturalization.

Subparagraph (A) or (B) shall not apply to any individual unless the renunciation or voluntary relinquishment is subsequently approved by the issuance to the individual of a certificate of loss of nationality by the United States Department of State.

''(5) LONG-TERM RESIDENT.—The term 'long-term resident' has the meaning given to such term by section 877(e)(2).

''(6) EARLY DISTRIBUTION TAX.—The term 'early distribution tax' means any increase in tax imposed under section 72(t), 220(e)(4), 223(f)(4), 409A(a)(1)(B), 529(c)(6), or 530(d)(4).

''(h) OTHER RULES.—

''(1) TERMINATION OF DEFERRALS, ETC.—In the case of any covered expatriate, notwithstanding any other provision of this title—

''(A) any time period for acquiring property which would result in the reduction in the amount of gain recognized with respect to property disposed of by the taxpayer shall terminate on the day before the expatriation date, and

''(B) any extension of time for payment of tax shall cease to apply on the day before the expatriation date and the unpaid portion of such tax shall be due and payable at the time and in the manner prescribed by the Secretary.

''(2) STEP-UP IN BASIS.—Solely for purposes of determining any tax imposed by reason of subsection (a), property which was held by an individual on the date the individual first became a resident of the United States (within the meaning of section 7701(b)) shall be treated as having a basis on such date of not less than the fair market value of such property on such date. The preceding sentence shall not apply if the individual elects not to have such sentence apply. Such an election, once made, shall be irrevocable.

''(3) COORDINATION WITH SECTION 684.—If the expatriation of any individual would result in the recognition of gain under section 684, this section shall be applied after the application of section 684.

''(i) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.''.

(b) TAX ON GIFTS AND BEQUESTS RECEIVED BY UNITED STATES CITIZENS AND RESIDENTS FROM EXPATRIATES.—

(1) IN GENERAL.—Subtitle B (relating to estate and gift taxes) is amended by inserting after chapter 14 the following new chapter:

''CHAPTER 15—GIFTS AND BEQUESTS FROM EXPATRIATES

''Sec. 2801. Imposition of tax.

''SEC. 2801. IMPOSITION OF TAX.

''(a) IN GENERAL.—If, during any calendar year, any United States citizen or resident receives any covered gift or bequest, there is hereby imposed a tax equal to the product of—

''(1) the highest rate of tax specified in the table contained in section 2001(c) as in effect on the date of such receipt (or, if greater, the highest rate of tax specified in the table applicable under section 2502(a) as in effect on the date), and

''(2) the value of such covered gift or bequest.

''(b) TAX TO BE PAID BY RECIPIENT.—The tax imposed by subsection (a) on any covered gift or bequest shall be paid by the person receiving such gift or bequest.

''(c) EXCEPTION FOR CERTAIN GIFTS.—Subsection (a) shall apply only to the extent that the value of covered gifts and bequests received by any person during the calendar year exceeds $10,000.

''(d) TAX REDUCED BY FOREIGN GIFT OR ESTATE TAX.—The tax imposed by subsection (a) on any covered gift or bequest shall be reduced by the amount of any gift or estate tax paid to a foreign country with respect to such covered gift or bequest.

''(e) COVERED GIFT OR BEQUEST.—

''(1) IN GENERAL.—For purposes of this chapter, the term 'covered gift or bequest' means—

''(A) any property acquired by gift directly or indirectly from an individual who, at the time of such acquisition, is a covered expatriate, and

''(B) any property acquired directly or indirectly by reason of the death of an individual who, immediately before such death, was a covered expatriate.

''(2) EXCEPTIONS FOR TRANSFERS OTHERWISE SUBJECT TO ESTATE OR GIFT TAX.—Such term shall not include—

''(A) any property shown on a timely filed return of tax imposed by chapter 12 which is a taxable gift by the covered expatriate, and

''(B) any property included in the gross estate of the covered expatriate for purposes of chapter 11 and shown on a timely filed return of tax imposed by chapter 11 of the estate of the covered expatriate.

''(3) TRANSFERS IN TRUST.—

''(A) DOMESTIC TRUSTS.—In the case of a covered gift or bequest made to a domestic trust—

''(i) subsection (a) shall apply in the same manner as if such trust were a United States citizen, and

''(ii) the tax imposed by subsection (a) on such gift or bequest shall be paid by such trust.

''(B) FOREIGN TRUSTS.—

''(i) IN GENERAL.—In the case of a covered gift or bequest made to a foreign trust, subsection (a) shall apply to any distribution attributable to such gift or bequest from such trust (whether from income or corpus) to a United States citizen or resident in the same manner as if such distribution were a covered gift or bequest.

''(ii) DEDUCTION FOR TAX PAID BY RECIPIENT.—There shall be allowed as a deduction under section 164 the amount of tax imposed by this section which is paid or accrued by a United States citizen or resident by reason of a distribution from a foreign trust, but only to the extent such tax is imposed on the portion of such distribution which is included in the gross income of such citizen or resident.

''(iii) ELECTION TO BE TREATED AS DOMESTIC TRUST.—Solely for purposes of this section, a foreign trust may elect to be treated as a domestic trust. Such an election may be revoked with the consent of the Secretary.

''(f) COVERED EXPATRIATE.—For purposes of this section, the term 'covered expatriate' has the meaning given to such term by section 877A(g)(1).''.

(2) CLERICAL AMENDMENT.—The table of chapters for subtitle B is amended by inserting after the item relating to chapter 14 the following new item:

''CHAPTER 15. GIFTS AND BEQUESTS FROM EXPATRIATES.''.

(c) DEFINITION OF TERMINATION OF UNITED STATES CITIZENSHIP.—

(1) IN GENERAL.—Section 7701(a) is amended by adding at the end the following new paragraph:

''(50) TERMINATION OF UNITED STATES CITIZENSHIP.—

''(A) IN GENERAL.—An individual shall not cease to be treated as a United States citizen before the date on which the individual's citizenship is treated as relinquished under section 877A(g)(4).

''(B) DUAL CITIZENS.—Under regulations prescribed by the Secretary, subparagraph (A) shall not apply to an individual who became at birth a citizen of the United States and a citizen of another country.''.

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (1) of section 877(e) is amended to read as follows:

''(1) IN GENERAL.—Any long-term resident of the United States who ceases to be a lawful permanent resident of the United States (within the meaning of section 7701(b)(6)) shall be treated for purposes of this section and sections 2107, 2501, and 6039G in the same manner as if such resident were a citizen of the United States who lost United States citizenship on the date of such cessation or commencement.''.

(B) Paragraph (6) of section 7701(b) is amended by adding at the end the following flush sentence:

''An individual shall cease to be treated as a lawful permanent resident of the United States if such individual commences to be treated as a resident of a foreign country under the provisions of a tax treaty between the United States and the foreign country, does not waive the benefits of such treaty

applicable to residents of the foreign country, and notifies the Secretary of the commencement of such treatment.''.

(C) Section 7701 is amended by striking subsection (n) and by redesignating subsections (o) and (p) as subsections (n) and (o), respectively.

(d) INFORMATION RETURNS.—Section 6039G is amended—

(1) by inserting ''or 877A'' after ''section 877(b)'' in subsection (a), and

(2) by inserting ''or 877A'' after ''section 877(a)'' in subsection (d).

(e) CLERICAL AMENDMENT.—The table of sections for subpart A of part II of subchapter N of chapter 1 is amended by inserting after the item relating to section 877 the following new item:

''Sec. 877A. Tax responsibilities of expatriation.''.

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to expatriates (as defined in section 877A(g) of the Internal Revenue Code of 1986, as added by this section) whose expatriation date (as so defined) is on or after the date of the enactment of this Act.

(2) GIFTS AND BEQUESTS.—Chapter 15 of the Internal Revenue Code of 1986 (as added by subsection (b)) shall apply to covered gifts and bequests (as defined in section 2801 of such Code, as so added) received on or after the date of the enactment of this Act, regardless of when the transferor expatriated.

SA 4628. Mr. REID proposed an amendment to amendment SA 4627 proposed by Mr. ROCKEFELLER to the bill H.R. 2881, to amend title 49, United States Code, to authorize appropriations for the Federal Aviation Administration for fiscal years 2008 through 2011, to improve aviation safety and capacity, to provide stable funding for the national aviation system, and for other purposes; as follows:

At the end add the following:

The provisions shall become effective 5 days after enactment.

SA 4629. Mr. REID proposed an amendment to amendment SA 4628 proposed by Mr. REID to the amendment SA 4627 proposed by Mr. ROCKEFELLER to the bill H.R. 2881, to amend title 49, United States Code, to authorize appropriations for the Federal Aviation Administration for fiscal years 2008 through 2011, to improve aviation safety and capacity, to provide stable funding for the national aviation system, and for other purposes; as follows:

In the amendment, strike ''5'' and insert ''4''.

SA 4630. Mr. REID proposed an amendment to the bill H.R. 2881, to amend title 49, United States Code, to authorize appropriations for the Federal Aviation Administration for fiscal years 2008 through 2011, to improve aviation safety and capacity, to provide stable funding for the national aviation system, and for other purposes; as follows:

At the end of the bill, add the following:

The provision shall become effective 3 days upon enactment.

SA 4631. Mr. REID proposed an amendment to amendment SA 4630 proposed by Mr. REID to the bill H.R. 2881, to amend title 49, United States Code, to authorize appropriations for the Federal Aviation Administration for fiscal years 2008 through 2011, to improve aviation safety and capacity, to provide stable funding for the national aviation system, and for other purposes; as follows:

In the amendment, strike ''3'' and insert ''2''.

SA 4632. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill H.R. 2881, to amend title 49, United States Code, to authorize appropriations for the Federal Aviation Administration for fiscal years 2008 through 2011, to improve aviation safety and capacity, to provide stable funding for the national aviation system, and for other purposes; which was ordered to lie on the table; as follows:

On page 141, strike lines 16 through 24, and insert the following:

(A) 1 project shall address operational issues required for integration of Category 1 unmanned aerial systems, which are analogous to RC models covered in AC 91-57).

(B) 1 project shall address operational issues required for integration of Category 2 unmanned aerial systems, which are nonstandard aircraft that perform special purpose operations and for which operators have provided evidence of airworthiness and operator qualifications.

(C) 1 project shall address operational issues required for integration of Category 3 unmanned aerial systems, which are capable of flying throughout all categories of airspace and conforms to part 91 of title 14, Code of Federal Regulations.

SA 4633. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill H.R. 2881, to amend title 49, United States Code, to authorize appropriations for the Federal Aviation Administration for fiscal years 2008 through 2011, to improve aviation safety and capacity, to provide stable funding for the national aviation system, and for other purposes; which was ordered to lie on the table; as follows:

On page 124, strike lines 1 through 13, and insert the following:

SEC. 511. ACCELERATION OF DEVELOPMENT AND IMPLEMENTATION OF REQUIRED NAVIGATION PERFORMANCE PROCEDURES.

(a) IN GENERAL.—The Administrator of the Federal Aviation Administration shall set a target of implementing at least 200 Required Navigation Performance (RNP) procedures for each of the fiscal years 2009 through 2012.

(b) DEVELOPMENT OF STANDARDS AND GUIDANCE.—Not later than 1 year after the date of the enactment of this Act, the Administrator shall develop standards and issue guidance under sections 91, 121, 135, and 129 of title 14, Code of Federal Regulations, to accelerate and streamline the development and implementation of RNP procedures.

(c) DEMONSTRATION PROJECT.—The Administrator shall authorize an air carrier to demonstrate the benefits of implementing RNP procedures in gate-to-gate operations through a project that includes not fewer than 75 daily flights between 2 airports which are more than 275 miles apart.

(d) USE OF THIRD PARTIES.—The Administrator is authorized to provide third parties the ability to design, flight check, and implement RNP procedures.

(e) PROTECTION OF PROPRIETARY DATA.—Notwithstanding any other provision of law, the Administrator shall not require the disclosure of proprietary data used in the development, implementation, or maintenance of RNP procedures, except as required for flight safety.

(f) REPORT.—Not later than 6 months after the date of the enactment of this Act, the Administrator shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that describes the progress made by the Federal Aviation Administration in implementing subsection (b).

SA 4634. Mr. SALAZAR submitted an amendment intended to be proposed by him to the bill H.R. 2881, to amend title 49, United States Code, to authorize appropriations for the Federal Aviation Administration for fiscal years 2008 through 2011, to improve aviation safety and capacity, to provide stable funding for the national aviation system, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. REVIEW OF DE-ICING AND ANTI-ICING PROGRAMS.

(a) IN GENERAL.—The Administrator of the Federal Aviation Administration shall conduct a review of the de-icing and anti-icing programs of each air carrier (as that term is defined in section 40102(a)(2) of title 49, United States Code) to ensure that those programs comply with the policies of the Federal Aviation Administration.

(b) DE-ICING AND ANTI-ICING PROGRAMS DEFINED.—For purposes of this section, the term ''de-icing and anti-icing program'' includes—

(1) the procedures of an air carrier or a contractor of an air carrier for removing ice from aircraft and preventing the formation of ice on aircraft; and

(2) the training of—

(A) employees of the air carrier with respect to the procedures described in paragraph (1); and

(B) contractors of the air carrier or any other persons providing de-icing or anti-icing services for aircraft of the air carrier with respect to such procedures.

(c) CONSEQUENCES OF NONCOMPLIANCE.—If the Administrator determines that the de-icing and anti-icing programs of an air carrier do not comply with the policies of the Federal Aviation Administration, the Administrator shall require the air carrier to submit a plan, as soon as practicable—

(1) to ensure that the de-icing and anti-icing programs of the air carrier comply with the policies of the Administration—

(A) in the case of a program being carried out in the United States, by not later than 90 days after the Administrator determines that the program is not in compliance; and

(B) in the case of a program being carried out outside of the United States, by not later than October 1, 2008; and

(2) to ensure the safe de-icing and anti-icing of the aircraft of the air carrier in the period before the de-icing and anti-icing programs of the air carrier can be brought into compliance.

(d) REPORT.—Not later than October 1, 2008, the Administrator shall submit to Congress a report setting forth the results of the review required under subsection (a).

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Commiitee on Armed Services be authorized to meet during the session of the Senate on Wednesday, April 30, 2008, at 2:30 p.m., in closed session to mark up the National Defense Authorization Act for fiscal year 2009.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate to conduct a hearing on Wednesday, April 30, 2008, at 3:30 p.m., in room SD–366 of the Dirksen Senate Office Building.

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

SUBCOMMITTEE ON AIRLAND

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Subcommittee on Airland of the Committee on Armed Services be authorized to meet during the session of the Senate on Wednesday, April 30, 2008, at 10 a.m., in closed session to mark up the Airland programs and provisions contained in the National Defense Authorization Act for Fiscal Year 2009.

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

SUBCOMMITTEE ON THE CONSTITUTION

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Senate Committee on the Judiciary, Subcommittee on the Constitution, be authorized to meet during the session of the Senate, to conduct a hearing entitled ''Secret Law and the Threat to Democratic and Accountable Government'' on Wednesday, April 30, 2008, at 9 a.m., in room SD–226 of the Dirksen Senate Office Building.

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

SUBCOMMITTEE ON STRATEGIC FORCES

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Subcommittee on Strategic Forces of the Committee on Armed Services be authorized to meet during the session of the Senate on Wednesday, April 30, 2008, at 9:30 a.m., in closed session to mark up the Strategic Forces Programs and Provisions contained in the National Defense Authorization Act for Fiscal Year 2009.

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

SPECIAL COMMITTEE ON AGING

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet on Wednesday, April 30, 2008, from 3–5 p.m., in Hart 216 for the purpose of conducting a hearing.

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

PRIVILEGES OF THE FLOOR

Mr. BAUCUS. Mr. President, I ask unanimous consent that the following fellows and interns of the Finance Committee be allowed floor privileges during consideration of the FAA bill: Ben Miller, Bridget Mallon, Damian Kudelka, Emily Schwartz, Ezana Teferra, Mary Baker, Tamara Clay, and Tom Louthan.

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

Mr. BAUCUS. Mr. President, I ask unanimous consent that Leighton Quon of my staff be granted the privileges of the floor during consideration of the FAA bill.

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

ENSURING CONTINUED ACCESS TO STUDENT LOANS ACT OF 2008

Mr. DURBIN. I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 722, H.R. 5715.

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

The bill clerk read as follows:

A bill (H.R. 5715) to ensure continued availability of access to the Federal student loan program for students and families.

There being no objection, the Senate proceeded to consider the bill.

Mr. KENNEDY. Mr. President, with each passing day, families are confronted with growing challenges stemming from our lagging economy. We have had a surge of bad news, and there is almost certainly more to come. People have done everything right. They have worked hard all their lives. They have been good citizens and they cared for their communities. Many have served in the military. They have bought homes in which to raise their families and have dutifully paid the mortgage every month.

But now they are seeing everything they have worked for, everything they have saved for and sacrificed for placed at risk. Families are stretched to the limit by stagnant wages and soaring prices. They have seen the value of their homes and retirement savings plunge. They wonder if they can afford to put gas in the tank in order to get to work.

Now there is a danger that their children will be the next victims of the economic crisis.

What started as a crisis in the housing market has spread to the banks and beyond. We must draw a line there and not let the crisis in the credit markets become a crisis for students struggling to pay for college and access to the American dream.

If we allow that to happen, we not only limit the horizon for a new generation of Americans, but we will damage the long-term economic health of America as well. More than ever, a college degree is the key to the door of opportunity for individual students. Sending more of our students to college is key to our international competitiveness in the global economy.

Yet students are facing new obstacles as they pay for their education. The credit crisis in the mortgage market has rippled throughout the lending industry and has begun to affect student loans.

The full scope of the problem isn't clear yet, but we cannot afford to wait for a full-blown crisis before we act. Students are applying now for loans to cover the fall term. I am very pleased the Senate acted earlier today to ensure that the loans they need will be available, and I look forward to prompt action by the House.

Already, almost 50 lenders have completely dropped out of the Federal program. Together, they make up almost 14 percent of the Federal student loan market. We need to make sure we have done everything we can to protect students in case that downturn continues.

The first line of defense for students and families is the Direct Loan Program. It is insulated from the turbulence of the credit markets because the Federal Government provides the capital directly to students, without having to pay a bank or other middleman. I have urged colleges across the country to sign up to participate in this program to protect them from any problems in the credit markets.

We need to take additional steps to shore up the alternative federally subsidized loan program—the FFEL program—in the short term as an additional backstop against unacceptable disruptions in the financial aid process later this year.

The legislation the Senate passed today will protect students from the problems in the credit markets by ensuring they will be able to access federally subsidized loans.

First, Mr. President, it ensures that private lenders will continue to participate in the federally subsidized program by giving the Secretary of Education the authority to buy outstanding Federal loans in order to provide lenders with the capital needed to make new loans to students for the upcoming school year.

Second, as a backup for students who still have trouble obtaining a loan, the bill facilitates students' access to ''lender of last resort'' loans. These loans are provided to students through existing State-operated guaranty agencies, using capital advanced by the Secretary of Education.

Third, the bill assists students who rely on higher cost, non-federally guaranteed loans by making additional low-cost Federal options available to them and their families.

The bill raises Federal loan limits for undergraduate students by $2,000. This legislation also makes it easier for parents to take out low-cost federally subsidized loans on behalf of their children through the PLUS loan program. The bill ensures that parents affected by

the current mortgage crisis can still obtain these loans, and it allows parents to delay repayment on these loans until after their child graduates from school. This is very important—the fact that it would delay repayment until after graduation. That is a major assistance to families.

We are increasing the amount that will be available at the lower rates to college students, and we are extending the period of time that will help the families in terms of the repayment schedule.

Finally, this bill helps students decrease student loan debt levels by expanding access to an existing grant program, the Academic Competitiveness Grants. Under this bill, an additional 100,000 students can receive up to $4,000 more a year in grant aid.

We need to get these safety nets in place now before we are hit with a problem that is beyond our control. College affordability should not be determined by the quarterly profits or losses of the banks.

The student aid system is not about banks' bottom lines. As the cost of college has tripled over the past 20 years, the Federal student aid system of grants and loans has made the dream of college a reality for millions of students who could not otherwise afford it.

In 1993, less than half of all graduates had to take out college loans, but in 2004 nearly two-thirds had to borrow to finance their education. This chart reflects that. This chart reflects the students taking out the loans in 1993. Here it reflects those who took out loans for 2004. Years ago, when we passed the student loan program—back in 1965—these were effectively all grant programs; about 80 percent are grants, and only 20 percent are loans. We have seen this dramatic shift over the period of recent years now to the loan program. That has all kinds of implications in terms of indebtedness to students. Too often many of the students are now working one or two jobs, and they are also trying to pay off their debts in the future years. This has a very important adverse impact in terms of students and their ability to pursue careers, the careers that are lower paying, but so critical to our society, such as teaching, public health or social work.

In the 2004–2005 school year in Massachusetts, 86 percent of students relied on Federal student loans. The average debt of these students was over $18,000. So the best way to help students and families afford college is to increase the grant aid. More aid up front means fewer loans and less debt on graduation day. That is why Congress acted last year on our promise to raise the maximum Pell grant to $5,400 by 2012, an increase of $1,350 under the level at which it stagnated under this Administration. As a result, students eligible for the maximum Pell grant will have to borrow $6,000 less in loans over the course of their college career.

That is a very important relief to those families. The legislation we enacted last year also made Federal loans less costly for students by cutting the interest rates in half for undergraduates. In addition, we helped students manage debt by capping monthly loan payments at 15 percent of their income. If they go into public service, their loans would be completely forgiven as long as they stay in public service for a period of years. All of these benefits would be meaningless if students cannot obtain the loans they need to pay for college.

So I thank my Senate colleagues for supporting this legislation, and I urge our colleagues in the House of Representatives, and the President, to act quickly so our Nation's college students don't become the next victims of our slumping economy. Together we can ensure that the students get the assistance they need to go to school so their dreams don't turn into nightmares, caused by the volatilities of our credit markets.

Mr. President, I am very grateful to my colleague and friend, Senator ENZI, the ranking Republican member, and the members of our Education Committee for their help and assistance during this period of time. We have had hearings on this legislation. We also had field hearings on this subject matter and gained a good deal of information. We have worked very closely with the Administration, with Secretary Spellings. We are grateful to her for her involvement and help and assistance. We worked very closely with the House, with both Chairman MILLER and Mr. MCKEON, the ranking minority member as well.

In the Senate, we have followed a longstanding tradition of trying to work and find common ground in education policy to benefit students. I think we have done a good job on that over a period of years.

This legislation, which is basically the stopgap legislation meant to deal with the challenges we are facing in the credit markets and that students will face in the credit markets, will respond to that need. We are on alert for any additional changes that are going to be necessary as we move along.

We are going to be monitoring this very closely in the days and weeks ahead, and we welcome ideas and suggestions and recommendations from students and from parents, as well as from all others, about how we can best ensure that we will be able to make sure that the a college education is going to be available to the young people in this country.

Mr. ENZI. Mr. President, I rise to speak about the importance of the Ensuring Continued Access to Student Loans Act of 2008. In a time when there is great concern about turmoil in our credit markets, the action we are taking today addresses an important segment of those markets. What began as a problem within the mortgage market has threatened to disrupt the market that students and their parents rely on to obtain student loans. This bill is a necessary step to providing students access to the loans they need for college this fall.

While not perfect, this bill will go a long way toward restoring the confidence needed for the student loan market to work. And this is being accomplished at no cost to the Government.

The Secretary of Education can now take actions that will increase loan limits for students and provide parents with greater access to federally guaranteed loans. Both provisions will decrease reliance on private loans which cost more and are becoming less available.

This bill demonstrates our commitment to maintaining the availability of loans through the Federal Family Education Loan, FFEL, program as well as the Federal Direct Loan program. Currently FFEL serves 80 percent of postsecondary students who take out student loans, while the Federal Direct Loan program serves 20 percent. Both loan programs must remain strong.

With the passage of this bill, we create the means to stabilize the college loan market in the coming months. However, I realize that this is a short-term solution. We must preserve the long-term viability of the FFEL program for the students and parents who rely on it to achieve their educational goals.

Additionally, in this bill we have increased grant support for Pell-eligible students who take rigorous high school courses and major in science, technology, engineering, math and critical foreign languages. At a time when our economy needs more individuals with knowledge and skills in these areas, this bill provides low-income college students with the means to be successful in these high-need, high-reward fields.

I appreciate the opportunity to work with Senator KENNEDY on this bill to help students. However, the job is not yet done. We need to finish our work on the comprehensive reauthorization of the Higher Education Act as a lot has changed since it was reauthorized 10 years ago. It is a much more competitive world today. We need a stronger, more relevant system of higher education in this country to compete and win in the global economy.

Last July we passed the Senate bill by a vote of 95–0. We are now working with the House to get an agreement to the President before Memorial Day. I look forward to continuing to work with Senator KENNEDY to get the best bill possible for students and their families.

As we finish our work on the reauthorization of the Higher Education Act, we will continue to monitor the bill we passed today and its impact on the availability of student loans to ensure that it accomplishes what we intended. Our students are our future and we have to make sure that we provide them with every opportunity to be successful.

Mr. REED. Mr. President, I strongly support passage of H.R. 5715, the Ensuring Continued Access to Student Loans Act.

As an original cosponsor of the Senate companion of this legislation, I am pleased that this bipartisan bill seeks to proactively address the impact of the credit crunch on the student loan market, and ensure that students attending college this fall have sustained, uninterrupted access to affordable Federal grant and loan aid.

In an effort to increase college access and affordability, last fall Congress passed the College Cost Reduction and Access Act, to provide over $20 billion in new student financial aid. I was glad to help write this law. It increased the maximum Pell Grant by nearly $500 this year and to $5,400 by 2012, providing Rhode Island students with $7.8 million in additional grant aid this year and nearly $85 million over the next 5 years. To help students and families borrowing for college, this law also cut the interest rate on Federal loans in half for undergraduate students over 4 years; capped monthly payments on Federal student loans at 15 percent of a borrower's discretionary income; and encouraged public service by forgiving loan debt for those like nurses, teachers, and librarians after 10 years.

However, the current instability of the credit markets has raised concern in my home State of Rhode Island and across the country regarding the availability this spring of Federal loans and how parents will be able to pay tuition for their sons and daughters to attend college in the fall. Although we have not heard of a single student or parent unable to receive a Federal loan yet, the busy time of year for borrowing has only just begun as most student loan applications are not due until the beginning of May. Additionally, we know that over 50 lenders nationwide have stopped offering federally subsidized loans.

As such, this bill takes important initial steps to ensuring that students and their families have the necessary financial means to attend and succeed in college. It provides additional grant aid opportunities for low-income students to reduce their reliance on student loans by directing savings generated by the bill into increased Academic Competitiveness and National SMART Grants. These two grant programs provided nearly 2,100 Rhode Island students with over $2.2 million in additional grant aid in 2006–07. It also reduces student reliance on costlier private loans by expanding the amount a student may borrow through a modest raise in the Federal Stafford loan limits. The bill also improves the availability of lower-interest federally subsidized PLUS loans for parent borrowers by providing an option to defer repayment of these loans until after their child graduates college, and ensuring that parents recently impacted by the downturn in the housing market can continue to qualify for these loans.

The bill also takes a number of actions to provide an overall Federal backstop so students do not have to borrow higher cost private loans. First, to ensure lenders have the necessary capital to make new Federal loans, the bill gives temporary authority to the Department of Education to act as a secondary market for loans originated in the federally subsidized student loan market. It also eases the process by which a guaranty agency or institution may be deemed eligible as a lender of last resort, ensuring the further availability of Federal student loans. And the direct loan program is on stand-by for institutions concerned that their students may experience difficulty finding a Federal loan this year. Direct loans are directly originated by the Federal Government and as such, not subject to credit market instability and fluctuation.

I thank Senators KENNEDY and ENZI, and their staffs, for their work and leadership on this bill. I will continue to very closely monitor this situation and explore any additional necessary options in the coming weeks to ensure that the credit crunch does not prevent deserving students from attending college.

Mr. DURBIN. Mr. President, I ask unanimous consent that the Kennedy-Enzi amendment at the desk be agreed to, the bill as amended be read a third time and passed, the motions to reconsider be laid on the table with no intervening action or debate, and any statements relating to the bill be printed in the RECORD.

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

The amendment (No. 4592) was agreed to.

(The amendment is printed in today's RECORD under (''Text of Amendments.'')

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 5715), as amended, was read the third time and passed.

HEALTHY START REAUTHORIZATION ACT OF 2007

Mr. BROWN. I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 723, S. 1760.

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

The legislative clerk read as follows:

A bill (S. 1760) to amend the Public Health Service Act with respect to the Healthy Start Initiative.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Health, Education, Labor, and Pensions, with an amendment to strike all after the enacting clause and insert in lieu the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Healthy Start Reauthorization Act of 2007''.

SEC. 2. AMENDMENTS TO HEALTHY START INITIATIVE.

(a) CONSIDERATIONS IN MAKING GRANTS.—Section 330H(b) of the Public Health Service Act (42 U.S.C. 254c–8(b)) is amended—

(1) by striking ''(b) REQUIREMENTS'' and all that follows through ''In making grants under subsection (a)'' and inserting the following:

''(b) CONSIDERATIONS IN MAKING GRANTS.—

''(1) REQUIREMENTS.—In making grants under subsection (a)''; and

(2) by adding at the end the following paragraphs:

''(2) OTHER CONSIDERATIONS.—In making grants under subsection (a), the Secretary shall take into consideration the following:

''(A) Factors that contribute to infant mortality, such as low birthweight.

''(B) The extent to which applicants for such grants facilitate—

''(i) a community-based approach to the delivery of services; and

''(ii) a comprehensive approach to women's health care to improve perinatal outcomes.

''(3) SPECIAL PROJECTS.—Nothing in paragraph (2) shall be construed to prevent the Secretary from awarding grants under subsection (a) for special projects that are intended to address significant disparities in perinatal health indicators in communities along the United States-Mexico border or in Alaska or Hawaii.''.

(b) OTHER GRANTS.—Section 330H of the Public Health Service Act (42 U.S.C. 254c–8) is amended—

(1) in subsection (a), by striking paragraph (3); and

(2) by striking subsections (e) and (f).

(c) FUNDING.—Section 330H of the Public Health Service Act, as amended by subsection (b) of this section, is amended by adding at the end the following subsection:

''(e) FUNDING.—

''(1) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated—

''(A) $120,000,000 for fiscal year 2008; and

''(B) for each of fiscal years 2009 through 2013, the amount authorized for the preceding fiscal year increased by the percentage increase in the Consumer Price Index for all urban consumers for such year.

''(2) ALLOCATION.—

''(A) PROGRAM ADMINISTRATION.—Of the amounts appropriated under paragraph (1) for a fiscal year, the Secretary may reserve up to 5 percent for coordination, dissemination, technical assistance, and data activities that are determined by the Secretary to be appropriate for carrying out the program under this section.

''(B) EVALUATION.—Of the amounts appropriated under paragraph (1) for a fiscal year, the Secretary may reserve up to 1 percent for evaluations of projects carried out under subsection (a). Each such evaluation shall include a determination of whether such projects have been effective in reducing the disparity in health status between the general population and individuals who are members of racial or ethnic minority groups.''.

Mr. BROWN. Mr. President, I ask unanimous consent the substitute be agreed to; the bill as amended, be read a third time; the motion to reconsider be laid on the table with no intervening action or debate; and any statements related to the bill be printed in the RECORD.

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

The Committee amendment in the nature of a substitute was agreed to.

The bill (S. 1760), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed.

JOHN S. MCCAIN, III CITIZENSHIP

Mr. BROWN. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of Calendar No. 715, S. Res 511.

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

The legislative clerk read as follows:

A resolution (S. Res. 511) recognizing that John Sidney McCain, III, is a natural born citizen.

There being no objection, the Senate proceeded to consider the resolution.

Mr. LEAHY. Mr. President, today we are considering a bipartisan resolution to express the common sense of all in this Chamber that Senator MCCAIN is a ''natural born Citizen,'' as the term is used in the Constitution of the United States. Last week the Judiciary Committee voted unanimously to report this resolution to the Senate. I urge Senators to come together to pass this bipartisan resolution without delay.

Our Constitution contains three requirements for a person to be eligible to be President—the person must have reached the age of 35; must have resided in America for 14 years; and must be a ''natural born Citizen'' of the United States. Certainly there is no doubt that Senator MCCAIN is of sufficient years on this Earth and in this country given that he has been serving in Washington for over 25 years. ''However, some have raised the question whether he is a ''natural born Citizen'' because he was born outside of the United States.

JOHN SIDNEY MCCAIN, III, was born to American citizens on an American Naval base in the Panama Canal Zone in 1936. His father was serving in the Navy at that time.

It is possible that at the time of our Nation's founding, the Framers of our Constitution could not imagine how pronounced our commitments overseas would become but it would make no sense to limit the careers of children born to military families simply because they were stationed overseas. Similarly, it would not make sense to punish children born to foreign service families or Ambassadors stationed overseas or children born overseas to American missionaries. They are all American citizens at the time of their birth.

Numerous legal scholars have looked into the purpose and intent of the ''natural born Citizen'' requirement. As far as I am aware, no one has discovered any reason to think that the Framers would have wanted to limit the rights of children born to Americans abroad or that such a limited view would serve any noble purpose enshrined in our founding document. Based on the understanding of the pertinent sources of constitutional meaning, it is widely believed that if someone is born to American citizens anywhere in the world they are natural born citizens.

It is interesting to note that another previous Presidential candidate, George Romney, was also born outside of the United States. He was widely understood to be eligible to be President. Senator Barry Goldwater was born in a U.S territory that later became the State of Arizona. Certainly those who voted for these two Republican candidates believed that they were eligible to assume the office of the President.

Because he was born to American citizens, there is no doubt in my mind that Senator MCCAIN is a ''natural born Citizen''. I recently asked Secretary of Homeland Security Michael Chertoff, a former Federal judge, if he had any doubts in his mind. He did not.

Former Solicitor General Theodore Olson and Harvard Law School Professor Laurence Tribe also analyzed the issue and came to the same conclusion—that Senator MCCAIN is a natural born citizen eligible to serve as President.

Our bipartisan resolution would make it clear that Senator MCCAIN, born in 1936 on an American Naval base to U.S. citizens, is a ''natural born Citizen. We should act today on a bipartisan basis to erase any doubt that Senator MCCAIN is eligible to run for President because of his citizenship status.

I ask unanimous consent that the legal analysis of Theodore Olson and Laurence Tribe be printed in the RECORD.

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

GIBSON, DUNN & CRUTCHER LLP,
Washington, DC, April 8, 2008.

Re legal analysis of question whether Senator John McCain is a natural born citizen eligible to hold the office of President.

Hon. PATRICK J. LEAHY,
Chairman, Committee on the Judiciary, U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR CHAIRMAN LEAHY: Pursuant to a request received from the staff of your Committee, I enclose for your and your Committee's consideration a copy of my and Professor Laurence Tribe's analysis of the question whether Senator John McCain is a natural-born citizen eligible, under Article II of the Constitution, to hold the office of President of the United States. Professor Tribe and I are in agreement that the circumstances of Senator McCain's birth to American parents in the Panama Canal Zone make him a natural-born citizen within the meaning of the Constitution.

Please do not hesitate to contact me if I can be of further assistance in this matter.

Very truly yours,

THEODORE B. OLSON.

GIBSON, DUNN & CRUTCHER LLP
Washington, DC, April 8, 2008.

Re legal analysis of question whether Senator John McCain is a natural born citizen eligible to hold the office of President.

Hon. ARLEN SPECTER,
Ranking Member, Committee on the Judiciary, U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR SPECTER: Pursuant to a request received from Democratic Committee staff, I enclose for your consideration a copy of my and Professor Laurence Tribe's analysis of the question whether Senator John McCain is a ''natural born citizen'' eligible, under Article II of the Constitution, to hold the office of President of the United States. Professor Tribe and I are in agreement that the circumstances of Senator McCain's birth to American parents in the Panama Canal Zone make him a natural born citizen within the meaning of the Constitution.

Please do not hesitate to contact me if I can be of further assistance in this matter.

Very truly yours,

THEODORE B. OLSON.

MARCH 19, 2008.

We have analyzed whether Senator John McCain is eligible for the U.S. Presidency, in light of the requirement under Article II of the U.S. Constitution that only ''natural born Citizen[s] . . . shall be eligible to the Office of President.'' U.S. Const. art. II, §1, cl. 5. We conclude that Senator McCain is a ''natural born Citizen'' by virtue of his birth in 1936 to U.S. citizen parents who were serving their country on a U.S. military base in the Panama Canal Zone. The circumstances of Senator McCain's birth satisfy the original meaning and intent of the Natural Born Citizen Clause, as confirmed by subsequent legal precedent and historical practice.

The Constitution does not define the meaning of ''natural born Citizen.'' The U.S. Supreme Court gives meaning to terms that are not expressly defined in the Constitution by looking to the context in which those terms are used; to statutes enacted by the First Congress, Marsh v. Chambers, 463 U.S. 783, 790–91 (1983); and to the common law at the time of the Founding. United States v. Wong Kim Ark, 169 U.S. 649, 655 (1898). These sources all confirm that the phrase ''natural born'' includes both birth abroad to parents who were citizens, and birth within a nation's territory and allegiance. Thus, regardless of the sovereign status of the Panama Canal Zone at the time of Senator McCain's birth, he is a ''natural born'' citizen because he was born to parents who were U.S. citizens.

Congress has recognized in successive federal statutes since the Nation's Founding that children born abroad to U.S. citizens are themselves U.S. citizens. 8 U.S.C. §1401(c); see also Act of May 24, 1934, Pub. L. No. 73–250, §1, 48 Stat. 797, 797. Indeed, the statute that the First Congress enacted on this subject not only established that such children are U.S. citizens, but also expressly referred to them as ''natural born citizens.'' Act of Mar. 26, 1790, ch. 3, §1, 1 Stat. 103, 104.

Senator McCain's status as a ''natural born'' citizen by virtue of his birth to U.S. citizen parents is consistent with British statutes in force when the Constitution was drafted, which undoubtedly informed the Framers' understanding of the Natural Born Citizen Clause. Those statutes provided, for example, that children born abroad to parents who were ''natural-born Subjects'' were also ''natural-born Subjects . . . to all Intents, Constructions and Purposes whatsoever.'' British Nationality Act, 1730, 4 Geol. 2, c. 21. The Framers substituted the word ''citizen'' for ''subject'' to reflect the shift from monarchy to democracy, but the Supreme Court has recognized that the two terms are otherwise identical. See, e.g., Hennessy v. Richardson Drug Co., 189 U.S. 25, 34–35 (1903). Thus, the First Congress's statutory recognition that persons born abroad to U.S. citizens were ''natural born'' citizens fully conformed to British tradition, whereby citizenship conferred by statute based on the circumstances of one's birth made one natural born.

There is a second and independent basis for concluding that Senator McCain is a ''natural born'' citizen within the meaning of the Constitution. If the Panama Canal Zone was sovereign U.S. territory at the time of Senator McCain's birth, then that fact alone

would make him a ''natural born'' citizen under the well-established principle that ''natural born'' citizenship includes birth within the territory and allegiance of the United States. See, e.g., Wong Kim Ark, 169 U.S. at 655–66. The Fourteenth Amendment expressly enshrines this connection between birthplace and citizenship in the text of the Constitution. U.S. Const. amend. XIV, §1 (''All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States. * * *'') (emphases added). Premising ''natural born'' citizenship on the character of the territory in which one is born is rooted in the common-law understanding that persons born within the British kingdom and under loyalty to the British Crown—including most of the Framers themselves, who were born in the American colonies—were deemed ''natural born subjects.'' See, e.g., 1 William Blackstone, Commentaries on the Laws of England 354 (Legal Classics Library 1983) (1765) (''Natural-born subjects are such as are born within the dominions of the crown of England, that is, within the ligeance, or as it is generally called, the allegiance of the king.* * *'').

There is substantial legal support for the proposition that the Panama Canal Zone was indeed sovereign U.S. territory when Senator McCain was born there in 1936. The U.S. Supreme Court has explained that, ''[f]rom 1904 to 1979, the United States exercised sovereignty over the Panama Canal and the surrounding 10-mile-wide Panama Canal Zone.'' *0'Connor* v. *United States*, 479 U.S. 27, 28 (1986). Congress and the executive branch similarly suggested that the Canal Zone was subject to the sovereignty of the United States. See, e.g., The President—Government of the Canal Zone, 26 Op. Att'y Gen. 113, 116 (1907) (recognizing that the 1904 treaty between the United States and Panama ''imposed upon the United States the obligations as well as the powers of a sovereign within the [Canal Zone]''); Panama Canal Act of 1912, Pub. L. No. 62–337, §1, 37 Stat. 560, 560 (recognizing that ''the use, occupancy, or control'' of the Canal Zone had been ''granted to the United States by the treaty between the United States and the Republic of Panama''). Thus, although Senator McCain was not born within a State, there is a significant body of legal authority indicating that he was nevertheless born within the sovereign territory of the United States.

Historical practice confirms that birth on soil that is under the sovereignty of the United States, but not within a State, satisfies the Natural Born Citizen Clause. For example, Vice President Charles Curtis was born in the territory of Kansas on January 25, 1860—one year before Kansas became a State. Because the Twelfth Amendment requires that Vice Presidents possess the same qualifications as Presidents, the service of Vice President Curtis verifies that the phrase ''natural born Citizen'' includes birth outside of any State but within U.S. territory. Similarly, Senator Barry Goldwater was born in Arizona before its statehood, yet attained the Republican Party's presidential nomination in 1964. And Senator Barack Obama was born in Hawaii on August 4, 1961—not long after its admission to the Union on August 21, 1959. We find it inconceivable that Senator Obama would have been ineligible for the Presidency had he been born two years earlier.

Senator McCain's candidacy for the Presidency is consistent not only with the accepted meaning of ''natural born Citizen,'' but also with the Framers' intentions when adopting that language. The Natural Born Citizen Clause was added to the Constitution shortly after John Jay sent a letter to George Washington expressing concern about ''Foreigners'' attaining the position of Commander in Chief. 3 Max Farrand, The Records of the Federal Convention of 1787, at 61 (1911). It goes without saying that the Framers did not intend to exclude a person from the office of the President simply because he or she was born to U.S. citizens serving in the U.S. military outside of the continental United States; Senator McCain is certainly not the hypothetical ''Foreigner'' who John Jay and George Washington were concerned might usurp the role of Commander in Chief.

Therefore, based on the original meaning of the Constitution, the Framers' intentions, and subsequent legal and historical precedent, Senator McCain's birth to parents who were U.S. citizens, serving on a U.S. military base in the Panama Canal Zone in 1936, makes him a ''natural born Citizen'' within the meaning of the Constitution.

LAURENCE H. TRIBE.
THEODORE B. OLSON.

Mr. BROWN. Mr. President, I ask unanimous consent the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and any statements be printed in the RECORD.

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

The resolution (S. 511) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 511

Whereas the Constitution of the United States requires that, to be eligible for the Office of the President, a person must be a ''natural born Citizen'' of the United States;

Whereas the term ''natural born Citizen'', as that term appears in Article II, Section 1, is not defined in the Constitution of the United States;

Whereas there is no evidence of the intention of the Framers or any Congress to limit the constitutional rights of children born to Americans serving in the military nor to prevent those children from serving as their country's President;

Whereas such limitations would be inconsistent with the purpose and intent of the ''natural born Citizen'' clause of the Constitution of the United States, as evidenced by the First Congress's own statute defining the term ''natural born Citizen'';

Whereas the well-being of all citizens of the United States is preserved and enhanced by the men and women who are assigned to serve our country outside of our national borders;

Whereas previous presidential candidates were born outside of the United States of America and were understood to be eligible to be President; and

Whereas John Sidney McCain, III, was born to American citizens on an American military base in the Panama Canal Zone in 1936: Now, therefore, be it

Resolved, That John Sidney McCain, III, is a ''natural born Citizen'' under Article II, Section 1, of the Constitution of the United States.

ORDER FOR AUTHORITY TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS

Mr. BROWN. Mr. President, I ask unanimous consent that during the adjournment of the Senate, the majority leader be authorized to sign duly enrolled bills or joint resolutions.

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

APPOINTMENTS

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to 22 U.S.C. 276d–276g, as amended, appoints the following Senators as members of the Senate Delegation to the Canada-U.S. Interparliamentary Group conference during the Second Session of the 110th Congress: the Honorable GEORGE V. VOINOVICH of Ohio, and the Honorable LISA A. MURKOWSKI of Alaska.

ORDERS FOR THURSDAY, APRIL 30, 2008

Mr. BROWN. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand adjourned until 9:30 a.m. tomorrow, Thursday, May 1; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, there then be a period of morning business for up to 1 hour with Senators permitted to speak for up to 10 minutes each, with the Republicans controlling the first half and the majority controlling the second half; and following morning business, the Senate resume consideration of H.R. 2881, the FAA reauthorization bill.

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

ORDER FOR ADJOURNMENT

Mr. BROWN. If there is no further business to come before the Senate, I ask unanimous consent it stand adjourned under the previous order, following the remarks of the majority leader.

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

Mr. BROWN. 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.

FAA REAUTHORIZATION

Mr. REID. Mr. President, as we close tonight, I want everyone within the sound of my voice to understand this: We are working on a very important piece of legislation, the reauthorization of the Federal Aviation Administration—the agency responsible for making sure aircraft is safe and reliable.

Right now, we have an antiquated system. This legislation will do what has been needed for a long time to change the way we do aviation in this country. All the experts say it is long past due. We have had hard work for a

long period of time. This bill is way overdue. Senator ROCKEFELLER has worked very hard in bringing the product to the floor. It is a good product.

We had an issue today that came up, and Senator ROCKEFELLER offered an amendment which takes away that as an issue. My friends, the Republicans, obviously, want to kill this bill to add to the other list they have sent to the graveyard. They are using an excuse: Well, we don't have the ability to offer amendments.

Mr. President, I have offered them anything possible to make sure they can offer all the amendments they want. The distinguished Senator from Texas, Mrs. KAY BAILEY HUTCHISON, obviously does not like some of the tax portions of this bill. Offer an amendment to try to take them out. I have offered the Republican leader: Give us a list of the amendments you want to offer. This is very standard procedure around here. No response to that.

It is very obvious to me this is an effort to kill this bill. Let's be logical. We are on the floor. I have said: Any amendments you want to offer that are germane or relevant to this bill, you can do that. Now, that is very wide. It allows anything that relates basically to transportation to be offered on this bill. But they have turned that down.

They have broken all records for filibuster—they, the Republicans. On this one, on the motion to proceed, I said on the floor earlier this week, this was not their fault. We did not have the substitute Senators ROCKEFELLER and BAUCUS had worked on. It was not ready until Monday night. But it was ready Tuesday morning, and they had every opportunity to work at that time and give us a list of amendments they wanted to do. We would give them ours.

I was told today, when the Durbin amendment was filed, that they wanted to offer the next amendment. They wanted to offer it from Senator BUNNING. No problem. We have been waiting all day for the language of that amendment, which is probably nonexistent.

We have been fair. We have been reasonable. But, obviously, we are now at a point where they are back to their old tricks and just killing the bill. They should just tell us this rather than play the games. They should say: We do not want this bill.

I have spoken to the Republican leader saying: If we really want to get this bill done, why don't I file cloture then, because no one seems to be wanting to offer any amendments. He said: No, it's too early. You have not allowed us to offer any amendments. I say: Offer amendments.

So this is really, Mr. President, a typical procedure around here, that the minority, wanting to maintain the status quo with air travel, as everything else, puts us in a position where we have no alternative but to either pull the bill or file cloture, and they said they will not give us the extra nine votes we need.

Remember, Mr. President, this bill has, for example, the Passenger Bill of Rights in it so that when people are held up on a flight—you are on a runway for hours at a time—there are certain rights passengers have. All those things that cause so much consternation when you are trying to travel on an airplane—the Passenger Bill of Rights addresses many of those. But with Republicans that will go down the tubes with everything else in this bill.

Mr. DURBIN. Mr. President, will the Senator yield for a question?

Mr. REID. Mr. President, I am happy to yield.

Mr. DURBIN. Mr. President, I know the Senator and I spoke earlier, and I heard his conversation on the floor earlier.

I would say, through the Chair, if the Republican minority came forward, in the morning, with a list of germane amendments to this bill, it is my understanding the majority leader has said we will entertain and consider those amendments. This is open for an amendment process, for deliberation, and for votes on this important aviation safety bill. Is that correct?

Mr. REID. Mr. President, I even went one step further. I said the distinguished Republican leader would have the right to look at our amendments. It would not be just me; I want him in on the deal.

Mr. DURBIN. Mr. President, if I can further ask the majority leader: The Senator from Texas, Mrs. HUTCHISON—who has put a lot of time in this, along with Senator ROCKEFELLER—has objected to two or three provisions in the bill from the Finance Committee related to transportation and financing. I have said I support those provisions. But if the Senator from Texas, Mrs. HUTCHISON, wants to offer a motion in the morning to strike those provisions, is the majority leader saying—I ask through the Chair—is the majority leader saying it is her right to offer that motion to strike?

Mr. REID. Mr. President, I say to my friend from Illinois, I asked our staff: When we close today, let's not have morning business. Let's go directly to the bill. But we found that was fruitless. They did not want us to go to the bill. I have said so many different times, in so many different ways, that we want to finish this legislation. We want to work with Republicans to finish this legislation.

And I say to my friend, the Senator from Texas, it is my understanding, has asked other people: Why don't you offer the amendment to strike all this stuff? For whatever reason, she does not want to have her fingerprints on eliminating this amendment, obviously. I just think it is really too bad.

I want this bill to go forward. The main thing I want is to make sure everyone understands we Democrats want to change things. We want change. We need change in a lot of different places, but one place we need change is the way air traffic is handled today. And the Republicans, obviously, want it to stay the same; let's keep it the same; let's maintain the status quo.

Mr. DURBIN. Mr. President, if I could ask the majority leader to yield for one other question.

It is my understanding, so far in this session, the Republicans have initiated 68 filibusters, which is an attempt to slow down or stop the business of the Senate. But that breaks all records in the Senate, and they are on course, if they continue at this pace, to offer over 100 filibusters before the end of the year, maybe even more.

I would like to ask the majority leader, if they continue trying to stop us from even bringing bills to the floor, debating them, amending them, and bringing them to a vote—I would like to ask the majority leader how we could reach a point where we actually do change things for the better, where we can see the progress that the American people expect.

Mr. REID. Mr. President, there are things we need to do. The No. 1 issue in America today: gas prices. We cannot go to gas prices because we are stuck on this thing that they will not let us move on, and that is the way it has been going since we took the majority. That is something they have had trouble getting over, that we are in the majority. It is a slim majority, but it is the majority, and because of that, we have the opportunity to determine what issues come to the floor. The issue that was long past due was FAA reauthorization. But they are stopping us from doing virtually anything that needs to be done for this country.

I have trouble understanding why they want to continue to up the record they have already broken. They broke the 2-year filibuster record in 10 months. But now I guess they want to keep adding to their record to see how many filibusters they can conduct. And they have been fairly successful stopping us from passing things that the American people want, such as the matter now on the floor. But energy legislation—they stopped us on that. That is to go to alternative energy so we do not have to use 21 million barrels of oil every day. We have wanted to do things dealing with education. We have not been able to do that. Health care, we haven't been able to do that. Things that the American people want are being stopped because of the Republicans' love of the status quo.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. REID. Mr. President, if there is nothing more to come before the Senate, I ask unanimous consent that it stand adjourned under the previous order.

There being no objection, the Senate, at 8:01 p.m, adjourned until Thursday, May 1, 2008, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate:

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be general

GEN. DAVID H. PETRAEUS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS THE VICE CHIEF OF STAFF OF THE ARMY AND TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTIONS 601 AND 3034:

To be general

LT. GEN. PETER W. CHIARELLI

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be general

LT. GEN. RAYMOND T. ODIERNO

THE JUDICIARY

MICHAEL M. ANELLO, OF CALIFORNIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF CALIFORNIA, VICE NAPOLEON A. JONES, RETIRED.

WITHDRAWAL

Executive Message transmitted by the President to the Senate on April 30, 2008 withdrawing from further Senate consideration the following nomination:

ARMY NOMINATION OF LT. GEN. RAYMOND T. ODIERNO, TO BE GENERAL, FOR APPOINTMENT AS THE VICE CHIEF OF STAFF, UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTIONS 601 AND 3034, WHICH WAS SENT TO THE SENATE ON FEBRUARY 5, 2008.