United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 104th CONGRESS, SECOND SESSION

Vol. 142 WASHINGTON, TUESDAY, SEPTEMBER 17, 1996 No. 128

Senate

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

PRAYER

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

Gracious, loving Father, who has taught us to give thanks for all things, to dread nothing but the loss of closeness with You, and to cast all our cares on You, who cares for us, set us free from timerous timidity when it comes to living the absolutes of Your Commandments and speaking with the authority of Your truth. We are living in a time of moral confusion. We talk a great deal about values, but have lost our grip on Your standards. Bring us back to the basics of honesty, integrity, and trustworthiness. We want to be authentic people rather than professional caricatures of character. May people know that they will get what they see. Free us from capricious dissimulations, from covered duality, from covert duplicity. Instead of manipulating with power games, help us motivate with patriotism, grant us the passion we knew when we first heard Your call to political leadership, the idealism we had when we were driven by a cause greater than ourselves, and the inspiration we knew when Your Spirit was our only source of strength. May this be a day to recapture our first love for You and our first priority of glorifying You by serving our Nation. In the name of our Lord and Savior. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader, Senator LOTT, is recognized.

SCHEDULE

Mr. LOTT. Mr. President, this morning the Senate will immediately begin consideration of the conference report to accompany the energy and water appropriations bill. Following the debate, at 11 o'clock the Senate will then resume consideration of the Interior appropriations bill, with the Bumpers amendment regarding grazing fees pending. The Senate will recess for the party conference lunches between the hour of 12:30 and 2:15 p.m. At 2:15, there will be an additional 20 minutes for debate on the Bumpers amendment and, following that debate, the Senate will proceed to two consecutive votes, first on or in relation to the Bumpers amendment to be followed immediately by a vote on adoption of the energy and water appropriations conference report.

Following those votes, the Senate will resume consideration of the Interior appropriations bill and additional votes can be expected on amendments to that bill this afternoon. It is hoped, with the cooperation of our colleagues, the Senate can complete action on the Interior appropriations bill this evening, hopefully.

Again, Senators can expect busy sessions this week and should plan accordingly. It will be almost impossible to complete our Senate business in the time we have allocated if Members expect no rollcall votes in the evenings because of prior commitments. Last week I had requests: That we not have votes during the day on Monday or on Monday night; please do not have one on Tuesday morning; could we not have one on Wednesday night; how about on Thursday? I was thinking maybe we could just stack all the votes at 10 o'clock on Wednesday.

I would like to accommodate all Senators, and many of these requests are very legitimate. Sometimes they are based on very important commitments or illness or all kinds of things. But I think, during the next few days, as we try to come to the conclusion of this session, Senators need to be very hesitant to request such delays in votes.

I remind all Senators that, if they insist on offering nongermane amendments to these appropriations measures, it will only delay disposition of the important spending bills as we approach the end of the fiscal year.

Also, we are going to work very hard this afternoon and tomorrow and Thursday to see if we cannot take up some other issues. Always we try to work on conference reports when they are available, particularly if they are appropriations conference reports. We are working to see if we can get some clear understanding on time and very tight limit on amendments, if any, on the Federal Aviation Administration authorization. We need to get that done before we leave. I would like to see if we cannot get that done tonight, with the debate occurring after we complete debate or action on the Interior appropriations. We might take up the FAA authorization, say at 6 or 7, and let all the debate time go on tonight with vote or votes on that occurring first thing in the morning.

Tomorrow I would like to see if maybe we can do the Magnuson fisheries bill. We have a lot of work done on that. We need to get it done before we leave. Again, maybe we could work on the debate during tomorrow night, with votes occurring on Thursday morning.

We are also going to see what sort of time would be desired if we took up the maritime bill.

So, my thinking is during the day, for the most part we will stay on the appropriations bills, either Interior appropriations or the energy and water conference report, as we are doing this morning, and then at night we will try to take up some of these authorizations that have been agreed to or we

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

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are trying to get agreement on. That way we can make good progress during the week.

I want to emphasize something I said about nongermane amendments. We have good managers of this bill. This is an important bill. Yes, it has some controversial features in many and various areas, but you have the chairman of the committee, Senator SLADE GORTON, who has been doing very good work, and the ranking member from West Virginia, Senator BYRD, who are certainly two of the best managers we have. I urge my colleagues do not come in with a lot of nongermane amendments. Last week we saw over 10 amendments offered, most of them nongermane.

I have been playing it straight. I am trying to see that we get our work done. But, if we wind up seeing this is just a political game, then we will not be able to get this legislation done. And we will not tolerate it. Then we will get into a total political mode. We should do the business of the people and then we can go out and campaign for reelection based on political issues that we think need to be debated. We should not do it here on the floor of the Senate with nongermane amendments. I hope that will not happen this week as it did last week, which caused us to have to take down the Treasury-Post Office appropriations bill. Apparently we will not be able to get it back up. So we will just have to put that bill in the continuing resolution, which I hope we can get an agreement on sometime by the end of the week and vote on in some form next week.

Mr. President, I yield the floor.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 1997—CONFERENCE REPORT

The PRESIDING OFFICER (Mr. BROWN). Under the previous order, the report on H.R. 3816 will be stated.

The assistant legislative clerk read as follows:

The committee on conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3816) making appropriations for energy and water development for the fiscal year ending September 30, 1997, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The Senate proceeded to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of September 12, 1996.)

The PRESIDING OFFICER. The time until 11 a.m. will be divided: 15 minutes to the distinguished Senator from New Mexico [Mr. DOMENICI]; 15 minutes under the control of the Senator from Louisiana [Mr. JOHNSTON]; 15 minutes under the control of the Senator from Michigan [Mr. LEVIN]; the remaining 15 minutes under control of the Senator from Illinois [Mr. SIMON].

The distinguished Senator from New Mexico is recognized.

Mr. DOMENICI. Mr. President, I am pleased to bring to the floor the conference report to accompany H.R. 3816, the Energy and Water Development Appropriations Act for fiscal year 1997.

This conference report passed the House last Thursday by a vote of 383 to 29. I thank again the former chairman of the subcommittee, and now ranking member, for his assistance in developing this bill.

I also thank the chairman of the full Appropriations Committee, former chairman and ranking member of the Energy and Water Development Subcommittee, Senator HATFIELD, for his help in bringing this bill before the Senate. His guidance and assistance with regard to allocations has been of tremendous importance, and the subcommittee is indebted to his leadership.

This conference report is consistent with the allocations set forth in the Senate Report 104–320. Specifically, the conference provides $11.352 billion in budget authority and $11.39 million in outlays for defense activities.

For nondefense activities, the conference report provides $8,620,000,837 in budget authority and $8.884 billion in outlays.

These levels are significantly above the levels of the House-passed bill but below the levels provided by the Senate and passed as its energy and water development bill.

Of the $700 million difference between the House and Senate on the proposed level of defense spending in this act, the conferees retain $500 million—a long way toward the Senate position but still $200 million less than the Senate-passed bill.

In other words, we funded $200 million more of defense programs in this bill when it passed the Senate than this bill has in it as it returns from conference.

For nondefense spending, the conferees were provided an allocation of $100 million above the original House allocation—better than a split of the $187 million difference between the two bills. Nonetheless, it is $87 million less for the nondefense portion than it was when it passed the Senate.

Why do I make these points on the $200 million and the $87 million? Because some projects and activities that were in the bill as it passed the Senate are not in the bill as it returns from the House. That is because there was less money allocated and arrived at as an agreement between the two bodies on what could be spent from the overall budget. But, clearly, we are within the caps established for defense. We have not used any more than the allocation. In fact, we returned some of the defense allocation to the full committee for them to use either in defense or otherwise. That will, obviously, be reallocated if it is not very soon so that we can get on with trying to solve some of the problems in other bills and other needs.

To the best of our abilities, the conferees have sought to protect science and technology programs from significant reductions while providing for the water projects of importance to so many Members.

In essence, this is a very interesting bill. Clearly, a majority of the funding goes to the Department of Defense activities within the DOE. Nonetheless, there is a large portion that is not defense activities, and that is domestic activities which essentially are made up predominantly of water projects, reclamation projects, and the like, of both the Corps of Engineers and the Bureau of Reclamation. Everyone knows with reference to both of those entities and the projects that as they run, operate, start, and complete, the funding is going down, not up.

Again, we were not able to give every State the projects in flood control and the like that Senators had requested, but we think we have done as good a job as the money would permit.

Mr. President, on page 37 of the report before us there is a typographical error. I would like to just read the paragraph at the bottom of page 37.

The conferees have, however, included language in the bill which directs the Secretary of the Army to begin implementing a plan to reduce the number of division offices to no more than eight and no less than six on April 1, 1997, which provides authority for the Corps of Engineers to transfer up to $1.5 million into this account from other accounts in this title to—

''Mitigate'' should be the word, and not ''investigate.''

Mitigate impacts in the delay in the implementation of the division closure plan.

Mr. President, I would like to take a few minutes and talk about the ranking member, Senator J. BENNETT JOHNSTON, from the State of Louisiana, who has for many years been chairman of this subcommittee and has served in various capacities, including chairman of the Energy and Natural Resources Committee of the Senate. He has decided that he is not going to seek reelection, and thus will leave the Senate.

In 1972, when I came to the U.S. Senate, I was met by a lot of new faces, people I had never known, or people I had perhaps read a little bit about. One of those new Senators was J. BENNETT JOHNSTON.

I would like to state the relationship for the last 24 years. While we have to some extent gone our own ways in work around here, Senator JOHNSTON and the Senator from New Mexico have had a rare opportunity to work together in many, many areas that I believe have been very important to our country. He has become an expert in the area of nuclear energy. He is courageous in that area second to none. He understands it. He is not frightened by it. He gets good science and good engineering. He takes the initiative to try to get the facts where many would seek not to have facts, but rather to predicate their arguments on sentiments

and on ideologies. He seeks to get the facts in the field of energy.

So I conclude that he is also one of the best experts on the research capabilities of our Nation in that he has worked diligently to understand the national laboratories, a number of which are under the jurisdiction of the Department of Energy. In fact, I believe there is no better friend of basic science research than J. BENNETT JOHNSTON in the U.S. Congress. He has not only spoken to it and has become expert at it, he has acted accordingly. He has become an ally of the United States maintaining the highest level of science in the Department of Energy through its nuclear defense laboratories.

Today, I want to thank him for his efforts, congratulate him for his wisdom, his vision and, most of all, his courage. And I believe I would be remiss if I did not say that J. BENNETT JOHNSTON is without peer in the U.S. Senate when it comes to legislators. When it comes to sitting around working with Senators, trying to get a bill passed, he is a master. He is going to be missed. This committee is going to miss him. The Energy and Water Committee is going to miss him. The U.S. Senate will miss him, and the Congress will miss him.

Mr. President, I see Senator COATS, from Indiana, on the floor. I inquire, would he like to speak on the bill now?

Mr. COATS. I have a hearing this morning at 10. If I could do that now, I will not take a lot of time. I will be happy to do that.

Mr. DOMENICI. I am going to yield the floor so he can use some of his time. The other Senator who desired to speak, for whom time is reserved, is Senator SIMON from Illinois. I would like to put him on notice, at this point we do not intend to use our 45 minutes, just a small portion of it. Senator JOHNSTON is not going to use any of his time. So, it would seem that the Senator from Illinois should be prepared to make his 15-minute remarks very soon. I hope he will be prepared to do that.

I do not mean to make things unaccommodating but, frankly, we do not need 45 minutes. I do not have any objections of any significant nature to this bill.

I yield at this point to the distinguished Senator from Indiana.

The PRESIDING OFFICER. The Senator from Indiana is recognized.

Mr. COATS. Mr. President, I thank the Senator from New Mexico for yielding this time. I asked for the time in order to explain the situation to our colleagues over the whole issue of out-of-State trash.

As my colleagues know, this has been an issue that I have been relentlessly pursuing now for 7 years or so, with great success in the U.S. Senate but lousy success in the House of Representatives, in terms of getting a bill to conference that we can then work out our differences on and put on the President's desk for signature.

Five times in the last 6 years the U.S. Senate has voted for legislation I have presented regarding this question of out-of-State trash, and voted so in a fairly overwhelming, bipartisan fashion. The bills that we have presented have been the work of some very diligent and painstaking work with our colleagues and their staffs to attempt to find a resolution to a very difficult problem that exists in almost every one of our States.

Many of our States, because of their population or their geographic location, environmental concerns or others, find themselves in a position where they are not able to adequately dispose of the volumes of trash that are generated on a day-to-day basis. Other States have less density and capacity to receive some of that trash.

We are not attempting to impede the negotiated transfer of that trash from exporting States to importing States. What we are attempting to do, and what I have attempted to do now over the last 6 or 7 years, is to fashion a way in which the importing States, of which I represent one, have a say in the process.

Right now, because the Supreme Court has decreed over a number of decisions that garbage, interstate trash, is considered interstate commerce, the States have virtually no authority to regulate or to monitor or to place any limitations on the amount of out-of-State trash that comes into their particular States.

My effort has been to put them at the table so that they can sit down with the exporting States and find a way to negotiate, if it is in their best interest—and it is in the interest of many States to receive this because it is commerce and it does generate revenue—but also to say that either we cannot do this now or our own needs have placed us in a situation where we are at capacity and we cannot receive your trash, and you will have to work something else out. In other words, we want to give the recipient communities and States the right to dictate their own environmental future as it relates to the generation of everyday trash, which is literally millions of tons across this country.

Recognizing the problems of the exporting States, recognizing the problems of the importing States, we have been able to work with Senators, Governors, legislators, experts, waste haulers and others to fashion a compromise piece of legislation which gives importing States the right to say no or to limit reasonably, but which also preserves the right of exporting States to enter into agreements with the recipient States and/or counties and/or municipalities if they so desire.

As I said, these measures have passed the Senate in an overwhelmingly bipartisan fashion, only to hit a roadblock, particularly in the last Congress, in the House of Representatives. The relevant subcommittee in the House passed out a measure, I believe, by unanimous vote but was never able to secure a full Commerce Committee hearing or full Commerce Committee disposition of that issue. And so, because that has been stalled in the other body now for more than a year, because our previous efforts have been frustrated, sometimes in the House, sometimes in the Senate, but frustrated in terms of completing the process, I took the opportunity, along with Senator LEVIN, to search out a vehicle which we thought was as close to relevant as we could get, and attach what the Senate had passed, on an overwhelming basis—94–6, a pretty solid vote—attach that to the energy and water appropriations bill.

That is not my preferred option. My preferred option is to make it a standalone bill, as we did in the Senate, and have the House take it up in a standalone bill, but we were thwarted in that effort on the House side. So we thought, is there a way we can jumpstart this process in the House? So we attached it to the energy and water appropriations bill, which then passed the Senate and went over to the House.

After some diligent efforts to encourage the conference committee to pass back to the House and the Senate their conference bill with the Senate trash amendment attached, we were disappointed to learn that the House, despite some diligent efforts on the part of some Indiana colleagues and others, friends in the House who supported this effort, Congressman SOUDER, Congressman BUYER, Congressman VISCLOSKY, Republicans and Democrats, we were not able to secure approval from the House conferees on this matter. So the energy and water bill conference report comes back to us without the interstate trash measure attached.

I am bitterly disappointed that once again we are unable to deal successfully with a problem that everybody knows needs to be dealt with. It is not just my State of Indiana, which has seen a fairly dramatic decrease in the amount of trash come into the State. Since I have taken such a vocal and active role, I think maybe the exporters and trash haulers are trying to tone down my rhetoric or dampen my enthusiasm for moving forward on this legislation. But what has happened is that trash has simply moved to another State—Pennsylvania, Ohio, Kentucky, Michigan, Virginia. A number of other States have now become unwanted recipients and virtually have no power to do anything about it.

By the same token, we have seen a fairly dramatic increase in the export of trash to Indiana. The first two quarters of 1996 now total almost the entire amount we received in 1995. So our line has gone back up, and the problem is becoming serious again in Indiana.

But I am really here speaking for a broad coalition of States, of members of both parties, of Governors who represent both the Democrat and Republican parties, of States that feel that

they have no control over their environmental future, over their environmental destiny. And they are basically saying, ''Look, we're taking care of our problem intrastate, and we are simply asking that we have an opportunity to address successfully our environmental goals in disposing of our own waste without being overwhelmed by someone else's environmental problems that are loaded onto trucks and loaded onto trains, on a daily basis, shipped overnight, and dumped in our landfills.''

We have landfills in Indiana that, by referendum and painstaking efforts on the part of municipalities, have been created, with the promise to the taxpayers, the promise to the citizens of the community, that it will take care of disposal needs for that municipality or that county for 15, 20, 30 years in the future. And so bond referendums are passed, the taxpayers commit to it, only to find out those landfills are filled up in 2 years by a massive influx of out-of-State waste over which we have no ability to say no or to let us reason together here. ''We can't take yours, but there's one down the road that might be able to accept it, or you can enter into an agreement, and maybe if we can work out some negotiated payments, and so forth, we can create a bigger capacity, and we will take it to generate revenue for our communities and our schools and our roads,'' et cetera.

So here we are now with the energy and water conference report back without the trash. Trash, once again, has been allowed to flow without any reasonable restraints. I regret that.

But I wanted to let my colleagues know the diligent efforts that we have been making in the Senate, the representation of our Senate conferees, Senator DOMENICI, Senator JOHNSTON, representing the Senate position, but we simply were not able to prevail over the House position and those in charge who wanted to keep the energy and water appropriations report free of this particular legislation. I realize it is not directly relevant, but I am frustrated that I do not have any opportunity to move the process forward except to offer these kinds of amendments.

I will conclude simply by putting the majority leader on notice that Senator LEVIN and I, Senator SPECTER and others, are seriously considering adding an amendment to a continuing resolution if, in fact, we have to have a continuing resolution—not because we want to make the majority leader's life any more difficult than it already is, not because we want to delay the Senate adjournment, not because we think it even necessarily belongs on a continuing resolution, but because we have literally run out of options.

It will do no good in the Senate to pass the bill a third time. The House has made every possible effort—maybe there are some other means they could use between now and the end of the session to try to force the key people in the House to accept some type of legislation that deals with this so we can at least get to conference and resolve our differences. Every effort that has been attempted over there has come up with an inability to finalize the process. So we will be looking at that.

I just want to put the majority leader and my colleagues on notice that this issue is not going to go away. It is not getting any better. It is getting much worse for many, many States. As long as I have breath and am privileged to represent the people of Indiana in the U.S. Senate, I am going to look for every way possible to pass this legislation to give our States and other States the right that I believe they should constitutionally have to make decisions that affect their own environmental destiny, their own futures, and deal with their problems.

It is reasonable legislation. We have every reason to believe it is constitutional legislation. The Court has clearly said that this Congress has the authority to regulate interstate commerce. We are not attempting to stop interstate commerce. We are simply attempting to put the receiver and the Senator at the table so they can reasonably negotiate this flow of trash from one State to another without imposing one State's burden on another State, when that State has no ability to negotiate terms.

I want to thank the Senator from New Mexico for his efforts in helping us to try to move the Senate position. I want to thank the Senator from Louisiana, Senator JOHNSTON, for his efforts. I know I have loaded their bill with something that they were not happy to see, but yet they attempted to advance the Senate position. They have been supporters of my efforts. I appreciate their efforts. I know they feel it is also unfortunate that we have not been able to move this. With that, Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico has 31 minutes remaining.

Mr. DOMENICI. Mr. President, I am going to speak for 2 minutes because I see Senator SIMON is here and would like to speak.

Senator MCCAIN asked that we seek a rollcall vote. Therefore, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. DOMENICI. I say to Senator COATS, I think oftentimes in the Congress it takes a lot longer for good things to get done than anybody around would ever imagine. I believe the cause that the Senator is talking about here today is one of those.

The reason I helped on the floor is because it is inconceivable to me that we will not make the Coats legislation the law of the land, it has such overwhelming support in this body. If you really have a vote in the House of Representatives, it has overwhelming support there.

I am very sorry we are going to conference with a major piece of authorizing legislation that was not in the House bill—that I could not succeed in keeping it there. Obviously, the House has different factions in regard to this bill. We were caught by those factions and something procedural that is not part of the Senate's business. We did the right thing here in the Senate to give it a try.

I thank you for your kind remarks this morning. I think we did everything we could and still get a bill on appropriations. I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. SIMON. Mr. President, I thank my colleague from New Mexico for yielding.

I rise to express concern as to what is not in this bill. Thanks to the cooperation of Senator DOMENICI—on a piece of legislation that is cosponsored by Senator BROWN, the Presiding Officer—we did pass legislation authorizing research in the area of converting salt water to fresh water.

Now, that may seem not very important, but long term, 20 years from now—if I am around 20 years from now; the Presiding Officer will be around—the headlines in the newspapers are not likely to be about oil. They are likely to be about water.

Let me give a capsule of where we are in the world and what we need to do to start moving ahead in the same way that Senator DOMENICI has been moving ahead on mental health. Sometimes you have to lose a few battles before you win the battles. We are in a situation where, depending on whose estimate you believe, in the next 45 to 60 years we will double the world's population. Our water supply, however, is constant. Now, you do not need to be an Einstein to understand we are headed for major problems. Yet 97 percent of the world's water we cannot use. It is salt water. We live on less than 3 percent of the water. I say less than 3 percent because a lot of the fresh water is tied up in snow and icebergs and other things. We are headed toward major problems.

The World Bank says in 20 years 35 nations will have severe water problems. You can find substitutes for oil. There is no substitute for water. That is why people like President Sadat, the late Prime Minister Rabin and others have said if there is another war in the Middle East, it will not be over land, it will be over water.

There have been people in the past who have recognized this need. It is interesting, Mr. President, that Dwight Eisenhower, President of the United States, did on several occasions mention that this is an area we have to move ahead on. In his final message to Congress, his final State of the Union Message, Dwight Eisenhower said one of the things we have to work on is finding less expensive ways of converting salt water to fresh water. The reality is the cost of fresh water is gradually going up, the cost of desalinating

water is gradually coming down, but there is a great gap there. That great gap is going to hurt us unless we move in the area of research. What I was trying to do and what we had on the floor here is we put $5 million out of the $14 million that are authorized.

Dwight Eisenhower was not alone. In 1962, John F. Kennedy was asked at a press conference, What is the most important scientific breakthrough you would like to see during your term as President? He said, ''You heard me talking about getting a man to the Moon, but let me tell you if you really want to do something for humanity, we should find a less expensive way of converting salt water to fresh water.''

Almost 70 percent of the world's population lives within 50 miles of the ocean. If we could get a breakthrough on converting salt water to fresh water, California would not have the problems it is heading toward and California could share water with New Mexico and other States. I was looking through reports on rural water districts and was looking at New Mexico the other day, and in New Mexico, unlike Illinois and many other States, there is an inadequate water supply for a lot of rural communities. Desalination, in some cases converting brackish water to fresh water—primarily we have to be looking toward converting seawater to fresh water. And it is interesting—I was in Israel about 3 weeks ago. I met with the new Prime Minister and with former Prime Minister Shimon Peres. Let me tell you, every Israeli public official can speak very knowledgeably about water because it is so crucial to their future. We have not had a significant breakthrough since 1978 in this research. At one point, in current dollars, we were up to about $121 million a year that we were spending in research. It has gone down. Incidentally, sometimes you accidentally get breakthroughs. Through the breakthrough in reverse osmosis, we developed a breakthrough in renal dialysis for people who have kidney disease. It used to be, if you had kidney disease and you wanted to have renal assistance, you had to go to a hospital. It was a very complicated process. It is still not good, but there was a significant breakthrough. But we need to get additional breakthroughs at this time. It is just vital to the future of humanity.

In areas that do not grow any crops, like much of New Mexico, if you get enough water there, all of a sudden, it is going to be very productive land. There is nothing that could do as much to lift the standard of living of humanity, as a whole, than to find less expensive ways of converting salt water to fresh water. When you double the world's population—and I stress that every estimate is that we are going to double the world's population either in 45 years or 60 years. I have seen, in my lifetime—and I was born in 1928—a tripling of the world population. Fortunately, we have been able to produce enough food so that the quality of life for most people on the face of the Earth has gone up. That will not continue, unless we find another supply of water.

Converting salt water to fresh water is inexpensive enough for drinking purposes. But the difficulty is that almost 90 percent of the water we use is for industrial and agricultural purposes. That, today, is far too expensive.

One of our problems in Government—and I say this to the Presiding Officer, who is retiring along with me and, I think, maybe looks at these things from a little perspective—one of our problems in Government, as is the problem in American business today, is that we are much too short term in our outlooks. In politics, we are looking at the next election and what is going to happen. In business, it is the next quarterly report or the next stockholders meeting. One of the things, long term, that is vital to humanity, is seeing to it that we have water—water to grow crops, water for industry, water to drink. This water that we take for granted is not something that can be taken for granted in the future.

I mention this now not to raise opposition to this bill, but I will be trying to put this small—and it is small, relative to where we should be—my colleague, Senator HARRY REID said to me, ''It is almost embarrassing that we are just asking for $5 million when you have such a pressing need.'' I am going to do my best to see that on the continuing resolution we have some money for this purpose. It really is vital to the future of our country. It is vital to the future of civilization. I hope we can move in a constructive direction.

I yield the floor, Mr. President.

Mr. DOMENICI. Parliamentary inquiry, Mr. President. How much time remains now, and who has time?

The PRESIDING OFFICER. The Senator from New Mexico has 29 minutes 22 seconds. The Senator from Illinois has 4 minutes 54 seconds.

In addition, other time is reserved for Senator LEVIN from Michigan, who has 15 minutes, and Senator JOHNSTON from Louisiana, who has 15 minutes.

Mr. DOMENICI. Let me repeat, using my time, for Senator LEVIN, I understand that, according to the consent order, we could be here until 11, and, technically, he could come here 15 minutes before and use his time. I hope he tries to get here sooner than that because we are going to be finished soon, and I will yield back whatever time I have and leave the floor for Senator LEVIN. Let me take a couple of minutes to engage in dialog.

Mr. SIMON. Mr. President, I yield the balance of my time.

Mr. DOMENICI. On my time, let me compliment the Senator from Illinois. As on much legislation around here, he has, again, taken a farsighted view. I hope when you speak of living near oceans, you will add to your thoughts and comments that there are millions who live near brackish pools that look like seas, they are so big. We have a giant one around the community of Alamogordo, NM, a huge brackish underground reservoir. It varies in its degree of salinization. On one end, it is almost fresh. On the other end, it is contaminated mostly by salt.

It would transform many situations in our Nation, much less the world, to water-supply long instead of water-supply short. I am not sure that $5 million would do the job. I think it is appropriate—and the Senator alluded to it—other countries are spending significant money. I know that in the Middle East substantial money is being spent by Israel, and others, in attempting to make the scientific breakthroughs. Obviously, we have many ways that we have proven up scientifically to produce potable water for drinking. It is economic in that sense. People are going to have drinking water, because of a number of breakthroughs of the last decade, at rather reasonable rates. It is the larger context of need that desalinization looks like a very exciting and much-needed technology that we ought to work on.

The Senator alluded to the last time we funded desalinization projects. The last desalinization plant attempting to make breakthroughs was actually Roswell, NM. It existed for 3 or 4 years after everything else was shut down in the program. Frankly, the costs were extremely high at that point, in terms of whether we were anywhere close to a breakthrough. I assume much technology has gone through the pipeline since then, and we are probably getting closer.

I am sorry that the House would not accept your $5 million proposal. Obviously, we had a lot of requests and a shortage of money. On the domestic side, which this would be, it is not part of the defense programs in this bill. We actually had to remove many projects, or reduce them dramatically, that both Houses considered as being good. That is because we did not have enough money. This one fell to the House's action on the basis that they did not consider it and they did not have appropriate hearings in the House. I regret that is the case.

I thank the Senator for his efforts.

Mr. SIMON. If my colleague will yield, let me say that the conversion of brackish water is less expensive than the conversion of sea water. It is one of these areas where the two work together. If we can find the answer for one, we are going to find the answer for the other.

The Senator is correct that other nations are doing more. It is very interesting that the metropolitan water district of Los Angeles, which is the biggest water district in the United States—maybe in the world, I don't know—is doing some research on desalinization. They are getting $3 million in aid from Israel for their experiment, for their research. You know, we really should not have to depend on foreign aid to get this research done.

We ought to be working with other countries. I am not going to be here next year. I hope we can get a small start for the $5 million yet this year in the continuing resolution. And then I hope in the future, when Senator DOMENICI, Senator SPECTER, and others are here, that Senator DOMENICI can push this area that is so important.

Let me just add one final word. Shimon Peres wrote a book in which he says that the real key to stabilizing the Middle East is finding less expensive ways of converting saltwater to freshwater. That was one of the points that Dwight Eisenhower made a long time ago.

I thank my colleague for yielding.

BUDGET IMPACT OF H.R. 3816

Mr. DOMENICI. Mr. President, H.R. 3816, the Energy and Water Development Appropriations Act, 1997, is well within its budget allocation of budget authority and outlays.

The conference report provides $20 billion in budget authority and $13.1 billion in new outlays to fund the civil programs of the Army Corps of Engineers, the Bureau of Reclamation, certain dependent agencies, and most of the activities of the Department of Energy. When outlays from prior year budget authority and other actions are taken into account, this bill provides a total of $19.9 billion in outlays.

For defense discretionary programs, the conference report is below its allocation by $248 million in budget authority and $194 million in outlays. The conference report also is below its nondefense discretionary allocation by $87 million in budget authority and $85 million in outlays.

Mr. President, I ask unanimous consent that a table displaying the Budget Committee scoring of this conference report be inserted in the RECORD at this point.

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

ENERGY AND WATER SUBCOMMITTEE—SPENDING TOTALS—CONFERENCE REPORT

[Fiscal year 1997, in millions of dollars]

	Budget authority	Outlays
Defense discretionary:		
Outlays from prior-year BA and other actions completed	.....	2,863
H.R. 3816, conference report	11,352	8,176
Scorekeeping adjustment	.....	.....
Subtotal defense discretionary	11,352	11,039
Nondefense discretionary:		
Outlays from prior-year BA and other actions completed	.....	3,970
H.R. 3816, conference report	8,621	4,914
Scorekeeping adjustment	.....	.....
Subtotal nondefense discretionary	8,621	8,884
Mandatory:		
Outlays from prior-year BA and other actions completed	.....	.....
H.R. 3816, conference report	.....	.....
Adjustment to conform mandatory programs with Budget Resolution assumptions	.....	.....
Subtotal mandatory	.....	.....
Adjusted bill total	19,973	19,923
Senate Subcommittee 602(b) allocation:		
Defense discretionary	11,600	11,233

ENERGY AND WATER SUBCOMMITTEE—SPENDING TOTALS—CONFERENCE REPORT—Continued

[Fiscal year 1997, in millions of dollars]

	Budget authority	Outlays
Nondefense discretionary	8,708	8,969
Violent crime reduction trust fund	.....	.....
Mandatory	.....	.....
Total allocation	20,308	20,202
Adjusted bill total compared to Senate Subcommittee 602(b) allocation:		
Defense discretionary	−248	−194
Nondefense discretionary	−87	−85
Violent crime reduction trust fund	.....	.....
Mandatory	.....	.....
Total allocation	−335	−279

Note: Details may not add to totals due to rounding. Totals adjusted for consistency with current scorekeeping conventions.

Mr. D'AMATO. Mr. President, will the distinguished chairman of the subcommittee yield for a question?

Mr. DOMENICI. I am happy to yield to my friend from New York.

Mr. D'AMATO. I thank my friend. While there has been an overall reduction from the budget request for the environmental restoration and waste management nondefense account, I would like to get an understanding from the chairman as to the priority the committee places on meeting the vitrification and closure schedule at the West Valley demonstration project in western New York. The project has been able to maintain schedule and progress while accommodating budget reductions over the past 6 years.

The project began pouring glass this summer and is currently poised to complete this phase on or ahead of schedule. The project is also at a crucial juncture regarding the completion of the work necessary to ultimately close the site. Would the chairman agree that the Department of Energy should spend the funds from this account necessary to keep this project on schedule?

Mr. DOMENICI. In order to stay within the nondefense allocation provided to the conferees it was necessary to reduce funding for a number of programs including the nondefense Environmental Restoration and Waste Management Program. To the extent possible, the Department should apply those reductions in a manner that minimizes delay and impact on ongoing, high priority activities such as the West Valley demonstration project.

Mr. D'AMATO. I thank the chairman.

ANIMAS-LAPLATA PARTICIPATING PROJECT

Mr. CAMPBELL. Mr. President, I would like to make just a few brief comments on one important provision adopted into the conference report to accompany H.R. 3816, the fiscal year 1997 energy and water appropriation measure. However, I would first like to recognize and commend the work of the conference committee for their efforts to develop a conference agreement that is acceptable to many Members of this Chamber, recognizing and settling several controversial issues that had to be dealt with in conference.

Mr. President, one provision the conference committee had to address during its deliberations was the issue of continuing funding for the Animas-LaPlata participating project in southwestern Colorado. I appreciate the efforts of the conference committee for appropriating $9 million in fiscal year 1997 to permit the Bureau of Reclamation to continue their efforts with construction costs associated with the A–LP project.

As was discussed in great length and voted upon previously in both Chambers of the Congress, the completion of the A–LP participating project has both tremendous Federal Indian policy implications as well as an incalculable tangible impact for many water users in southwest Colorado and northern New Mexico. When the Congress passed, and President Reagan signed into law, the Colorado Ute Indian Water Rights Settlement Act of 1988, the Federal Government guaranteed to the two Colorado Ute Indian tribes a final settlement of their outstanding water rights claims in a solution that would also allow them to put to use their entitled share of settlement water.

In addition, the 1988 Settlement Act reconfirmed the commitment of the Federal Government to assist water users in the San Juan River basin in the development of an adequate water storage system. Cities such as Durango, CO, to Farmington, NM, stand to benefit from completion of the A–LP project, and equally important, traditional agricultural users will also benefit.

While I am glad the conference committee provided funding based on the practical merits of the A–LP project, I am dismayed that actions of the administration, particularly the Environmental Protection Agency [EPA], continue to cause undue and very costly delays to full implementation of the 1988 settlement. One very clear example of the egregious behavior on the part of the EPA is their inability to work actively and constructively with the Bureau of Reclamation and other Department of Interior agencies to resolve outstanding environmental compliance issues on the project.

As recently as a few weeks ago, the EPA again requested of the Commissioner of the Bureau of Reclamation an additional 90 days to review the Final Supplemental Environmental Impact Statement [FSEIS]. Mr. President, this action comes after the EPA had already requested one other 90-day extension for review.

Further, in testimony before the Senate Appropriations Subcommittee on VA, HUD, and independent agencies in May of this year, EPA Administrator Carol Browner testified that by August 26, 1996, the EPA would make a determination to, either, sign off on the project or refer the matter to the President's Council on Environmental Quality [CEQ]. Well, here we are, September 17, and no decisions have been made.

I make this point, because as a Member of this Chamber, each of us is responsible and accountable for every taxpayer dollar we spend. When the actions of an agency, such as the EPA, continue to stall the full implementation of a statute signed into law in 1988, merely for political purposes, who loses? The taxpayer loses due to added costs associated with further delay.

Mr. President, I appreciate the work of the energy and water conference committee for their continued support for the A–LP project, and I look forward to working with my colleagues on the respective committees of jurisdiction to ensure that adequate congressional oversight is put in place to permit the timely progression of the project.

CORECT PROGRAM

Mr. HATFIELD. Mr. President, in 1988, Congress passed and President Reagan signed in law the CORECT program. This program established a federal interagency board to coordinate renewable energy exports and has been a very successful example of how a very small program, funded at $2 million per year, can drive the tools of the U.S. Government to assist small businesses in gaining international market share. For example, the U.S. solar industry exports over 85 percent of its product and has now ribbon-cut four new automated manufacturing plants in the United States to meet the growing global markets.

I am concerned that the energy and water development appropriations conference report, now before the Senate, could be interpreted as closing down the CORECT program. Let me clarify with my friend from New Mexico, Mr. DOMENICI, that the pending legislation is not to be interpreted as terminating the CORECT program and that the Department of Energy may utilize other available funds to continue this program, even though Congress has provided no funding for the coming fiscal year.

Mr. DOMENICI. Mr. President, I am well aware of the CORECT program. I want to assure the Senator from Oregon that the Department of Energy is free to propose reprogramming up to $2 million from other programs to support the CORECT program. I assure my colleague from Oregon that the subcommittee will expeditiously review any such request.

Mr. HATFIELD. I want to thank my friend for his clarification of this important matter.

FUSION

Mr. JOHNSTON. As my good friend from New Mexico, the chairman of the Energy and Water Development Subcommittee and many other Members are aware, the subcommittee continues to support a strong Fusion Energy Sciences Program. As noted in the report language accompanying the Senate bill, the committee is pleased by the efforts of the fusion community over the past year to restructure the fusion program. However, despite our best attempts to keep the budget essentially level this year, we were forced to accept a cut in this important program because of the constraints imposed by the overall low level of funding for the nondefense programs in this bill.

Mr. President, I want to get some additional clarification from my good friend from New Mexico, the chairman of the Energy and Water Development Subcommittee, about the statement of managers language accompanying the Fusion Energy Sciences Program. The language calls for the operation and safe shutdown of the Tokamak Fusion Test Reactor in fiscal year 1997. Is it the chairman's understanding that this language can in any way be interpreted to imply a particular funding level or length or operation for the TFTR in fiscal year 1997?

Mr. DOMENICI. I thank my good friend from Louisiana for pointing out the importance of the Fusion Energy Sciences Program and for his question. The conferees did not specify the level of funding to be provided to the TFTR in fiscal year 1997. We recognized that, because the Congress has not provided the full amount of the request for the Fusion Program, reductions within the program will be necessary. Those reductions will include a reduction in the funds provided to the TFTR. It is the Department's responsibility to determine the proper allocation of funds from within the amount provided in the conference report.

Mr. JOHNSTON. I thank the chairman and note for the record that his understanding and expectation on this issue match mine.

Mr. GORTON. Mr. President, I strongly support the conference report to accompany the fiscal year 1997 energy and water appropriations bill. Included in the fiscal year 1997 energy and water conference report is an amendment that I authored to amend the Northwest Power Act. My amendment, which has received bipartisan support, would amend the Northwest Power Act to establish an independent scientific review panel and peer review groups, to review annual projects to be funded with BPA ratepayer moneys.

Each year, roughly $100 million in BPA ratepayer dollars are spent to fund fish and wildlife projects that support the Northwest Power Planning Council's fish and wildlife plan. The Northwest Power Planning Council is the regional body, created by the Northwest Power Act, that provides advice and input to BPA in spending the annual $100 million in fish and wildlife funds. The purpose of the council program is to protect, mitigate, and enhance fish and wildlife populations along the Columbia and Snake River system.

Currently, the single body that provides advice to the council on the expenditure of these funds, is the Columbia Basin Fish and Wildlife Authority [CBFWA]. CBFWA is made up of affected tribal officials, State fish and wildlife managers, and representatives from the U.S. Fish and Wildlife Service and the National Marine Fisheries Service. Prior to my amendment, CBFWA members had recommended that roughly 75 percent of the $100 million annual expenditure go to fund projects that would be carried out by CBFWA members. This is a most serious conflict of interest, one that was brought to my attention several months ago by constituents in my State.

Let me be clear, CBFWA's advice is important. But, I believe that BPA ratepayers expect their hard earned dollars to be spent wisely—not to fund the projects of a select number of groups.

My amendment requires the independent scientific review of projects proposed for funding under BPA's annual program and would remove any suggestion of conflict of interest in prioritizing programs. I believe that advice of independent scientists with expertise on the enhancement of Columbia River fish and wildlife will result in successful implementation of the Northwest Power Planning Council's fish and wildlife program. The council recently recognized the need for independent science recently, and together with the National Marine Fisheries Service, has established an Independent Scientific Advisory Board [ISAB] in order to provide scientific advice to the council and NMFS on the council's plan for fish and wildlife for the river system.

My amendment directs the National Academy of Sciences to submit a list of individuals to the council to serve on an Independent Scientific Review Panel to review projects for funding under BPA's annual fish and wildlife program. I would like to make clear that nothing in the bill language precludes NAS from recommending the same scientists that serve on the ISAB to serve on the newly created Independent Scientific Review Panel, provided that members meet the conflict of interest standards spelled out in the bill language. If ISAB scientists are selected to serve on the newly created panel, such scientists should not be compensated twice for their services.

My amendment also requires that the council establish, from a list submitted by NAS, scientific peer review groups to assist the panel in making its recommendations to the council. Projects will be reviewed based upon the following criteria: Projects benefit fish and wildlife in the region; have a clearly defined objective and outcome; and are based on sound science principles.

After review of the projects by the panel and peer review groups, the panel will submit its recommendations on projects priorities to the council for consideration. The council will then make the panel's recommendations available to the public for review.

The council is required to review recommendations of the panel, the Columbia Basin Fish and Wildlife Authority,

and others, in making its final recommendations to BPA of projects to be funded through BPA's annual fish and wildlife budget. If the council does not follow the advice of the panel, it is to explain in writing the basis for its decision.

Mr. President, an important part of my amendment requires the council to consider the impacts of ocean conditions in making its recommendations to BPA to fund projects. Ocean conditions include, but are not limited to, such considerations as El Nino and other conditions that impact fish and wildlife populations. My amendment also directs the council to determine whether project recommendations employ cost effective measures to achieve its objectives. I want to make an important point here, Mr. President, the bill language expressly states that the council, after review of panel and other recommendations, has the authority to make final recommendations to BPA on project(s) to be funded through BPA's annual fish and wildlife budget. This language was included to clear up any confusion as to the council's authority to make final recommendations to BPA on projects to be funded through its annual fish and wildlife budget.

The amendment goes into effect upon the date of enactment, and it is intended that the provision be used to start the planning process for the expenditure of BPA's fiscal year 1998 fish and wildlife budget. This provision will expire on September 30, 2000.

Mr. President, in closing, I would like to thank Senator HATFIELD and Senator MURRAY, and the Northwest Power Planning Council for their input in the development of the amendment. I believe that the final language, as it appears in the fiscal year 1997 energy and water conference report, reflects a bipartisan effort to make sure that BPA ratepayer dollars are spend wisely.

I believe that my amendment is the first step to restoring accountability in the decisionmaking process for the expenditure of BPA ratepayer dollars for fish and wildlife purposes. I look forward to working, on a bipartisan basis, with my Northwest colleagues to rewrite the Northwest Power Act during the next Congress to ensure that Northwest ratepayer dollars are spent effectively for fish and wildlife, and that the people of the Northwest are given a greater role in the decisionmaking process.

Mr. DOMENICI. Mr. President, I understand Senator LEVIN does not need his time. In his behalf, I yield back his time. Mr. President, I understand Senator JOHNSTON will yield back his time. In that he is in another hearing, I yield back his time in his behalf.

The PRESIDING OFFICER. All time except the time of the Senator from New Mexico has been yielded back. The Senator from New Mexico retains 14 minutes.

Mr. DOMENICI. Mr. President, I ask the distinguished Senator from Pennsylvania how much time does he desire?

Mr. SPECTER. Mr. President, I thank my colleague from New Mexico. I would appreciate 10 minutes.

Mr. DOMENICI. Mr. President, at the suggestion of the majority leader, I yield back all time on the conference report.

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

MORNING BUSINESS

Mr. DOMENICI. Mr. President, I ask unanimous consent that there now be a period for morning business until the hour of 11 a.m., with Senators to speak for up to 5 minutes each. If they need additional time, they can seek time from the Chair.

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

Mr. SPECTER. Mr. President, I ask unanimous consent I may speak in morning business for a period of up to 10 minutes.

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

Mr. SPECTER. Then, Mr. President, I further ask unanimous consent I may be recognized to comment on the intelligence authorization report.

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

USE OF FORCE AGAINST IRAQ

Mr. SPECTER. Mr. President, I have come to the floor immediately after attending a meeting with President Clinton, the Secretary of State, the Secretary of Defense, the Chairman of the Joint Chiefs of Staff, and Members of both Houses from both parties on the subject of Iraq. I would like to comment about an issue which I raised specifically with the President, and that is my urging him to submit to the Congress of the United States the issue as to whether there should be force used against Iraq in the gulf.

In time of crisis there is no question, under our Constitution, that the President as Commander in Chief has the authority to take emergency action. Similarly, it is plain that the Congress of the United States has the sole authority to declare a war, and that involves the use of force, as in the gulf operation in 1991, which was really a war, where the President came to the Congress of the United States in January 1991, and on this floor this body debated that issue and, by a relatively narrow vote of 52 to 47, authorized the use of force. It is my strong view that the issue of the use of force in Iraq today ought to be decided by the Congress of the United States and not unilaterally by the President where there is no pending emergency and when there is time for due deliberation in accordance with our constitutional procedures.

I note when the first missile attacks were launched 2 weeks ago today, on September 3, the President did not consult in advance with the Congress, which I believe was necessary under the War Powers Act. That is water over the dam. At the meeting this morning there were comments from Members of Congress about the need for more consultation. I believe the session this morning was the first time that there had been a group of Members of the House and Senate assembled to be briefed by the administration, by the President, and by the Secretary of State and Secretary of Defense.

We know from the bitter experience of the Vietnam war that the United States cannot engage in military action of a protracted nature without public support, and the first place to seek the public support is in the Congress of the United States in our representative capacity. It is more than something which is desirable; it is something which is mandated by the constitutional provision that grants exclusive authority to the Congress of the United States to declare war. We have seen a transition as to what constitutes a war—in Korea, where there was no declaration of war by the Congress, in Vietnam, where there was no declaration of war by the Congress. And we have seen the adoption of the War Powers Act as an effort to strike a balance between congressional authority to declare war and the President's authority as Commander in Chief; and, as provided under the War Powers Act, where there are imminent hostilities, the President is required to consult in advance with the Congress and to make prompt reports to the Congress, although the President does have the authority to act in case of emergency.

My legal judgment is that the President does have authority as Commander in Chief to act in an emergency, even in the absence of the War Powers Act. But when there is time for action by the Congress of the United States, then that action ought to be taken by the Congress on the use of force, which is tantamount to war, which we saw in the gulf in 1991 where the Congress did act. And we may see—we all hope we do not see it—but we may see that in Iraq at the present time.

The Congress is soon to go out of session in advance of the November elections. While we are here, this issue ought to be considered by the Congress of the United States as to whether we are going to have the use of force.

In the meeting this morning, attended by many Members of the House and Senate, both Democrats and Republicans, there was considerable question raised on both sides of the aisle as to what our policy is at the present time, whether we have a coherent policy as to what we are going to do there, not only how we get in but how we get out, and what our policy ought to be.

Those policy issues are really matters which ought to be debated by the Congress of the United States and acted upon by the Congress of the United States.

We know there is a considerable problem that we face today on getting support from our allies, and that is an indispensable prerequisite, it seems to me, for action by the United States military forces. We have seen the deployment of air power all the way from Guam for missile strikes, and yet we wonder why we are not using air power from Saudi Arabia or from Turkey, and the question is raised as to whether the Saudis or the people in command of Turkey are willing to allow us to use their bases for these air strikes.

When it comes to the issue of containment, representations were made by key administration officials that there is a full and total support by the Saudis for our efforts to contain Saddam Hussein, but that when it comes to the issue of air strikes, the same cannot be said; there is less than a full measure of support from the Saudis. So that when we deal with the issue of how much force the United States of America ought to use in the gulf against Saddam Hussein, those are the issues which ought to be considered by Congress, and we ought to have a statement of particularity as to just how much support we are going to get from our allies.

We know the French, illustratively, will refuse to supply in the expanded zone to the 33d parallel. There have been reports from Kuwait that the Kuwait Government is not prepared, not really willing to have us expand our military forces there. There is some dispute about that, with representations being made by the administration that the media reports have been overblown and that there is really cooperation from Kuwait and from Bahrain and from others. But on the face of what is at least the public record, there is a serious question as to whether we do have real support among our allies. That is something which has to be considered in some detail.

In our meeting this morning, reservations were expressed by Members on both sides of the aisle, and there was a question as to what we ought to be doing with Saudi Arabia in terms of long-range policy and long-range planning. When we moved into the gulf war in 1991, it was an emergency situation, but the plan was supposed to enable the Saudis to have time to defend themselves and to take action in their own defense, and that has not happened. Every time Saddam Hussein moves, there is significant expenditure of U.S. resources and U.S. money.

In the middle of the discussion, we had the point raised about whether the defense budget is adequate and a very blunt reference to the Chief of Staff, Mr. Panetta, as to agreeing to the figures which have come from the appropriators, and that also was obviously a matter of fundamental importance by the Congress because we are the appropriators and we have had the administration take the position that the administration does not like what the Congress is doing by way of appropriations. But the administration is coming in with a very expensive operation, and it may be justified, it may be warranted, it may be necessary, but that is a matter for the Congress to decide as to what our policy should be and how much money we are prepared to spend.

In the meeting today, the question was raised rather bluntly about the credibility of the administration in expanding the no-fly zone to the south when the actions come against the Kurds in the north, and there seems to be a consensus that the action taken thus far by the administration has not weakened Saddam Hussein but has strengthened Saddam Hussein and that he did, in fact, receive cover when certain Kurdish leaders invited him in; and there is a distinction to be made about what the United States will do for a vital U.S. interest contrasted with what we might do for humanitarian purposes, and that while U.S. military personnel may be placed in harm's way where we have an issue of a vital national interest, there may be a difference of opinion if we are dealing with a humanitarian consideration.

Mr. President, all of this boils down to the judgment, my judgment, that the American people today are not informed about what the administration is seeking to do in the gulf and what the administration is seeking to do against Saddam Hussein, and the Congress has not been consulted in advance of the initial missile strikes and has been, in my view, inadequately informed as we have proceeded. When you deal with the use of force, which is tantamount to war, that is a matter to be decided by the Congress of the United States, leaving to the President his constitutional authority as Commander in Chief to act in cases of emergency. But at this time we do not have an emergency. We have time for deliberation in the Congress, for debate in this Chamber and the floor of the House of Representatives to decide what our policy should be, what we are prepared to spend, and how we ought to proceed. That is why in the meeting I asked the President to submit to the Congress his request for an authorization for the use of force so that matter could be decided by the Congress in accordance with constitutional provisions.

Mr. President, I noted that I made that request to the President, and I commented about a letter which I had sent to the President yesterday on that subject. I ask unanimous consent that the text of that letter be printed in the RECORD.

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

U.S. SENATE,
SELECT COMMITTEE ON INTELLIGENCE,
Washington, DC, September 16, 1996.

Hon. WILLIAM JEFFERSON CLINTON,
President of the United States, The White House, Washington, DC.

DEAR MR. PRESIDENT: I am writing to you to express my growing concerns over the escalation of U.S. military activity in and around the Persian Gulf and to urge you to promptly seek a resolution from Congress authorizing the use of force in the Gulf. There is no emergency which would require escalation of the use of force by you in your role as Commander-in-Chief. The constitutional role of Congress as the sole authority to declare war should be respected, as it was in 1991, with the Congress determining national policy on our objectives, the conditions of allied burden sharing, an exit strategy and an overall policy which is lacking at the present time. A further statement of my reasons follows.

First, let me repeat my publicly stated support for the policy of containment of Saddam Hussein's regime and for the practice of United States military involvement in the enforcement of the United Nations' ordered no-fly zone in southern Iraq. No less than in 1991, when I voted to support the use of force in the Gulf War, the United States has vital interests in this region which must be protected.

Second, I strongly support the bravery and professionalism of our military men and women who are carrying out your orders at substantial risk to their lives.

All this having been said, I believe your current course of gradual escalation against Iraq, starting with the missile attacks on September 4, (for which you sought no prior authorization from Congress) constitutes the involvement of our armed forces in the sorts of hostile and potentially hostile situations so as to trigger the limit of your authority as commander-in-chief established by the War Powers Act.

Moreover, this present course of escalation—especially the reported possible dispatch of 3–5,000 ground troops to Kuwait —could well lead to a renewal of full scale war between the United States and Iraq. For example, if, heaven forbid, our Army units were to sustain losses from any form of Iraqi attack, this country would be duty-bound to respond with massive force.

I know you understand, particularly in view of this country's bitter experiences with undeclared wars in Korea and Vietnam, the paramount importance of the constitutional principle that only Congress can declare war. It is an unavoidable concomitant of this principle that the President cannot have unilateral authority to set up a trip-wire which, if breached, would surely commit this nation to war. Your present posture toward Iraq, however, may be creating just such a trip-wire.

Beyond the always vital matter of honoring basic constitutional principle, I urge you to promptly seek Congressional authority for the use of force against Iraq because, just as in 1991, this democratic exercise is by far the best way to clarify both the legitimate means and the legitimate ends which underlie our national policy towards Saddam Hussein.

A congressional debate now will focus you and the Congress, and ultimately the American people, on what our policy should be at this time in the Persian Gulf. It will define national understanding and hopefully shape a national consensus on the key questions which must be answered as the potential for deeper conflict grows—questions such as the proper burden sharing we must demand from our allies in the region and around the world and, most importantly, about an exit strategy to ensure a way back home, in reasonable time and at reasonable cost, for the troops we so rapidly send today into harm's way.

Thank you for your consideration.

Sincerely,

Arlen Specter.

INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1997

Mr. SPECTER. Mr. President, at the outset of my comments, I asked unanimous consent that I might proceed on the 1997 intelligence authorization bill. I had not intended to comment on this subject when coming to the floor, but when I arrived here, I was advised that this issue is ripe for consideration, and I was asked by the staff if I would handle it in a leadership capacity, since I am the only Senator in the Chamber. I would like to proceed to do that at this point.

From the script prepared by the staff, I now ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 543, S. 1718, which is entitled the Intelligence authorization bill.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 1718) to authorize appropriations for fiscal year 1997 for intelligence and intelligence related activities of the United States Government, the Community Management Account, and for the Central Intelligence Agency Retirement and Disability System, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Governmental Affairs, with amendments, as follows:

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

S. 1718

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Intelligence Authorization Act for Fiscal Year 1997''.

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

Sec. 1. Short title; table of contents.

TITLE I—INTELLIGENCE ACTIVITIES

Sec. 101. Authorization of appropriations.
Sec. 102. Classified schedule of authorizations.
Sec. 103. Personnel ceiling adjustments.
Sec. 104. Community Management Account.

TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

Sec. 201. Authorization of appropriations.

TITLE III—GENERAL PROVISIONS

Sec. 301. Increase in employee compensation and benefits authorized by law.
Sec. 302. Restriction on conduct of intelligence activities.
Sec. 303. Postponement of applicability of sanctions laws to intelligence activities.
Sec. 304. Post-employment restrictions.
Sec. 305. Executive branch oversight of budgets of elements of the intelligence community.

TITLE IV—FEDERAL BUREAU OF INVESTIGATION

Sec. 401. Access to telephone records.

TITLE V—ECONOMIC ESPIONAGE

Sec. 501. Short title.
Sec. 502. Prevention of economic espionage and protection of proprietary economic information.

TITLE VI—COMBATTING PROLIFERATION

Sec. 601. Short title.

Subtitle A—Assessment of Organization and Structure of Government for Combatting Proliferation

Sec. 611. Establishment of commission.
Sec. 612. Duties of commission.
Sec. 613. Powers of commission.
Sec. 614. Commission personnel matters.
Sec. 615. Termination of commission.
Sec. 616. Definition.
Sec. 617. Authorization of appropriations.

Subtitle B—Other Matters

Sec. 621. Reports on acquisition of technology relating to weapons of mass destruction and advanced conventional munitions.

TITLE VII—RENEWAL AND REFORM OF INTELLIGENCE ACTIVITIES

Sec. 701. Short title.
Sec. 702. Committee on Foreign Intelligence.
Sec. 703. Annual reports on intelligence.
Sec. 704. Transnational threats.
Sec. 705. Office of the Director of Central Intelligence.
Sec. 706. National Intelligence Council.
Sec. 707. Enhancement of authority of Director of Central Intelligence to manage budget, personnel, and activities of intelligence community.
[Sec. 708. Reallocation of responsibilities of Director of Central Intelligence and Secretary of Defense for intelligence activities under National Foreign Intelligence Program.**]**
Sec. 708. Responsibilities of Secretary of Defense pertaining to the National Foreign Intelligence Program.
Sec. 709. Improvement of intelligence collection.
Sec. 710. Improvement of analysis and production of intelligence.
Sec. 711. Improvement of administration of intelligence activities.
Sec. 712. Pay level of Assistant Directors of Central Intelligence.
Sec. 713. General Counsel of the Central Intelligence Agency.
Sec. 714. Office of Congressional Affairs of **[**the Intelligence Community.**]** *the Director of Central Intelligence.*
Sec. 715. Assistance for law enforcement agencies by intelligence community.
Sec. 716. Appointment and evaluation of officials responsible for intelligence-related activities.
[Sec. 717. Intelligence Community Senior Executive Service.**]**
Sec. **[**718.**]** *717.* Requirements for submittal of budget information on intelligence activities.
Sec. **[**719.**]** *718.* Terms of service for members of Select Committee on Intelligence of the Senate.
Sec. **[**720.**]** *719.* Report on intelligence community policy on protecting the national information infrastructure against strategic attacks.

TITLE VIII—NATIONAL IMAGERY AND MAPPING AGENCY

[Sec. 801. Establishment.
[Sec. 802. Effective date.**]**
Sec. 801. National mission and collection tasking authority for the National Imagery and Mapping Agency.

TITLE I—INTELLIGENCE ACTIVITIES

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

Funds are hereby authorized to be appropriated for fiscal year 1997 for the conduct of the intelligence and intelligence-related activities of the following elements of the United States Government:

(1) The Central Intelligence Agency.
(2) The Department of Defense.
(3) The Defense Intelligence Agency.
(4) The National Security Agency.
(5) The Department of the Army, the Department of the Navy, and the Department of the Air Force.
(6) The Department of State.
(7) The Department of Treasury.
(8) The Department of Energy.
(9) The Federal Bureau of Investigation.
(10) The Drug Enforcement Administration.
(11) The National Reconnaissance Office.
(12) The Central Imagery Office.

SEC. 102. CLASSIFIED SCHEDULE OF AUTHORIZATIONS.

(a) SPECIFICATIONS OF AMOUNTS AND PERSONNEL CEILINGS.—The amounts authorized to be appropriated under section 101, and the authorized personnel ceilings as of September 30, 1997, for the conduct of the intelligence and intelligence-related activities of the elements listed in such section, are those specified in the classified Schedule of Authorizations prepared to accompany the conference report on the bill ____ of the One Hundred Fourth Congress.

(b) AVAILABILITY OF CLASSIFIED SCHEDULE OF AUTHORIZATIONS.—The Schedule of Authorizations shall be made available to the Committees on Appropriations of the Senate and House of Representatives and to the President. The President shall provide for suitable distribution of the Schedule, or of appropriate portions of the Schedule, within the executive branch.

SEC. 103. PERSONNEL CEILING ADJUSTMENTS.

(a) AUTHORITY FOR ADJUSTMENTS.—With the approval of the Director of the Office of Management and Budget, the Director of Central Intelligence may authorize employment of civilian personnel in excess of the number authorized for fiscal year 1997 under section 102 when the Director of Central Intelligence determines that such action is necessary to the performance of important intelligence functions, except that the number of personnel employed in excess of the number authorized under such section may not, for any element of the intelligence community, exceed two percent of the number of civilian personnel authorized under such section for such element.

(b) NOTICE TO INTELLIGENCE COMMITTEES.—The Director of Central Intelligence shall promptly notify the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate whenever he exercises the authority granted by this section.

SEC. 104. COMMUNITY MANAGEMENT ACCOUNT.

(a) AUTHORIZATIONS OF APPROPRIATIONS.—There is authorized to be appropriated for the Community Management Account of the Director of Central Intelligence for fiscal year 1997 the sum of $95,526,000. Within such amounts authorized, funds identified in the classified Schedule of Authorizations referred to in section 102(a) for the Advanced Research and Development Committee and the Environmental Task Force shall remain available until September 30, 1998.

(b) AUTHORIZED PERSONNEL LEVELS.—The staff of the Community Management Account of the Director of Central Intelligence is authorized 265 full-time personnel as of September 30, 1997. Such personnel of the Community Management Staff may be permanent employees of the Community Management Staff or personnel detailed from

other elements of the United States Government.

(c) REIMBURSEMENT.—During fiscal year 1997, any officer or employee of the United States or member of the Armed Forces who is detailed to the staff of the Community Management Account from another element of the United States Government shall be detailed on a reimbursable basis, except that any such officer, employee, or member may be detailed on a non-reimbursable basis for a period of less than one year for the performance of temporary functions as required by the Director of Central Intelligence.

TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for the Central Intelligence Agency Retirement and Disability Fund for fiscal year 1997 the sum of $184,200,000.

TITLE III—GENERAL PROVISIONS

SEC. 301. INCREASE IN EMPLOYEE COMPENSATION AND BENEFITS AUTHORIZED BY LAW.

Appropriations authorized by this Act for salary, pay, retirement, and other benefits for Federal employees may be increased by such additional or supplemental amounts as may be necessary for increases in such compensation or benefits authorized by law.

SEC. 302. RESTRICTION ON CONDUCT OF INTELLIGENCE ACTIVITIES.

The authorization of appropriations by this Act shall not be deemed to constitute authority for the conduct of any intelligence activity which is not otherwise authorized by the Constitution or the laws of the United States.

SEC. 303. POSTPONEMENT OF APPLICABILITY OF SANCTIONS LAWS TO INTELLIGENCE ACTIVITIES.

Section 905 of the National Security Act of 1947 (50 U.S.C. 441d) is amended by striking ''the date which is one year after the date of the enactment of this title'' and inserting ''January 6, 1998''.

SEC. 304. POST-EMPLOYMENT RESTRICTIONS.

(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Director of Central Intelligence shall prescribe regulations requiring each new and current employee of the Central Intelligence Agency to sign a written agreement restricting the activities of that employee upon ceasing employment with the Central Intelligence Agency.

(b) AGREEMENT ELEMENTS.—The regulations shall provide that an agreement contain provisions specifying that the employee concerned not represent or advise the government, or any political party, of a foreign country during the five-year period beginning on the termination of the employee's employment with the Central Intelligence Agency.

(c) DISCIPLINARY ACTIONS.—The regulations shall specify appropriate disciplinary actions (including loss of retirement benefits) to be taken against any employee determined by the Director of Central Intelligence to have violated the agreement of the employee under this section.

SEC. 305. EXECUTIVE BRANCH OVERSIGHT OF BUDGETS OF ELEMENTS OF THE INTELLIGENCE COMMUNITY.

(a) REPORT.—Not later than 90 days after the date of the enactment of this Act, the President shall submit to the congressional intelligence committees a report setting forth the actions that have been taken to ensure adequate oversight by the executive branch of the budget of the National Reconnaissance Office and the budgets of other elements of the intelligence community within the Department of Defense.

(b) REPORT ELEMENTS.—The report required by subsection (a) shall—

(1) describe the extent to which the elements of the intelligence community carrying out programs and activities in the National Foreign Intelligence Program are subject to requirements imposed on other elements and components of the Department of Defense under the Chief Financial Officers Act of 1990 (Public Law 101–576), and the amendments made by that Act, and the Federal Financial Management Act of 1994 (title IV of Public Law 103–356), and the amendments made by that Act;

(2) describe the extent to which such elements submit to the Office of Management and Budget budget justification materials and execution reports similar to the budget justification materials and execution reports submitted to the Office of Management and Budget by the non-intelligence components of the Department of Defense;

(3) describe the extent to which the National Reconnaissance Office submits to the Office of Management and Budget, the Community Management Staff, and the Office of the Secretary of Defense—

(A) complete information on the cost, schedule, performance, and requirements for any new major acquisition before initiating the acquisition;

(B) yearly reports (including baseline cost and schedule information) on major acquisitions;

(C) planned and actual expenditures in connection with major acquisitions; and

(D) variances from any cost baselines for major acquisitions (including explanations of such variances); and

(4) assess the extent to which the National Reconnaissance Office has submitted to Office of Management and Budget, the Community Management Staff, and the Office of the Secretary of Defense on a monthly basis a detailed budget execution report similar to the budget execution report prepared for Department of Defense programs.

(c) DEFINITIONS.—For purposes of this section:

(1) The term ''congressional intelligence committees'' shall mean the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives.

(2) The term ''National Foreign Intelligence Program'' has the meaning given such term in section 3(6) of the National Security Act of 1947 (50 U.S.C. 401a(6)).

TITLE IV—FEDERAL BUREAU OF INVESTIGATION

SEC. 401. ACCESS TO TELEPHONE RECORDS.

(a) ACCESS FOR COUNTERINTELLIGENCE PURPOSES.—Section 2709(b)(1) of title 18, United States Code, is amended by inserting ''local and long distance'' before ''toll billing records''.

(b) CONFORMING AMENDMENT.—Section 2703(c)(1)(C) of such title is amended by inserting ''local and long distance'' after ''address,''.

(c) CIVIL REMEDY.—Section 2707 of such title is amended—

(1) in subsection (a), by striking ''customer'' and inserting ''other person'';

(2) in subsection (c), by adding at the end the following: ''If the violation is willful or intentional, the court may assess punitive damages. In the case of a successful action to enforce liability under this section, the court may assess the costs of the action, together with reasonable attorney fees determined by the court.'';

(3) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively; and

(4) by inserting after subsection (c) the following new subsection (d):

''(d) DISCIPLINARY ACTIONS FOR VIOLATIONS.—If a court determines that any agency or department of the United States has violated this chapter and the court finds that the circumstances surrounding the violation raise the question whether or not an officer or employee of the agency or department acted willfully or intentionally with respect to the violation, the agency or department concerned shall promptly initiate a proceeding to determine whether or not disciplinary action is warranted against the officer or employee.''.

TITLE V—ECONOMIC ESPIONAGE

SEC. 501. SHORT TITLE.

This title may be cited as the ''Economic Espionage Act of 1996''.

SEC. 502. PREVENTION OF ECONOMIC ESPIONAGE AND PROTECTION OF PROPRIETARY ECONOMIC INFORMATION.

(a) IN GENERAL.—Part I of title 18, United States Code, is amended by inserting after chapter 27 the following new chapter:

''CHAPTER 28—ECONOMIC ESPIONAGE

''Sec.
''571. Definitions.
''572. Economic espionage.
''573. Criminal forfeiture.
''574. Import and export sanctions.
''575. Scope of extraterritorial jurisdiction.
''576. Construction with other laws.
''577. Preservation of confidentiality.
''578. Law enforcement and intelligence activities.

''§ 571. Definitions

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

''(1) FOREIGN AGENT.—The term 'foreign agent' means any officer, employee, proxy, servant, delegate, or representative of a foreign nation or government.

''(2) FOREIGN INSTRUMENTALITY.—The term 'foreign instrumentality' means any agency, bureau, ministry, component, institution, association, or any legal, commercial, or business organization, corporation, firm, or entity that is substantially owned, controlled, sponsored, commanded, managed, or dominated by a foreign government or any political subdivision, instrumentality, or other authority thereof.

''(3) OWNER.—The term 'owner' means the person or persons in whom, or the United States Government component, department, or agency in which, rightful legal, beneficial, or equitable title to, or license in, proprietary economic information is reposed.

''(4) PROPRIETARY ECONOMIC INFORMATION.—The term 'proprietary economic information' means all forms and types of financial, business, scientific, technical, economic, or engineering information (including data, plans, tools, mechanisms, compounds, formulas, designs, prototypes, processes, procedures, programs, codes, or commercial strategies, whether tangible or intangible, and whether stored, compiled, or memorialized physically, electronically, graphically, photographically, or in writing), if—

''(A) the owner thereof has taken reasonable measures to keep such information confidential; and

''(B) the information derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable through proper means by, the public.

''(5) UNITED STATES PERSON.—The term 'United States person' means—

''(A) in the case of a natural person, a citizen of the United States or a permanent resident alien of the United States; and

''(B) in the case of an organization (as that term is defined in section 18 of this title), an entity substantially owned or controlled by citizens of the United States or permanent resident aliens of the United States, or incorporated in the United States.

"§ 572. Economic espionage

''(a) IN GENERAL.—Any person who, with knowledge or reason to believe that he or she is acting on behalf of, or with the intent to benefit, any foreign nation, government, instrumentality, or agent, knowingly—

''(1) steals, wrongfully appropriates, takes, carries away, or conceals, or by fraud, artifice, or deception obtains proprietary economic information;

''(2) wrongfully copies, duplicates, sketches, draws, photographs, downloads, uploads, alters, destroys, photocopies, replicates, transmits, delivers, sends, mails, communicates, or conveys proprietary economic information;

''(3) being entrusted with, or having lawful possession or control of, or access to, proprietary economic information, wrongfully copies, duplicates, sketches, draws, photographs, downloads, uploads, alters, destroys, photocopies, replicates, transmits, delivers, sends, mails, communicates, or conveys the same;

''(4) receives, buys, or possesses proprietary economic information, knowing the same to have been stolen or wrongfully appropriated, obtained, or converted;

''(5) attempts to commit any offense described in any of paragraphs (1) through (4);

''(6) wrongfully solicits another to commit any offense described in any of paragraphs (1) through (4); or

''(7) conspires with one or more other persons to commit any offense described in any of paragraphs (1) through (4), and one or more of such persons do any act to effect the object of the conspiracy,

shall, except as provided in subsection (b), be fined not more than $500,000 or imprisoned not more than 25 years, or both.

''(b) ORGANIZATIONS.—Any organization that commits any offense described in subsection (a) shall be fined not more than $10,000,000.

''(c) EXCEPTION.—It shall not be a violation of this section to disclose proprietary economic information in the case of—

''(1) appropriate disclosures to Congress; or

''(2) disclosures to an authorized official of an executive agency that are deemed essential to reporting a violation of United States law.

"§ 573. Criminal forfeiture

''(a) IN GENERAL.—Notwithstanding any provision of State law to the contrary, any person convicted of a violation under this chapter shall forfeit to the United States—

''(1) any property constituting, or derived from, any proceeds the person obtained, directly or indirectly, as the result of such violation; and

''(2) any of the property of that person used, or intended to be used, in any manner or part, to commit or facilitate the commission of such violation.

''(b) COURT ACTION.—The court, in imposing sentence on such person, shall order, in addition to any other sentence imposed pursuant to this chapter, that the person forfeit to the United States all property described in this section.

''(c) APPLICABILITY OF OTHER LAW.—Property subject to forfeiture under this section, any seizure and disposition thereof, and any administrative or judicial proceeding in relation thereto, shall be governed by the provisions of section 413 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853), other than subsection (d) of that section.

"§ 574. Import and export sanctions

''(a) ACTION BY THE PRESIDENT.—The President may, to the extent consistent with international agreements to which the United States is a party, prohibit, for a period of not longer than 5 years, the importation into, or exportation from, the United States, whether by carriage of tangible items or by transmission, any merchandise produced, made, assembled, or manufactured by a person convicted of any offense described in section 572 of this title, or in the case of an organization convicted of any offense described in such section, its successor entity or entities.

''(b) ACTION BY THE SECRETARY OF THE TREASURY.—

''(1) CIVIL PENALTY.—The Secretary of the Treasury may impose on any person who knowingly violates any order of the President issued under the authority of this section, a civil penalty equal to not more than 5 times the value of the exports or imports involved, or $100,000, whichever is greater.

''(2) SEIZURE AND FORFEITURE.—Any merchandise imported or exported in violation of an order of the President issued under this section shall be subject to seizure and forfeiture in accordance with sections 602 through 619 of the Tariff Act of 1930.

''(3) APPLICABILITY OF OTHER PROVISIONS.—The provisions of law relating to seizure, summary and judicial forfeiture, and condemnation of property for violation of the United States customs laws, the disposition of such property or the proceeds from the sale thereof, the remission or mitigation of such forfeiture, and the compromise of claims, shall apply to seizures and forfeitures incurred, or alleged to have been incurred under this section to the extent that they are applicable and not inconsistent with the provisions of this chapter.

"§ 575. Scope of extraterritorial jurisdiction

''This chapter applies—

''(1) to conduct occurring within the United States; and

''(2) to conduct occurring outside the United States if—

''(A) the offender is a United States person; or

''(B) the act in furtherance of the offense was committed in the United States.

"§ 576. Construction with other laws

''This chapter shall not be construed to preempt or displace any other remedies, whether civil or criminal, provided by Federal, State, commonwealth, possession, or territorial laws that are applicable to the misappropriation of proprietary economic information.

"§ 577. Preservation of confidentiality

''In any prosecution or other proceeding under this chapter, the court shall enter such orders and take such other action as may be necessary and appropriate to preserve the confidentiality of proprietary economic information, consistent with the requirements of the Federal Rules of Criminal Procedure, the Federal Rules of Civil Procedure, the Federal Rules of Evidence, and all other applicable laws. An interlocutory appeal by the United States shall lie from a decision or order of a district court authorizing or directing the disclosure of proprietary economic information.

"§ 578. Law enforcement and intelligence activities

''This chapter does not prohibit, and shall not impair, any lawful activity conducted by a law enforcement or regulatory agency of the United States, a State, or a political subdivision of a State, or an intelligence agency of the United States.''.

(b) CLERICAL AMENDMENT.—The table of chapters at the beginning of part I of title 18, United States Code, is amended by inserting after the item relating to chapter 27 the following new item:

"28. Economic espionage ..... **571".**

(c) CONFORMING AMENDMENT.—Section 2516(1)(a) of title 18, United States Code, is amended by inserting ''chapter 28 (relating to economic espionage),'' after ''or under the following chapters of this title:''.

TITLE VI—COMBATTING PROLIFERATION

SEC. 601. SHORT TITLE.

This title may be cited as the ''Combatting Proliferation of Weapons of Mass Destruction Act of 1996''.

Subtitle A—Assessment of Organization and Structure of Government for Combatting Proliferation

SEC. 611. ESTABLISHMENT OF COMMISSION.

(a) ESTABLISHMENT.—There is established a commission to be known as the Commission to Assess the Organization of the Federal Government to Combat the Proliferation of Weapons of Mass Destruction (in this subtitle referred to as the ''Commission'').

(b) MEMBERSHIP.—The Commission shall be composed of eight members of whom—

(1) four shall be appointed by the President;

(2) one shall be appointed by the Majority Leader of the Senate;

(3) one shall be appointed by the Minority Leader of the Senate;

(4) one shall be appointed by the Speaker of the House of Representatives; and

(5) one shall be appointed by the Minority Leader of the House of Representatives.

(c) QUALIFICATIONS OF MEMBERS.—(1) To the maximum extent practicable, the individuals appointed as members of the Commission shall be individuals who are nationally recognized for expertise regarding—

(A) the nonproliferation of weapons of mass destruction;

(B) the efficient and effective implementation of United States nonproliferation policy; or

(C) the implementation, funding, or oversight of the national security policies of the United States.

(2) An official who appoints members of the Commission may not appoint an individual as a member if, in the judgment of the official, the individual possesses any personal or financial interest in the discharge of any of the duties of the Commission.

(d) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(e) INITIAL MEETING.—No later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

(f) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(g) CHAIRMAN AND VICE CHAIRMAN.—The Commission shall select a Chairman and Vice Chairman from among its members.

(h) MEETINGS.—The Commission shall meet at the call of the Chairman.

SEC. 612. DUTIES OF COMMISSION.

(a) STUDY.—

(1) IN GENERAL.—The Commission shall carry out a thorough study of the organization of the Federal Government, including the elements of the intelligence community, with respect to combatting the proliferation of weapons of mass destruction.

(2) SPECIFIC REQUIREMENTS.—In carrying out the study, the Commission shall—

(A) assess the current structure and organization of the departments and agencies of the Federal Government having responsibilities for combatting the proliferation of weapons of mass destruction; and

(B) assess the effectiveness of United States cooperation with foreign governments

with respect to nonproliferation activities, including cooperation—

(i) between elements of the intelligence community and elements of the intelligence-gathering services of foreign governments;

(ii) between other departments and agencies of the Federal Government and the counterparts to such departments and agencies in foreign governments; and

(iii) between the Federal Government and international organizations.

(3) ASSESSMENTS.—In making the assessments under paragraph (2), the Commission should address—

(A) the organization of the export control activities (including licensing and enforcement activities) of the Federal Government relating to the proliferation of weapons of mass destruction;

(B) arrangements for coordinating the funding of United States nonproliferation activities;

(C) existing arrangements governing the flow of information among departments and agencies of the Federal Government responsible for nonproliferation activities;

(D) the effectiveness of the organization and function of interagency groups in ensuring implementation of United States treaty obligations, laws, and policies with respect to nonproliferation;

(E) the administration of sanctions for purposes of nonproliferation, including the measures taken by departments and agencies of the Federal Government to implement, assess, and enhance the effectiveness of such sanctions;

(F) the organization, management, and oversight of United States counterproliferation activities;

(G) the recruitment, training, morale, expertise, retention, and advancement of Federal Government personnel responsible for the nonproliferation functions of the Federal Government, including any problems in such activities;

(H) the role in United States nonproliferation activities of the National Security Council, the Office of Management and Budget, the Office of Science and Technology Policy, and other offices in the Executive Office of the President having responsibilities for such activities;

(I) the organization of the activities of the Federal Government to verify government-to-government assurances and commitments with respect to nonproliferation, including assurances regarding the future use of commodities exported from the United States; and

(J) the costs and benefits to the United States of increased centralization and of decreased centralization in the administration of the nonproliferation activities of the Federal Government.

(b) RECOMMENDATIONS.—In conducting the study, the Commission shall develop recommendations on means of improving the effectiveness of the organization of the departments and agencies of the Federal Government in meeting the national security interests of the United States with respect to the proliferation of weapons of mass destruction. Such recommendations shall include specific recommendations to eliminate duplications of effort, and other inefficiencies, in and among such departments and agencies.

(c) REPORT.—(1) Not later than 18 months after the date of the enactment of this Act, the Commission shall submit to Congress a report containing a detailed statement of the findings and conclusions of the Commission, together with its recommendations for such legislation and administrative actions as it considers appropriate.

(2) The report shall be submitted in unclassified form, but may include a classified annex.

SEC. 613. POWERS OF COMMISSION.

(a) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out the purposes of this subtitle.

(b) INFORMATION FROM FEDERAL AGENCIES.—

(1) IN GENERAL.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the provisions of this subtitle. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(2) CLASSIFIED INFORMATION.—A department or agency may furnish the Commission classified information under this subsection. The Commission shall take appropriate actions to safeguard classified information furnished to the Commission under this paragraph.

(c) 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.

(d) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

SEC. 614. COMMISSION PERSONNEL MATTERS.

(a) COMPENSATION OF MEMBERS.—Each member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(b) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(c) STAFF.—

(1) IN GENERAL.—The Chairman of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.

(2) COMPENSATION.—The Chairman of the Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(d) 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.

(e) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairman of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

SEC. 615. TERMINATION OF COMMISSION.

The Commission shall terminate 60 days after the date on which the Commission submits its report under section 612(c).

SEC. 616. DEFINITION.

For purposes of this subtitle, the term ''intelligence community'' shall have the meaning given such term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

SEC. 617. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated for the Commission for fiscal year 1997 such sums as may be necessary for the Commission to carry out its duties under this subtitle.

(b) AVAILABILITY.—Amounts appropriated pursuant to the authorization of appropriations in subsection (a) shall remain available for expenditure until the termination of the Commission under section 615.

Subtitle B—Other Matters

SEC. 621. REPORTS ON ACQUISITION OF TECHNOLOGY RELATING TO WEAPONS OF MASS DESTRUCTION AND ADVANCED CONVENTIONAL MUNITIONS.

(a) REPORTS.—Not later than 6 months after the date of the enactment of this Act, and every 6 months thereafter, the Director of Central Intelligence shall submit to Congress a report on—

(1) the acquisition by foreign countries during the preceding 6 months of dual-use and other technology useful for the development or production of weapons of mass destruction (including nuclear weapons, chemical weapons, and biological weapons) and advanced conventional munitions; and

(2) trends in the acquisition of such technology by such countries.

(b) FORM OF REPORTS.—The reports submitted under subsection (a) shall be submitted in unclassified form, but may include a classified annex.

TITLE VII—RENEWAL AND REFORM OF INTELLIGENCE ACTIVITIES

SEC. 701. SHORT TITLE.

This title may be cited as the ''Intelligence Activities Renewal and Reform Act of 1996''.

SEC. 702. COMMITTEE ON FOREIGN INTELLIGENCE.

Section 101 of the National Security Act of 1947 (50 U.S.C. 402) is amended—

(1) by redesignating subsection (h) as subsection (j); and

(2) by inserting after subsection (g) the following new subsection (h):

''(h)(1) There is established within the National Security Council a committee to be known as the 'Committee on Foreign Intelligence'.

''(2) The Committee shall be composed of the following:

''(A) The Director of Central Intelligence.

''(B) The Secretary of State.

''(C) The Secretary of Defense.

''(D) The Assistant to the President for National Security Affairs, who shall serve as the chairperson of the Committee.

''(E) Such other members as the President may designate.

''(3) The function of the Committee shall be to assist the Council in its activities by—

''(A) identifying the intelligence required to address the national security interests of the United States as specified by the President;

''(B) establishing priorities (including funding priorities) among the programs, projects, and activities that address such interests and requirements; and

''(C) establishing policies relating to the conduct of intelligence activities of the United States, including appropriate roles and missions for the elements of the intelligence community and appropriate targets of intelligence collection activities.

''(4) In carrying out its function, the Committee shall—

''(A) conduct an annual review of the national security interests of the United States;

''(B) identify on an annual basis, and at such other times as the Council may require, the intelligence required to meet such interests and establish an order of priority for the collection and analysis of such intelligence; and

''(C) conduct an annual review of the elements of the intelligence community in order to determine the success of such elements in collecting, analyzing, and disseminating the intelligence identified under subparagraph (B).

''(5) The Committee shall submit each year to the Council and to the Director of Central Intelligence a comprehensive report on its activities during the preceding year, including its activities under paragraphs (3) and (4).''.

SEC. 703. ANNUAL REPORTS ON INTELLIGENCE.

(a) IN GENERAL.—Section 109 of the National Security Act of 1947 (50 U.S.C. 404d) is amended by striking out subsections (a) and (b) and inserting in lieu thereof the following new subsections:

''SEC. 109. (a) IN GENERAL.—(1) Not later than January 31 each year, the President shall submit to the appropriate congressional committees a report on the requirements of the United States for intelligence and the activities of the intelligence community.

''(2) The purpose of the report is to facilitate an assessment of the activities of the intelligence community during the preceding fiscal year and to assist in the development of a mission and a budget for the intelligence community for the fiscal year beginning in the year in which the report is submitted.

''(3) The report shall be submitted in unclassified form, but may include a classified annex.

''(b) MATTERS COVERED.—(1) Each report under subsection (a) shall—

''(A) specify the intelligence required to meet the national security interests of the United States, and set forth an order of priority for the collection and analysis of intelligence required to meet such interests, for the fiscal year beginning in the year in which the report is submitted; and

''(B) evaluate the performance of the intelligence community in collecting and analyzing intelligence required to meet such interests during the fiscal year ending in the year preceding the year in which the report is submitted, including a description of the significant successes and significant failures of the intelligence community in such collection and analysis during that fiscal year.

''(2) The report shall specify matters under paragraph (1)(A) in sufficient detail to assist Congress in making decisions with respect to the allocation of resources for the matters specified.

''(c) DEFINITION.—In this section, the term 'appropriate congressional committees' means the following:

''(1) The Select Committee on Intelligence, the Committee on Appropriations, and the Committee on Armed Services of the Senate.

''(2) The Permanent Select Committee on Intelligence, the Committee on Appropriations, and the Committee on National Security of the House of Representatives.''.

(b) CONFORMING AMENDMENTS.—(1) The section heading of such section is amended to read as follows:

''ANNUAL REPORT ON INTELLIGENCE''.

(2) The table of contents in the first section of that Act is amended by striking the item relating to section 109 and inserting the following new item:

''Sec. 109. Annual report on intelligence.''.

SEC. 704. TRANSNATIONAL THREATS.

Section 101 of the National Security Act of 1947 (50 U.S.C. 402) is amended by inserting after subsection (h), as amended by section 702 of this Act, the following new subsection:

''(i)(1) There is established within the National Security Council a committee to be known as the 'Committee on Transnational Threats'.

''(2) The Committee shall include the following members:

''(A) The Director of Central Intelligence.

''(B) The Secretary of State.

''(C) The Secretary of Defense.

''(D) The Attorney General.

''(E) The Assistant to the President for National Security Affairs, who shall serve as the chairperson of the Committee.

''(F) Such other members as the President may designate.

''(3) The function of the Committee shall be to coordinate and direct the activities of the United States Government relating to combatting transnational threats.

''(4) In carrying out its function, the Committee shall—

''(A) identify transnational threats;

''(B) develop strategies to enable the United States Government to respond to transnational threats identified under subparagraph (A);

''(C) monitor implementation of such strategies;

''(D) make recommendations as to appropriate responses to specific transnational threats;

''(E) assist in the resolution of operational and policy differences among Federal departments and agencies in their responses to transnational threats;

''(F) develop policies and procedures to ensure the effective sharing of information about transnational threats among Federal departments and agencies, including law enforcement agencies and the elements of the intelligence community; and

''(G) develop guidelines to enhance and improve the coordination of activities of Federal law enforcement agencies and elements of the intelligence community outside the United States with respect to transnational threats.

''(5) For purposes of this subsection, the term 'transnational threat' means the following:

''(A) Any transnational activity (including international terrorism, narcotics trafficking, the proliferation of weapons of mass destruction and the delivery systems for such weapons, and organized crime) that threatens the national security of the United States.

''(B) Any individual or group that engages in an activity referred to in subparagraph (A).''.

SEC. 705. OFFICE OF THE DIRECTOR OF CENTRAL INTELLIGENCE.

(a) IN GENERAL.—Title I of The National Security Act of 1947 (50 U.S.C. 402 et seq.) is amended—

(1) in section 102 (50 U.S.C. 403)—

(A) by striking the section heading and all that follows through paragraph (1) of subsection (a) and inserting the following:

''OFFICE OF THE DIRECTOR OF CENTRAL INTELLIGENCE

''SEC. 102.'';

(B) by redesignating paragraph (2) of subsection (a) as subsection (a) and in such subsection (a), as so redesignated, by redesignating subparagraphs (A), (B), and (C) as paragraphs (1), (2), and (3), respectively; and

(C) by striking subsection (d) and inserting the following:

''(d)(1) There is an Office of the Director of Central Intelligence. The function of the Office is to assist the Director of Central Intelligence in carrying out the duties and responsibilities of the Director under this Act and to carry out such other duties as may be prescribed by law.

''(2) The Office of the Director of Central Intelligence is composed of the following:

''(A) The Director of Central Intelligence.

''(B) The Deputy Director of Central Intelligence.

''(C) The National Intelligence Council.

''(D) The Assistant Director of Central Intelligence for Collection.

''(E) The Assistant Director of Central Intelligence for Analysis and Production.

''(F) The Assistant Director of Central Intelligence for Administration.

''(G) Such other offices and officials as may be established by law or the Director of Central Intelligence may establish or designate in the Office.

''(3) To assist the Director in fulfilling the responsibilities of the Director as head of the intelligence community, the Director shall employ and utilize in the Office of the Director of Central Intelligence a professional staff having an expertise in matters relating to such responsibilities and may establish permanent positions and appropriate rates of pay with respect to that staff.''; and

(2) by inserting after section 102, as so amended, the following new section:

''CENTRAL INTELLIGENCE AGENCY

''SEC. 102A. There is a Central Intelligence Agency. The function of the Agency shall be to assist the Director of Central Intelligence in carrying out the responsibilities referred to in paragraphs (1) through (4) of section 103(d) of this Act.''.

(b) CLERICAL AMENDMENT.—The table of contents in the first section of that Act is amended by striking the item relating to section 102 and inserting the following new items:

''Sec. 102. Office of the Director of Central Intelligence.

''Sec. 102A. Central Intelligence Agency.''.

SEC. 706. NATIONAL INTELLIGENCE COUNCIL.

Section 103(b) of the National Security Act of 1947 (50 U.S.C. 403–3(b)) is amended—

(1) in paragraph (1)(B), by inserting '', or as contractors of the Council or employees of such contractors,'' after ''on the Council'';

(2) by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively;

(3) by inserting after paragraph (3) the following new paragraph (4):

''(4) Subject to the direction and control of the Director of Central Intelligence, the Center may carry out its responsibilities under this subsection by contract, including contracts for substantive experts necessary to assist the Center with particular assessments under this subsection.''; and

(4) in paragraph (5), as so redesignated, by adding at the end the following: ''The Center shall also be readily accessible to policymaking officials and other appropriate individuals not otherwise associated with the intelligence community.''.

SEC. 707. ENHANCEMENT OF AUTHORITY OF DIRECTOR OF CENTRAL INTELLIGENCE TO MANAGE BUDGET, PERSONNEL, AND ACTIVITIES OF INTELLIGENCE COMMUNITY.

(a) IN GENERAL.—Section 103(c) of the National Security Act of 1947 (50 U.S.C. 403–3(c)) is amended—

(1) by striking paragraph (1) and inserting the following new paragraph (1):

''(1) facilitate the development of an annual budget for intelligence and intelligence-related activities of the United States by—

''(A) developing and presenting to the President an annual budget for the National Foreign Intelligence Program; *and*

[''(B) concurring in the development by the Secretary of Defense of the annual budget for the Joint Military Intelligence Program; and

[''(C) consulting with the Secretary of Defense in the development of the annual budget for the Tactical Intelligence and Related Activities program;'';]

''(B) participating in the development by the Secretary of Defense of the annual budgets for the Joint Military Intelligence Program and the Tactical Intelligence and Related Activities Program;'';

(2) by redesignating paragraphs (3) through (6) as paragraphs (4) through (7), respectively; and

(3) by inserting after paragraph (2) the following new paragraph (3):

[''(3) manage the national collection activities of the intelligence community in order to ensure that such activities, and the intelligence collected through such activities, meet the national security requirements of the United States;''.]

''(3) approve collection requirements, determine collection priorities, and resolve conflicts in collection priorities levied on national collection assets, except as otherwise agreed with the Secretary of Defense pursuant to the direction of the President;''.

[(b) USE OF FUNDS.—

[(1) REPROGRAMMING.—Subsection (c) of such section is amended by inserting ''or under the Joint Military Intelligence Program'' after ''the National Foreign Intelligence Program''.

[(2) TRANSFERS.—Subsection (d)(2)(E) of such section is amended by striking ''does not object to'' and inserting ''is consulted by the Director before''.

[(3) DIRECTION OF EXPENDITURES.—Such section is further amended—

[(A) by redesignating subsections (e), (f), and (g) as subsections (f), (g), and (h), respectively; and

[(B) by inserting after subsection (d) the following new subsection (e):

[''(e) USE OF FUNDS.—The Director of Central Intelligence shall, with the approval of the Director of the Office of Management and Budget and subject to applicable provisions of law (including provisions of authorization Acts and appropriations Acts), direct and oversee the allocation, allotment, obligation, and expenditure of funds appropriated or otherwise made available for the national intelligence programs, projects, and activities that are managed by the Director of the Central Intelligence Agency, the Director of the National Security Agency, the Director of the National Reconnaissance Office, and the Director of the National Imagery and Mapping Agency.''.]

(b) USE OF FUNDS.—Section 104 of the National Security Act of 1947 (50 U.S.C. 403–4) is amended—

(1) by adding at the end of subsection (c) the following: ''The Secretary of Defense shall consult with the Director of Central Intelligence before reprogramming funds made available under the Joint Military Intelligence Program.'';

(2) by redesignating subsections (e), (f), and (g) as subsections (f), (g), and (h), respectively; and

(3) by inserting after subsection (d) the following new subsection (e):

''(e) DATABASE AND BUDGET EXECUTION INFORMATION.—The Director of Central Intelligence and the Secretary of Defense shall jointly issue guidance for the development and implementation by the year 2000 of a database to provide timely and accurate information on the amounts and status of resources, including periodic budget execution updates, for national, defense-wide, and tactical intelligence activities.''.

[(c) PERSONNEL, TRAINING, AND ADMINISTRATIVE ACTIVITIES.—Subsection (g) of such section, as redesignating by subsection (b)(3)(A) of this section, is amended—

[(1) by striking ''USE OF PERSONNEL.—'' and inserting ''PERSONNEL, TRAINING, AND ADMINISTRATIVE FUNCTIONS.—'';

[(2) in the matter preceding paragraph (1)—

[(A) by striking ''in coordination with'' and inserting ''after consultation with''; and

[(B) by inserting ''national elements of'' after ''policies and programs within''; and

[(3) in paragraph (2), by striking ''personnel,'' and all that follows through ''programs'' and inserting ''personnel programs, administrative programs, training programs, and security programs and management activities''.

[SEC. 708. REALLOCATION OF RESPONSIBILITIES OF DIRECTOR OF CENTRAL INTELLIGENCE AND SECRETARY OF DEFENSE FOR INTELLIGENCE ACTIVITIES UNDER NATIONAL FOREIGN INTELLIGENCE PROGRAM.

[(a) CONSULTATION OF SECRETARY OF DEFENSE WITH DCI REGARDING GENERAL RESPONSIBILITIES.—Subsection (a) of section 105 of the National Security Act of 1947 (50 U.S.C. 405–5) is amended—

[(1) in the matter preceding paragraph (1), by inserting '', in consultation with the Director of Central Intelligence,'' after ''Secretary of Defense''; and

[(2) in paragraph (2), by striking ''appropriate''.

[(b) JOINT RESPONSIBILITY OF DCI AND SECRETARY OF DEFENSE FOR PERFORMANCE OF CERTAIN SPECIFIC FUNCTIONS.—Subsection (b) of that section is amended—

[(1) by striking ''RESPONSIBILITY'' and inserting ''JOINT RESPONSIBILITY OF THE DCI AND THE SECRETARY OF DEFENSE'';

[(2) in the matter preceding paragraph (1), by striking ''Consistent with sections 103 and 104 of this Act,'' and inserting ''The Director of Central Intelligence and'';

[(3) in paragraph (2)—

[(A) by striking ''within the Department of Defense''; and

[(B) by adding ''and'' after the semicolon at the end; and

[(4) by striking the semicolon at the end of paragraph (3) and inserting a period.

[(c) RESPONSIBILITY OF SECRETARY OF DEFENSE FOR PERFORMANCE OF OTHER SPECIFIC FUNCTIONS.—Such section is further amended—

[(1) by redesignating subsection (c) as subsection (d);

[(2) by inserting after paragraph (3) of subsection (b) the following:

[''(c) RESPONSIBILITY OF SECRETARY OF DEFENSE FOR THE PERFORMANCE OF SPECIFIC FUNCTIONS.—Consistent with section 103 and 104 of this Act, the Secretary of Defense, in consultation with the Director of Central Intelligence, shall—'';

[(3) by redesignating paragraphs (4), (5), and (6) as paragraphs (1), (2), and (3), respectively, of subsection (c), as added by paragraph (2) of this subsection; and

[(4) in paragraph (2), as redesignated by paragraph (3) of this subsection, by inserting ''(other than clandestine collection)'' before ''human intelligence activities''.

[(d) CONFORMING AMENDMENTS.—(1) The section heading of that section is amended to read as follows:

[''RESPONSIBILITIES OF SECRETARY OF DEFENSE AND DIRECTOR OF CENTRAL INTELLIGENCE PERTAINING TO NATIONAL FOREIGN INTELLIGENCE PROGRAM''.

[(2) The table of contents in the first section of that Act is amended by striking the item relating to section 105 and inserting the following new item:

[''Sec. 105. Responsibilities of Secretary of Defense and Director of Central Intelligence pertaining to National Foreign Intelligence Program.''.]

SEC. 708. RESPONSIBILITIES OF SECRETARY OF DEFENSE PERTAINING TO THE NATIONAL FOREIGN INTELLIGENCE PROGRAM.

Section 105 of the National Security Act of 1947 (50 U.S.C. 403–5) is amended—

(1) in subsection (a), by inserting '', in consultation with the Director of Central Intelligence,'' after ''Secretary of Defense'' in the matter preceding paragraph (1); and

(2) by adding at the end the following:

''(d) ANNUAL EVALUATION OF THE DIRECTOR OF CENTRAL INTELLIGENCE.—The Director of Central Intelligence, in consultation with the Secretary of Defense and the Chairman of the Joint Chiefs of Staff, shall submit each year to the Committee on Foreign Intelligence of the National Security Council and the appropriate congressional committees (as defined in section 109(c)) an evaluation of the performance and the responsiveness of the National Security Agency, the National Reconnaissance Office, and the National Imagery and Mapping Agency in meeting their national missions.''.

SEC. 709. IMPROVEMENT OF INTELLIGENCE COLLECTION.

(a) ASSISTANT DIRECTOR OF CENTRAL INTELLIGENCE FOR COLLECTION.—Section 102 of the National Security Act of 1947, as amended by section 705(a)(1) of this Act, is amended by adding at the end the following:

''(e)(1) To assist the Director of Central Intelligence in carrying out the Director's responsibilities under this Act, there shall be an Assistant Director of Central Intelligence for Collection, who shall be appointed by the President, by and with the advice and consent of the Senate.

''(2)(A) If neither the Director of Central Intelligence nor the Deputy Director of Central Intelligence is a commissioned officer of the Armed Forces at the time of the nomination of an individual to the position of Assistant Director of Central Intelligence for Collection, the President shall nominate an individual for that position from among the commissioned officers of the Armed Forces who have substantial experience in managing intelligence activities.

''(B) The provisions of subsection (c)(3) shall apply to any commissioned officer of the Armed Forces while serving in the position of Assistant Director for Collection.

''(3) The Assistant Director for Collection shall manage the collection of national intelligence by the intelligence community in order to ensure the efficient and effective collection of national intelligence that is identified for collection by the Assistant Director of Central Intelligence for Analysis and [Production.] *Production.''.*

[''(4) In carrying out the responsibility set forth in paragraph (3), the Assistant Director for Collection shall—

[''(A) provide guidance and direction for, and concur in, the procurement and operation of systems necessary for the collection of national intelligence; and

[''(B) assist the Director of Central Intelligence in the formulation of plans and budgets for national intelligence collection activities.''.]

(b) CONSOLIDATION OF HUMAN INTELLIGENCE COLLECTION ACTIVITIES.—Not later than 90 days after the date of the enactment of this Act, the Director of Central Intelligence [shall enter into an agreement with the Secretary of Defense to transfer from the Secretary to the Director the responsibilities and authorities of the Secretary for the collection of clandestine intelligence from human sources currently conducted by the Defense Human Intelligence Service within

the Department of Defense] *and the Deputy Secretary of Defense shall jointly submit to the Committee on Armed Services and the Select Committee on Intelligence of the Senate and the National Security Committee and Permanent Select Committee on Intelligence of the House of Representatives a report on the ongoing efforts of those officials to achieve commonality, interoperability, and, where practicable, consolidation of the collection of clandestine intelligence from human sources conducted by the Defense Human Intelligence Service of the Department of Defense and the Directorate of Operations of the Central Intelligence Agency.*

SEC. 710. IMPROVEMENT OF ANALYSIS AND PRODUCTION OF INTELLIGENCE.

Section 102 of the National Security Act of 1947, as amended by section 709(a) of this Act, is further amended by adding at the end the following:

''(f)(1) To assist the Director of Central Intelligence in carrying out the Director's responsibilities under this Act, there shall be an Assistant Director of Central Intelligence for Analysis and Production, who shall be appointed by the President, by and with the advice and consent of the Senate.

''(2) The Assistant Director for Analysis and Production shall—

''(A) oversee the analysis and production of intelligence by the elements of the intelligence community;

''(B) establish standards and priorities relating to such analysis and production;

''(C) monitor the allocation of resources for the analysis and production of intelligence in order to identify unnecessary duplication in the analysis and production of intelligence;

''(D) identify intelligence to be collected for purposes of the Assistant Director of Central Intelligence for Collection; and

''(E) provide such additional analysis and production of intelligence as the President and the National Security Council may require.''.

SEC. 711. IMPROVEMENT OF ADMINISTRATION OF INTELLIGENCE ACTIVITIES.

Section 102 of the National Security Act of 1947, as amended by section 710 of this Act, is further amended by adding at the end the following:

''(g)(1) To assist the Director of Central Intelligence in carrying out the Director's responsibilities under this Act, there shall be an Assistant Director of Central Intelligence for Administration, who shall be appointed by the President, by and with the advice and consent of the Senate.

''(2) The Assistant Director for Administration shall manage such activities relating to the administration of the intelligence community as the Director of Central Intelligence shall require[, including management of civilian personnel (including recruitment, security investigations, processing, and training of such personnel), information systems, telecommunications systems, finance and accounting services, and security services, and procurement of supplies and support services.''.]

SEC. 712. PAY LEVEL OF ASSISTANT DIRECTORS OF CENTRAL INTELLIGENCE.

Section 5315 of title 5, United States Code, is amended by adding at the end the following:

''Assistant Directors of Central Intelligence (3).''.

SEC. 713. GENERAL COUNSEL OF THE CENTRAL INTELLIGENCE AGENCY.

(a) ESTABLISHMENT OF POSITION.—The Central Intelligence Agency Act of 1949 (50 U.S.C. 403a et seq.) is amended by adding at the end the following:

''GENERAL COUNSEL OF THE CENTRAL INTELLIGENCE AGENCY

''SEC. 20. (a) There is a General Counsel of the Central Intelligence Agency, appointed from civilian life by the President, by and with the advice and consent of the Senate.

''(b) The General Counsel is the chief legal officer of the Central Intelligence Agency.

''(c) The General Counsel of the Central Intelligence Agency shall perform such functions as the Director of Central Intelligence may prescribe.''.

(b) EXECUTIVE SCHEDULE IV PAY LEVEL.—Section 5315 of title 5, United States Code, as amended by section 712 of this Act, is further amended by adding at the end the following:

''General Counsel of the Central Intelligence Agency.''.

SEC. 714. OFFICE OF CONGRESSIONAL AFFAIRS OF [THE INTELLIGENCE COMMUNITY.] *THE DIRECTOR OF CENTRAL INTELLIGENCE.*

Section 102 of the National Security Act of 1947, as amended by section 711 of this Act, is further amended by adding at the end the following:

''(h)(1) There is hereby established the Office of Congressional Affairs of [the Intelligence Community.] *the Director of Central Intelligence.*

''(2)(A) The Office shall be headed by the Director of the Office of Congressional Affairs of [the Intelligence Community.] *the Director of Central Intelligence.*

''(B) The Director of Central Intelligence may designate the Director of the Office of Congressional Affairs of the Central Intelligence Agency to serve as the Director of the Office of Congressional Affairs of [the Intelligence Community.] *the Director of Central Intelligence.*

''(3) The Director shall coordinate the congressional affairs activities of the elements of the intelligence community and have such additional responsibilities as the Director of Central Intelligence may prescribe.

''(4) Nothing in the subsection may be construed to preclude the elements of the intelligence community from responding directly to requests from Congress.''.

SEC. 715. ASSISTANCE FOR LAW ENFORCEMENT AGENCIES BY INTELLIGENCE COMMUNITY.

(a) IN GENERAL.—Title I of the National Security Act of 1947 (50 U.S.C. 402 et seq.) is amended by inserting after section 105 the following new section:

''ASSISTANCE TO UNITED STATES LAW ENFORCEMENT AGENCIES

''SEC. 105A. (a) AUTHORITY TO PROVIDE ASSISTANCE.—[Notwithstanding any other provision of law] *Subject to subsection (b)*, elements of the intelligence community may, upon the request of a United States law enforcement agency, collect information outside the United States about individuals who are not United States persons. Such elements may collect such information notwithstanding that the law enforcement agency intends to use the information collected for purposes of a law enforcement investigation or counterintelligence investigation.

''(b) LIMITATION ON ASSISTANCE BY ELEMENTS OF DEPARTMENT OF DEFENSE.—(1) With respect to elements within the Department of Defense, the authority in subsection (a) applies only to the National Security Agency, the National Reconnaissance Office, and the National Imagery and Mapping Agency.

''(2) Assistance provided under this section by elements of the Department of Defense may not include the direct participation of a member of the Army, Navy, Air Force, or Marine Corps in an arrest or similar activity.

''(3) Assistance may not be provided under this section by an element of the Department of Defense if the provision of such assistance will adversely affect the military preparedness of the United States.

''(4) The Secretary of Defense shall prescribe regulations governing the exercise of authority under this section by elements of the Department of Defense, including regulations relating to the protection of sources and methods in the exercise of such authority.

''[(b)] *(c)* DEFINITIONS.—For purposes of subsection (a):

''(1) The term 'United States law enforcement agency' means any department or agency of the Federal Government that the Attorney General designates as law enforcement agency for purposes of this section.

''(2) The term 'United States person' means the following:

''(A) A United States citizen.

''(B) An alien known by the intelligence agency concerned to be a permanent resident alien.

''(C) An unincorporated association substantially composed of United States citizens or permanent resident aliens.

''(D) A corporation incorporated in the United States, except for a corporation directed and controlled by a foreign government or governments.''.

(b) CLERICAL AMENDMENT.—The table of contents in the first section of that Act is amended by inserting after the item relating to section 105 the following new item:

''Sec. 105A. Assistance to United States law enforcement agencies.''.

SEC. 716. APPOINTMENT AND EVALUATION OF OFFICIALS RESPONSIBLE FOR INTELLIGENCE-RELATED ACTIVITIES.

(a) IN GENERAL.—Section 106 of the National Security Act of 1947 (50 U.S.C. 403–6) is amended to read as follows:

''APPOINTMENT AND EVALUATION OF OFFICIALS RESPONSIBLE FOR INTELLIGENCE-RELATED ACTIVITIES

''SEC. 106. (a) CONCURRENCE OF DCI IN CERTAIN APPOINTMENTS.—(1) In the event of a vacancy in a position referred to in paragraph (2), the Secretary of Defense shall obtain the concurrence of the Director of Central Intelligence before [appointing an individual to fill the vacancy.] *recommending to the President an individual for appointment to the position. If the Director does not concur in the recommendation, the Secretary may make the recommendation to the President without the Director's concurrence, but shall include in the recommendation a statement that the Director does not concur in the recommendation.*

''(2) Paragraph (1) applies to the following positions:

''(A) The Director of the National Security Agency.

''(B) The Director of the National Reconnaissance Office.

''(b) CONSULTATION WITH DCI IN CERTAIN APPOINTMENTS.—(1) In the event of a vacancy in a position referred to in paragraph (2), the head of the department or agency having jurisdiction over the position shall consult with the Director of Central Intelligence before appointing an individual to fill the vacancy or recommending to the President an individual to be nominated to fill the vacancy.

''(2) Paragraph (1) applies to the following positions:

''(A) The Director of the Defense Intelligence Agency.

''(B) The Assistant Secretary of State for Intelligence and Research.

''(C) The Director of the Office of Nonproliferation and National Security of the Department of Energy.

''(D) The Assistant Director, National Security Division of the Federal Bureau of [Investigation.] *Investigation.''.*

[''(c) PERFORMANCE EVALUATIONS.—The Director of Central Intelligence shall provide annually to the Secretary of Defense an evaluation of the performance of the individuals holding the positions referred to in subparagraphs (A) and (B) of subsection (a)(2), and of

the individual holding the position of Director of the National Imagery and Mapping Agency, in fulfilling their respective responsibilities with regard to the National Foreign Intelligence Program.''.]

(b) CLERICAL AMENDMENT.—The table of contents in the first section of that Act is amended by striking the item relating to section 106 and inserting in lieu thereof the following new item:

''Sec. 106. Appointment and evaluation of officials responsible for intelligence-related activities.''.

[SEC. 717. INTELLIGENCE COMMUNITY SENIOR EXECUTIVE SERVICE.

[(a) IN GENERAL.—(1) Title I of the National Security Act of 1947 (50 U.S.C. 402 et seq.) is amended by adding at the end the following:

[''INTELLIGENCE COMMUNITY SENIOR EXECUTIVE SERVICE

[''SEC. 110. (a) ESTABLISHMENT.—(1) The Director of Central Intelligence shall by regulation establish a personnel system for senior civilian personnel within the intelligence community to be known as the Intelligence Community Senior Executive Service.

[''(2) The Intelligence Community Senior Executive Service shall include personnel within the following agencies:

[''(A) The Central Intelligence Agency.

[''(B) The National Security Agency.

[''(C) The Defense Intelligence Agency.

[''(D) The National Imagery and Mapping Agency.

[''(E) The National Reconnaissance Office.

[''(F) Any other office of the Department of Defense the civilian employees of which are subject to section 1590 of title 10, United States Code, as of the effective date of the regulations prescribed under this section.

[''(3) The Director of Central Intelligence shall prescribe the regulations required under this section in consultation with the Department of Defense.

[''(b) REQUIREMENTS.—The regulations prescribed under this section shall, to the extent not inconsistent with the authorities of the Director of Central Intelligence—

[''(1) meet the requirements set forth in section 3131 of title 5, United States Code, for the Senior Executive Service;

[''(2) provide rates of pay for the Intelligence Community Senior Executive Service that are not in excess of the maximum rate or less than the minimum rate of basic pay established for the Senior Executive Service under section 5382 of title 5, United States Code, and that are adjusted at the same time and to the same extent as rates of basic pay for the Senior Executive Service are adjusted;

[''(3) provide a performance appraisal system for the Intelligence Community Senior Executive Service that conforms to the provisions of subchapter II of chapter 43 of title 5, United States Code;

[''(4) provide for—

[''(A) removal or suspension from the Intelligence Community Senior Executive Service;

[''(B) reduction-in-force procedures;

[''(C) procedures in accordance with which any furlough affecting the Intelligence Community Senior Executive Service shall be carried out;

[''(D) procedures setting forth due process rights to which members of the Intelligence Community Senior Executive Service are entitled in cases of removal or suspension; and

[''(E) procedures for periodic recertification;

[''(5) permit the payment of performance awards to members of the Intelligence Community Senior Executive Service; and

[''(6) provide that members of the Intelligence Community Senior Executive Service may be granted sabbatical leaves.

[''(c) LIMITATIONS.—(1) Except as provided in subsection (b), the Director of Central Intelligence—

[''(A) may make applicable to the Intelligence Community Senior Executive Service any of the provisions of title 5, United States Code, applicable to applicants for or members of the Senior Executive Service; and

[''(B) shall delegate to the heads of the agencies referred to in subparagraphs (B) through (E) of subsection (a)(2) the authority to appoint, promote, and assign individuals to Intelligence Community Senior Executive Service positions within their respective agencies without regard to the provisions of title 5, United States Code, governing appointments and other personnel actions in the competitive service, provided that such actions shall be subject to the approval of the Director of Central Intelligence in accordance with the regulations prescribed under this section.

[''(2) Members of the Intelligence Community Senior Executive Service shall be subject to the limitations of section 5307 of title 5, United States Code.

[''(3) Notwithstanding any other provision of title 5, United States Code, any individual who is a member of the Senior Executive Service or an equivalent personnel system at the Central Intelligence Agency or at an agency referred to in subparagraphs (B) through (E) of subsection (a)(2) at the time of the effective date of the regulations prescribed under this section shall be a member of the Intelligence Community Senior Executive Service.

[''(4) Upon the establishment of the Intelligence Community Senior Executive Service under this section, no individual may be selected for membership in the service unless such individual has served at least one assignment outside his or her employing agency. An assignment to the Office of the Director of Central Intelligence shall be treated as an assignment outside an individual's employing agency (including an individual employed by the Central Intelligence Agency) for purposes of this subparagraph.

[''(d) AWARD OF RANKS TO MEMBERS OF SERVICE.—The President, based upon the recommendations of the Director of Central Intelligence, may award ranks to members of the Intelligence Community Senior Executive Service in a manner consistent with section 4507 of title 5, United States Code.

[''(e) DETAIL AND ASSIGNMENT OF MEMBERS.—(1) Notwithstanding any other provision of law, the Director of Central Intelligence—

[''(A) may, after consultation with the head of the agency affected, detail or assign any member of the Intelligence Community Senior Executive Service to serve in any position in the intelligence community; or

[''(B) may, with the concurrence of the head of the agency affected, detail or assign any member of the service to serve in any position in another Government agency or outside the Federal Government.

[''(2) A member of the Intelligence Community Senior Executive Service may be detailed or assigned under paragraph (1) only if such detail or assignment is for the benefit of the intelligence community.

[''(3) A member shall not by reason of such detail or assignment lose any entitlement or status associated with membership in the Intelligence Community Senior Executive Service.

[''(f) ANNUAL REPORT.—The Director of Central Intelligence shall submit to Congress each year, at the time the budget is submitted by the President for the next fiscal year, a report on the Intelligence Community Senior Executive Service. The report shall include, in the aggregate and by agency—

[''(1) the number of Intelligence Community Senior Executive Service positions established as of the end of the preceding fiscal year;

[''(2) the number of individuals being paid at each rate of basic pay for the Intelligence Community Senior Executive Service as of the end of the preceding fiscal year;

[''(3) the number, distribution, and amount of awards paid to members of the Intelligence Community Senior Executive Service during the preceding fiscal year; and

[''(4) the number of individuals removed from the Intelligence Community Senior Executive Service during the preceding fiscal year—

[''(A) for less than fully successful performance;

[''(B) due to a reduction in force; or

[''(C) for any other reason.''.

[(2) The table of contents in the first section of that Act is amended by inserting after the item relating to section 109 the following new item:

[''Sec. 110. Intelligence Community Senior Executive Service.''.

[(b) EFFECTIVE DATE OF REGULATIONS.—The regulations prescribed under section 110(a) of the National Security Act of 1947, as added by subsection (a)(1), shall take effect one year after the date of the enactment of this Act.

[(c) CONFORMING AMENDMENTS.—(1) Section 12 of the National Security Agency Act of 1959 (50 U.S.C. 402 note) is amended—

[(A) by striking out subsections (a) and (c); and

[(B) by striking out ''(b)''.

[(2)(A) Sections 1601 and 1603 of title 10, United States Code, are repealed.

[(B) The table of sections at the beginning of chapter 83 of such title is amended by striking out the items relating to sections 1601 and 1603.

[(3) Section 1590 of title 10, United States Code, is amended—

[(A) in subsection (a)(1)—

[(i) by striking out '', including positions in the Senior Executive Service,''; and

[(ii) by striking out '', except that'' and all that follows through the semicolon and inserting in lieu thereof a semicolon;

[(B) in subsection (b)—

[(i) in the third sentence, by striking out ''Except in the case'' and all that follows through ''no civilian'' and inserting in lieu thereof ''No civilian''; and

[(ii) by striking out the second sentence; and

[(C) by striking out subsections (f) and (g).

[(4) Section 1604(b) of title 10, United States Code, is amended in the second sentence by striking out ''Except in the case'' and all that follows through ''no officer'' and inserting in lieu thereof ''No officer''.

[(5)(A) Section 2108 of title 5, United States Code, is amended in the flush matter following paragraph (3) by striking ''the Defense Intelligence Senior Executive Service, the Senior Cryptologic Executive Service'' and inserting ''the Intelligence Community Senior Executive Service''.

[(B) Section 6304(f)(1) of such title is amended—

[(i) by striking subparagraphs (C) and (D) and inserting the following new subparagraph (C):

[''(C) the Intelligence Community Senior Executive Service; or''; and

[(ii) by redesignating subparagraph (E) as subparagraph (D).

[(C) Title 5, United States Code, is further amended by striking ''the Defense Intelligence Senior Executive Service or the Senior Cryptologic Executive Service'' and inserting ''the Intelligence Community Senior Executive Service'' in each of the following provisions:

[(i) Section 8336(h)(2).

[(ii) Section 8414(a)(2).

[(6) The amendments made by this subsection shall take effect one year after the date of the enactment of this Act.

SEC. [718.] *717.* REQUIREMENTS FOR SUBMITTAL OF BUDGET INFORMATION ON INTELLIGENCE ACTIVITIES.

(a) SUBMITTAL WITH ANNUAL BUDGET.—Notwithstanding any other provision of law, the President shall include in each budget for a fiscal year submitted under section 1105 of title 31, United States Code, the following information:

(1) The aggregate amount appropriated during the current fiscal year on all intelligence and intelligence-related activities of the United States Government.

(2) The aggregate amount requested in such budget for the fiscal year covered by the budget for all intelligence and intelligence-related activities of the United States Government.

(b) FORM OF SUBMITTAL.—The President shall submit the information required under subsection (a) in unclassified form.

SEC. [719.] *718.* TERMS OF SERVICE FOR MEMBERS OF SELECT COMMITTEE ON INTELLIGENCE OF THE SENATE.

(a) INDEFINITE TERMS OF SERVICE.—Section 2(b) of Senate Resolution 400 of the Ninety-fourth Congress (adopted May 19, 1976) is amended by striking the first sentence.

(b) LIMIT ON TERM OF CHAIRMAN AND VICE CHAIRMAN.—Section 2(c) of that resolution is amended by adding at the end the following new sentence: ''No Member shall serve as chairman or vice chairman of the select committee for more than six years of continuous service.''.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect with the commencement of the One Hundred Fifth Congress.

(d) RULES OF THE SENATE.—The amendments made by subsections (a) and (b) are enacted as an exercise of the rulemaking power of the Senate with full recognition of the constitutional right of the Senate to change rules at any time, in the same manner, and to the same extent, as in the case of any other rule of the Senate.

SEC. [720.] *719.* REPORT ON INTELLIGENCE COMMUNITY POLICY ON PROTECTING THE NATIONAL INFORMATION INFRASTRUCTURE AGAINST STRATEGIC ATTACKS.

(a) IN GENERAL.—(1) Not later than 120 days after the date of the enactment of this Act, the Director of Central Intelligence shall submit to Congress a report setting forth—

(A) the results of a review of the threats to the United States on protecting the national information infrastructure against information warfare and other non-traditional attacks; and

(B) the counterintelligence response of the Director.

(2) The report shall include a description of the plans of the intelligence community to provide intelligence support for the indications, warning, and assessment functions of the intelligence community with respect to information warfare and other non-traditional attacks by foreign nations, groups, or individuals against the national information infrastructure.

(b) DEFINITIONS.—For purposes of this section:

(1) The term ''national information infrastructure'' includes the information infrastructure of the public or private sector.

(2) The term ''intelligence community'' has the meaning given that term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

TITLE VIII—NATIONAL IMAGERY AND MAPPING AGENCY

[SEC. 801. ESTABLISHMENT.

[(a) ESTABLISHMENT.—(1) Title I of the National Security Act of 1947 (50 U.S.C. 402 et seq.), as amended by section 717 of this Act, is further amended by adding at the end the following:

[''NATIONAL IMAGERY AND MAPPING AGENCY

[''SEC. 120. (a) ESTABLISHMENT AND DUTIES.—

[''(1) ESTABLISHMENT AND MISSION.—There is hereby established a National Imagery and Mapping Agency which shall provide timely, relevant, and accurate imagery, imagery intelligence, and imagery-related products and geospatial information in support of the national security objectives of the United States. It shall also have a navigational mission as specified in section 2791 of title 10, United States Code.

[''(2) MISSION OF THE NATIONAL IMAGERY AND MAPPING AGENCY.—The National Imagery and Mapping Agency shall have a national mission to support the imagery requirements of the Department of State and other non-Department of Defense agencies, as well as a mission to support the combat and other operational requirements of the Department of Defense. The Director of Central Intelligence shall establish requirements and priorities to govern the collection of national intelligence of national importance by the National Imagery and Mapping Agency.

[''(3) DIRECTOR.—The President shall appoint the Director of the National Imagery and Mapping Agency. The Secretary of Defense shall, with the concurrence of the Director of Central Intelligence, recommend an individual to the President for such appointment. If the Secretary identifies a commissioned officer of the Armed Forces to serve as Director, he shall recommend that individual to the President for appointment to hold the grade of lieutenant general or, in the case of an officer of the Navy, vice admiral, while serving in such position. A commissioned officer appointed by the President under this paragraph shall not be counted against the numbers and percentages of commissioned officers of the rank and grade of such officer for the Armed Force of which such officer is a member.

[''(4) DEPUTY DIRECTOR.—There shall be a Deputy Director to assist the Director. The Deputy may be appointed from among the commissioned officers of the Armed Forces, or from civilian life, but at no time shall both the Director and the Deputy Director positions be simultaneously occupied by commissioned officers of the Armed Forces, whether in active or retired status.

[''(b) CENTRAL INTELLIGENCE AGENCY SUPPORT FOR NATIONAL IMAGERY AND MAPPING AGENCY.—

[''(1) ADMINISTRATIVE AND CONTRACTING SERVICES.—Notwithstanding any other provision of law, the Central Intelligence Agency may, under terms and conditions agreed to by the Secretary of Defense and the Director of Central Intelligence, provide administrative and contracting services (including the services of security police notwithstanding any limitations on the jurisdiction of such personnel contained in section 15 of the Central Intelligence Agency Act of 1949), and detail personnel indefinitely to the National Imagery and Mapping Agency, in furtherance of the national intelligence effort.

[''(2) TRANSFER AND ACCEPTANCE.—The National Imagery and Mapping Agency will transfer funds to the Central Intelligence Agency for the purposes of producing imagery and imagery-related products of national importance, and the Central Intelligence Agency may accept a transfer of funds from the National Imagery and Mapping Agency, and the Central Intelligence Agency may expend such funds pursuant to the Central Intelligence Agency Act of 1949 to carry out the purposes of paragraph (1).

[''(c) FUNDS FOR FOREIGN IMAGERY INTELLIGENCE AND GEOSPATIAL INFORMATION SUPPORT.—The Director of the National Imagery and Mapping Agency may use appropriated funds available to the National Imagery and Mapping Agency to provide foreign countries imagery intelligence and geospatial information support, except that such arrangements shall be coordinated with the Director of the Central Intelligence when they involve imagery intelligence or intelligence products, or any support to an intelligence or security service of a foreign country.

[''(d) FUNDS FOR CIVIL APPLICATIONS.—The Director of the National Imagery and Mapping Agency may use appropriated funds available to the National Imagery and Mapping Agency to support and encourage civilian use of imagery intelligence and geospatial information support provided by the National Imagery and Mapping Agency.

[''(e) DEFINITIONS.—In this section:

[''(1) The term 'geospatial information' means information that identifies the geographic location and characteristics of natural or constructed features and boundaries on the earth, including statistical data, information derived from, among other things, remote sensing, mapping, and surveying technologies, and, for purposes of this section, the term includes mapping, charting and geodetic data, including geodetic products as that term is used in chapter 167 of title 10, United States Code.

[''(2) The term 'imagery' means a likeness or presentation of any natural or man-made feature or related object or activities and the positional data acquired at the same time the likeness or representation was acquired (including products produced by space-based national intelligence reconnaissance systems), in accordance with Executive Order No. 12591, as well as likenesses or presentations produced by satellites, airborne platforms, unmanned aerial vehicles, or other similar means (except that handheld or clandestine photography taken by or on behalf of human intelligence collection organizations is excluded)).

[''(3) The term 'imagery intelligence' means the technical, geographic, and intelligence information derived through the interpretation or analysis of imagery and collateral materials.''.

[(2) The table of contents in the first section of the National Security Act of 1947, as so amended, is further amended by inserting after the item relating to section 110 the following new item:

[''Sec. 120. National Imagery and Mapping Agency.''.

[SEC. 802. EFFECTIVE DATE.

[The amendments made by this title shall take effect on the later of—

[(1) the date of the enactment of an Act appropriating funds for the National Imagery and Mapping Agency for fiscal year 1997; or

[(2) October 1, 1996.]

SEC. 801. NATIONAL MISSION AND COLLECTION TASKING AUTHORITY FOR THE NATIONAL IMAGERY AND MAPPING AGENCY.

(a) IN GENERAL.—(1) Title I of the National Security Act of 1947 (50 U.S.C. 402 et seq.) is amended by adding at the end the following:

''NATIONAL MISSION AND COLLECTION TASKING AUTHORITY FOR THE NATIONAL IMAGERY AND MAPPING AGENCY

''SEC. 110. (a) NATIONAL MISSION.—The National Imagery and Mapping Agency shall have a national mission to support the imagery requirements of the Department of State, the Department of Defense, and other departments and

agencies of the Federal Government. The Director of Central Intelligence shall establish requirements and priorities to govern the collection of national intelligence by the National Imagery and Mapping Agency. The Secretary of Defense and the Director of Central Intelligence, in consultation with the Chairman of the Joint Chiefs of Staff, shall jointly identify deficiencies in the capabilities of the National Imagery and Mapping Agency to accomplish assigned national missions and shall jointly develop policies and programs to review and correct such deficiencies.

''(b) COLLECTION AND TASKING AUTHORITY.—Except as otherwise agreed by the Director of Central Intelligence and the Secretary of Defense pursuant to direction provided by the President, the Director of Central Intelligence has the authority to approve collection requirements, determine collection priorities, and resolve conflicts in collection priorities levied on national imagery collection assets.''.

(2) The table of contents in the first section of that Act is amended by inserting after the item relating to section 109 the following new item:

''Sec. 110. National mission and collection tasking authority for the National Imagery and Mapping Agency.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the later of—

(1) the date of the enactment of the National Defense Authorization Act for Fiscal Year 1997; or

(2) the date of the enactment of this Act.

Mr. SPECTER. Mr. President, today the Senate takes up S. 1718, the Intelligence Authorization Act for fiscal year 1997. In addition to containing the annual authorization for appropriations for elements of the U.S. intelligence community, this bill includes a number of important provisions intended to ensure that our intelligence agencies operate more effectively and more efficiently in the post-cold-war world.

The end of the cold war did not solve America's national security concerns. As evidenced by the bombing in June of the Khobar Towers facility in Dhahran, Saudi Arabia and the possible complicity of international terrorists in the downing of TWA flight 800 in July, the focus of those concerns can shift with the speed and force of an explosion. The need for a national security apparatus that is equally dynamic is clear. Title VII of S. 1718—the Intelligence Activities Renewal and Reform Act of 1996—contains measures designed to improve our Nation's intelligence capabilities in order to meet the rapidly changing threats to our national security.

Title VII takes significant steps toward this objective in two ways: First, it improves an institutional framework for ensuring that the decisionmakers who rely on intelligence can provide prompt, clear guidance to the intelligence community on what their needs are and what the priorities are. Second, it improves the Director of Central Intelligence's authority and improves the structure he needs to respond quickly in an effective, efficient, and responsible manner.

S. 1718, as originally reported out by the Senate Select Committee on Intelligence, reflected the conclusions this committee had reached after 6 years of focused examination of the missions, functions, and organizational arrangements for the intelligence community. Triggered by the end of the cold war, this examination had gained momentum in 1994 in the wake of the Ames espionage case and the revelation that the National Reconnaissance Office [NRO] had built an expensive new building without adequately informing Congress.

I do not need to remind my colleagues that just 2 years ago members of this body from both parties—angered by what appeared to be a lack of direction and accountability in the intelligence community, and particularly in the CIA—stood in this Chamber to call for a massive overhaul of our intelligence apparatus. In order to avoid precipitous action, the Senate adopted a proposal offered by Senators WARNER, GRAHAM, and others to create a bipartisan Commission on the Roles and Capabilities of the U.S. intelligence community to conduct a credible, independent, and objective review of U.S. intelligence. The Commission was given a deadline of March 1, 1996, with the expectation that its report would inform a legislative debate resulting in enactment of needed changes during the 104th Congress. The Commission was chaired by former Congressman and Secretary of Defense Les Aspin until his untimely death and later by former Secretary of Defense Harold Brown. The 17-member Commission included two of our distinguished colleagues, JOHN WARNER and JIM EXON, and two of our former colleagues, Warren Rudman, who served as vice chairman, and Wyche Fowler.

While the Aspin-Brown Commission was conducting its review, our committee and its staff also held a number of hearings, received briefings, and conducted interviews regarding the appropriate missions and organizational structure of the intelligence community. During the course of these efforts, two additional incidents—the failure of CIA officials to inform Congress of the possible involvement of CIA assets in human rights abuses in Guatemala and the failure of NRO officials to tell either the DCI or Congress that the NRO had accumulated over $1 billion in unused funds—further convinced our Committee that the intelligence community needed greater central direction and accountability. Based on the Aspin-Brown Commission's recommendations and on the results of our own review, the committee reported out S. 1718 on April 24, 1996.

The bill was subsequently taken on sequential referral by the Armed Services Committee, which informed the Intelligence Committee that it did not want to consider any intelligence reform this year. The Intelligence Committee did not believe that intelligence reforms could be put off for another year. The rapidly changing world, the recent incidents that have undermined public confidence in our intelligence agencies, and the work already done by the Aspin-Brown Commission and other groups—all of these factors led us to believe that the time was ripe for intelligence reform. We marked up our bill in April in order to ensure that the Armed Services Committee would have plenty of time to consider it.

The Department of Defense, from the outset, opposed anything in the bill that enhanced the authority of the DCI at the expense of the Secretary of Defense. In an April 29 letter to the Armed Services Committee, Deputy Secretary of Defense John White stated that ''clear and unambiguous lines of authority from the Secretary of Defense to the Defense intelligence agencies and the embedded Service intelligence elements are crucial'' to ensuring ''that those who depend on intelligence—especially our nation's military forces—receive the timely and responsive intelligence they require.'' Deputy Secretary White argued that enhancing the DCI's authorities over NSA, NRO, and CIO would ''unnecessarily complicate those lines of command and control.''

I agree completely that intelligence consumers, especially military consumers whose lives may be at risk, must have timely and responsive intelligence. I do not agree, however, that this objective can be accomplished through exclusive management by the Secretary of Defense of NSA, NRO, and CIO. The fact is that in the course of running an over $240 billion department the Secretary of Defense simply does not have time to exercise any degree of command and control over Defense intelligence agencies.

The consequences of continuing the fiction of Secretary of Defense management of these intelligence agencies at the expense of real management by the DCI is significant. The country needs to vest the authority in the DCI so that intelligence, such as that produced by the Defense Intelligence Agency in mid-June warning of threats to United States troops at Khobar Towers in Saudi Arabia, is certain to receive the kind of attention it is warranted. We need a DCI who can rattle the cages when necessary, so that consumers of intelligence cannot attribute policy failures to intelligence shortcomings. Both the Downing Commission and the staff report of the SSCI concluded that the tragedy at Khobar Towers was not attributable to an intelligence failure. It is deeply regrettable that, as a result of changes insisted upon by the Armed Services Committee, the country will have to wait for another Congress and perhaps additional bitter experiences before the needed changes can be made.

Testifying before our committee on April 24, 1996, Director Deutch provided some interesting insights on the ability of the Deputy Secretary of Defense to exercise the authorities DOD fought so desperately to retain. When asked whether we should hold the Deputy Secretary of Defense or the DCI accountable for problems at the NRO, a

key national intelligence agency within the Department of Defense, he responded:

The Deputy Secretary of Defense has got a tremendous set of issues covering a much larger range of resources—10 times—managing ten times the resources we're talking about for the whole intelligence community.

So to say that you are going to go to the deputy—and I am not talking about personalities—and say to the Deputy Secretary of Defense, why didn't you catch this, he's going to say, well, I count on the DCI to keep track of this and to let the Secretary of Defense know.

So in some sense, if we are going to say that the Director of Central Intelligence does not view himself or herself as being responsible for the NRO, fundamentally nobody will be.

In light of these realities, this committee sought to give the DCI greater authority and responsibility to manage the intelligence community. The Armed Services Committee, asserting their jurisdiction over the Defense Department, insisted on a number of changes to keep provisions that affected the intelligence agencies within DOD. The Armed Services Committee and the Defense Department were most concerned about those provisions that would have given the DCI greater authority to manage the intelligence community, including those elements of the community that are part of the Department of Defense such as the National Security Agency [NSA], the National Reconnaissance Office [NRO], and the Central Imagery Office. These provisions would have given the DCI, as head of the intelligence community, authority to execute the budgets for NSA, NRO, and CIO as well as shared responsibility, together with the Secretary of Defense and for ensuring that these agencies perform their national missions. The DCI would also have been given authority to reprogram funds from one program to another within the National Foreign Intelligence Program—which is the portion of the overall U.S. intelligence budget the DCI is responsible for developing each year—even if the affected department or agency head objected to that transfer. Finally, the Intelligence Committee had voted for a provision to require DCI concurrence on the decision as to who should head the major collection agencies: NSA, NRO, and the National Imagery and Mapping Agency. This was watered down by Armed Services to a qualified concurrence, allowing the recommendation of the Secretary of Defense to be forwarded to the President over the DCI's objection so long as that objection is noted.

Given the length of time the Armed Services Committee and, then, the Government Affairs Committee held this bill, and in light of the abbreviated legislative schedule, we were unable to bring these important issues to the floor of the Senate for debate and a vote. Nevertheless, despite the Defense Department's initial refusal to relinquish any significant authority to ensure more efficient and effective management of intelligence, we were able to get a bill out of the Armed Services Committee that contains important new statutory assurances of DCI authority and should enhance the prospects that future DCI's will not have to rely merely on the good will of the Secretary of Defense in order to effectively manage intelligence. The bill before you today contains much of what the Intelligence Committee initially proposed, but not as much as the country needs. That greater objective will require continued efforts.

In addition to the amendments made to our bill by the Armed Services Committee, the Government Affairs Committees took the bill for 53 days. At the end of that time, they reported it out with minor modifications to the provision providing for a Commission to Assess the Organization of the Federal Government to Combat the Proliferation of Weapons of Mass Destruction.

Finally, the Rules Committee also originally requested sequential referral of our bill in order to review a provision that would have amended Senate Resolution 400, the charter for our committee, to eliminate the 8-year term limit on committee membership. After consultations between our two committees and in response to concerns expressed by the majority leader, we agree to delete this provision and the Rules Committee withdrew its request for sequential referral of our bill. We remain convinced that extending the terms for membership of the oversight committee is an essential step in improving congressional oversight of intelligence, and I note that elimination of term limits was recommended by the Aspin-Brown Commission, on which Senator WARNER served. But in order to ensure consideration of S. 1718 in this shortened legislative year, we have agreed to put off this issue for now.

Now let me summarize the provisions in our bill. I will begin with the reform provisions in title VII. The key provisions enhance the ability of the DCI to manage the intelligence community by providing him with new statutory authority and an improved management structure. Specifically, section 707 of the bill gives the DCI new statutory authority to participate in the development of the budgets for the Joint Military Intelligence Program and for tactical intelligence and related activities; to approve all collection requirements and priorities and to resolve conflicts among priorities; and the right to be consulted by the Secretary of Defense before the Secretary reprograms funds within joint military intelligence programs.

Section 707 would also require the DCI and the Secretary of Defense to develop a database of all intelligence programs and activities, including resource and budget execution information. The Office of Science and Technology Policy within the White House has recently developed a database of all research and development activities within the Federal Government, and this database has been invaluable for identifying duplication among Federal R&D programs. The committee believes that the DCI has been hampered in his ability to manage the intelligence community by a lack of accurate and comprehensive information about all intelligence community activities. Development of a database for intelligence activities should give the DCI one of the key tools he needs to provide greater direction and control of U.S. intelligence programs.

In addition, section 716 of the bill would require the DCI to concur in recommendations by the Secretary of Defense to the President of individuals to be directors of NSA, NRO, or the newly created National Imagery and Mapping Agency, or to have his lack of concurrence noted. The DCI would also have to be consulted by the appropriate department head when appointing the heads of the major elements of the National Foreign Intelligence Program, including the Assistant Secretary of State for Intelligence and Research, the Assistant Director in charge of the FBI's National Security Division, the Director of DIA, and the Director of the Department of Energy's Office of Non-Proliferation and National Security. This new authority will help to remedy a situation in which DCI's—despite their statutory role as head of the intelligence community—have had little or no say in the appointments of the heads of major intelligence community elements. The Armed Services Committee also agreed to include in the DOD authorization bill a requirement that the DCI provide to the Secretary of Defense an annual performance evaluation of the heads of NSA, NRO, and NIMA.

The bill would also establish three new Senate-confirmed Assistant Directors of Central Intelligence to assist the DCI in managing the intelligence community. One would focus on managing the intelligence community's collection activities; the second would coordinate community-wide intelligence analysis and production; and the third would coordinate community administrative programs. The committee believes that one reason that successive DCI's have been unable to exercise stronger management over the intelligence community is that they have lacked an adequate management structure. We believe these new positions will help the DCI fulfill his community role.

In addition to strengthening the authorities of the DCI, the bill also creates two new committees of the National Security Council—a Committee on Foreign Intelligence and a Committee on Transnational Threats—to provide better policy guidance for the intelligence community and for departments and agencies involving in fighting international terrorism and crime. The creation of both committees were recommended by the Aspin-Brown Commission.

Section 715 clarifies that intelligence collection agencies may accept tasking from law enforcement agencies to collect intelligence about non-U.S. persons outside the United States. This provision is necessary because CIA and NSA read their legal authorities as preventing them accepting tasking from law enforcement agencies lest they be considered to be exercising law enforcement powers. The provision is narrowly tailored to apply only to collection outside the United States about non-U.S. persons.

Section 717 of the bill calls for disclosure of the intelligence budget top line—that is, the aggregate of NFIP, JMIP, and TIARA. This number has been in the public domain for some time, without carrying us down the so-called slippery slope of more detailed disclosures. The DCI supports disclosure, the Aspin-Brown Commission supports disclosure, and the administration supports disclosure. Disclosure of the top line provides no new information to our enemies. In fact, I believe this disclosure will actually strengthen our ability to protect vital national secrets by bolstering the credibility of our classification decisions—officially revealing the budget total tells the American public is that we are using classification to protect vital national secrets, not to conceal information that might be inconvenient to defend. And I think it would not be difficult to defend the size of the intelligence budget, given the complex world we live in today.

These are the principal reform provisions contained in the Intelligence Authorization Act. The bill contains a number of additional important provisions.

Title V of the bill criminalizes theft of economic proprietary information by a person acting on behalf of a foreign government or its agent. This provision is the result of nearly 4 years of hearing and study by our committee. We held hearings on this provision earlier this year, and we are convinced by both the classified and unclassified testimony that economic espionage is a problem that needs to be remedied immediately in the interests of our national economy and thus our national security.

Title VI would create a Commission to Assess the Organization of the Federal Government to Combat the Proliferation of Weapons of Mass Destruction. The eight members of the Commission are to be appointed by the President and the congressional leadership. The Commission is required to conduct a study of the organization of the Federal Government, including the intelligence community, for combating weapons proliferation.

Finally, title VIII of the bill, as amended by the Armed Services Committee, codifies the national mission and tasking authorities of the DCI for the new National Imagery and Mapping Agency [NIMA]. NIMA is a new agency within the Department of Defense formed from the current Central Imagery Office, the Defense Mapping Agency, CIA's National Photographic Interpretation Center, and certain other imagery related elements. As originally reported by our committee, title VIII included provisions that would have established NIMA. The DOD authorization bill, which was reported by the Armed Services Committee later than our bill, included a more comprehensive statutory framework governing NIMA, and we agreed to the removal of the provisions establishing NIMA in our bill and their replacement with provisions in the National Security Act defining the new agency's national mission and the DCI's tasking authorities. The DCI's tasking authorities are especially important. For the first time in statute, the DCI now has the specific authority to approve collection requirements, determine collection priorities, and resolve conflicts in priorities levied on our national imagery satellites and other imagery assets.

I also want to mention that the Armed Services Committee attempted to establish NIMA as a combat support agency of the Department of Defense. We strongly opposed this formulation because it slighted the critical imagery needs of the National Security Council, the Department of State, and other non-DOD consumers. Our committee was unwilling to have NIMA cater to the exclusive needs of the Defense Department. Accordingly, we modified the language in the DOD authorization bill, which we took on sequential referral, to provide that NIMA is not only a combat support agency but also has significant national missions. I also want to note that although NIMA has been added to the list of combat support agencies in 10 U.S.C. 193(f), subsection (d) of section 193, as amended by the DOD authorization bill, specifically provides that the Chairman of the Joint Chief's oversight over NIMA shall apply ''only with respect to combat support functions [the Agency] performs for the Department of Defense.'' This language makes clear that NIMA has important noncombat support functions that are not subject to the control of the Chairman of the Joint Chiefs.

This concludes my summary of this year's intelligence authorization bill, including the reform provisions in title VII. Congress has been considering legislation to reform the intelligence community to meet the challenges of the post-cold-war world since at least 1990. Today, despite continuing bureaucratic resistance, the Senate is taking significant steps toward finally achieving that objective.

I want to thank the distinguished vice chairman, Senator KERREY, for his unflagging and nonpartisan commitment to the work of the committee. Senator KERREY brings to this committee a unique understanding of the business of intelligence and a willingness and ability to master even the most complex technical issues. His insights and efforts were absolutely essential to the passage of this bill and to the committee's work overall. In addition, I would like to take this opportunity to recognize the excellent work of the committee staff, particularly Charlie Battaglia, Chris Straub, Suzanne Spaulding, John Bellinger, and Ed Levine.

Mr. KERREY. Mr. President, this year's bill once again attempts to help the intelligence community make the transition to a post-cold-war world where the looming military threat of the Soviet Union has been replaced by a more subtle—but increasingly serious—array of threats. The committee has attempted to help intelligence make the transition with a series of provisions in the bill to reform the community's weaknesses and renew its confidence in itself and in the products it provides to policy makers.

Chairman SPECTER has been key in ensuring the committee has moved forward to recommend to the Senate important changes in the intelligence community. Under his leadership, we have examined in detail many shortcomings and failures which can only lead to the conclusion substantial change is in order. Without Chairman SPECTER's tireless efforts on the part of reform and renewal, the committee would not have been able to get to the point where we are today: recommending improvements that will have far reaching effects and make sure the intelligence community is positioned to understand the threats of tomorrow.

This year's bill also seeks to provide an adequate level of funding for the intelligence community, with the committee seeking a modest, 1 percent increase to the President's request. Congress has cut the DCI's request for national intelligence each year for the past 7 years, and I believe stress and strain in our national intelligence capabilities will follow unless we reverse this trend. However, since this bill was marked up in April, the defense authorization conference acted to cut national intelligence by some 3 percent and the ongoing defense authorization conference is likely to redirect funds requested by the administration for national intelligence to other defense programs. I am discouraged that there seems to be no constituency of support for national intelligence, even in a year in which the Congress is adding significant resources to the defense budget.

I opened my remarks by saying the committee is once again attempting to reform and renew intelligence because it engaged in a similar effort as part of the fiscal year 1993 National Foreign Intelligence Program authorization process. The committee ran into many roadblocks in the fall of 1992 which prevented it from moving ahead with substantial reforms. Unfortunately, the committee finds itself in somewhat of a similar position today. Nevertheless, we are offering reforms which hopefully will point us in the direction of

improved intelligence support to policy makers while at the same time streamlining some of the Intelligence community's procedures so they are more responsive to the evolving international environment.

There are many reasons for intelligence reform and renewal. Several of the most significant have found their way into the media. We are all aware of the Aldrich Ames spy case where a CIA operations officer gave some of our most sensitive information to the Soviet Union reportedly resulting directly in the deaths of at least 10 people. We also know about the excess funds retained by the National Reconnaissance Office which prevented this funding from being available for more immediate projects. Incidents such as these help to underscore the need for reform.

The need for reform is widely recognized outside of the Congress. Last year Congress authorized a special commission to ''conduct a comprehensive review of American intelligence.'' In March of this year, the Commission issued a 217-page report containing over 36 recommendations for significant change. Similarly, the Council on Foreign Relations this year issued its own report on the need for intelligence reform. Georgetown University's Institute for the Study of Diplomacy added its call for reform in a report entitled, ''Checklist for the Future of Intelligence.'' And the executive branch recognizes the need for reform as well. Their recognition is perhaps captured best by a CIA task force with the foreboding name of the ''Intelligence Community Revolution Task Force'' which called for sweeping changes.

The need for reform must be balanced by at least two considerations. First, the intelligence community is full of dedicated men and women who, through a sense of patriotism and a desire to serve their country, will successfully take the intelligence community into the 21st century. They will be mentally ready to confront any challenge. Second, reform does not mean we should create a ''Department of Intelligence.'' Intelligence supports policy. It informs leaders throughout the Government and does not have to be organized as a separate part of the Government in order to be effective. What must be done, however, is to create an organization capable of capitalizing upon the abilities of its dedicated men and women and organize it so the leaders of the intelligence community have the authorities commensurate with the responsibilities for which we hold them accountable. The Congress and many parts of the executive branch expect only the best intelligence, and the community must be prepared to serve all segments of the Government, including the Department of Defense.

In this regard, I would like to take this opportunity to thank our colleagues on the Armed Services Committee. We have worked together to make sure intelligence support will be improved in the future and to guarantee our unsurpassed defense capabilities remain intact. Without the support of the chairman and ranking member, we would not be able to present a comprehensive package of reform to the Senate in which we all have confidence we are doing the right thing.

This year, we voted a bill out of Committee: First, changing intelligence support to policymakers so the community could better capitalize on the rich resources of its people; second, enhancing some of the powers of the Director of Central Intelligence so he would be able to exercise all of the necessary authorities in the areas for which we recognize his responsibility; and third, reorganizing parts of the intelligence community so that it is better structured for the profusion of different threats endemic to the post cold war world.

In order to support policymakers better, the bill we introduce today contains several important innovations. First, it creates a Committee on Foreign Intelligence as part of the National Security Council. This committee would meet at least semiannually to provide broad guidance to the intelligence community on major issues. In addition to ensuring that intelligence would more closely support the needs of all policymakers in the Government, it would be required to document the priorities of the policymaking community so that intelligence would know how to allocate its relatively scarce resources.

Second, the bill creates a Committee on Transnational Threats as part of the National Security Council. In many ways, the threats to our national security have changed significantly since the bipolar world where the Free World confronted a Communist bloc. The role of the nation state is evolving into something different and several increasingly serious threats to the United States crossnational boundaries. Among these, terrorism and the proliferation of weapons of mass destruction—and their means of delivery—appear as the most significant. The policy community, however, still largely focuses on a world composed of nations which only theoretically control the destinies of all mankind. The intelligence community is struggling to bring the transnational threats to the forefront but, since intelligence supports policy and not vice versa, its warnings sometimes go unheeded. The Committee on Transnational Threats will help to change the focus to the new international disorder.

Mr. President, the committee harbors no illusions about the possible destinies of these committees. We all know quite well the usefulness of the Low Intensity Conflict Board, an NSC-level board established by the Congress to force the policy community to address the growing importance of low-intensity conflict. The Committee on Foreign Intelligence and the Committee on Transnational Threats both could become the moribund bodies the low intensity conflict board has become. Nonetheless, our committee feels so strongly that intelligence can support policy properly only if the policy makers change their approach to international threats, we believe it is best to allow the intelligence community to focus its efforts in new and different ways based on NSC-level committees. We recommend the Congress should take the risk and create these two committees so the necessary tools will be available to the President if he chooses to use them.

Our bill also requires the President to submit an annual report to Congress on intelligence needs and priorities for the next fiscal year and assess the performance of the intelligence community during the previous fiscal year. We envision this to be a companion document to the national security strategy of the United States which the President is required by law to submit annually to Congress. We believe this will help the Congress decide whether intelligence is supporting policy. As such, it will allow the Congress to make the tough decisions on which programs should be funded and reject those programs inconsistent with the President's national security strategy and congressional priorities.

In some respects, the bill has created controversy in the manner with which it addresses the office of the Director of Central Intelligence. Most Americans expect the DCI to be a director. After 49 years of experience, however, it is still painfully obvious he is the coordinator of central intelligence, not the director. Each year, after he negotiates with the Secretary of Defense, the Secretary of State, the Secretary of Energy and the FBI Director, the DCI assembles an intelligence budget. It often reflects what is bureaucratically possible instead of what is required. Therefore, he does not direct anything in the fundamental way any leader steers an organization. He does not direct the intelligence community because he does not create a budget based on his own tough decisions. To make matters worse, once he assembles the budget and Congress approves it, the DCI does not control how the money is spent. That control belongs to the people with whom he negotiated in the first place: the Secretary of Defense, the Secretary of State, the Secretary of Energy, and the FBI Director. Since the bill's provisions dealing with budget control have created such controversy—sometimes misrepresented in the media as an attempt to create a ''Department of Intelligence''—the committee is reporting a bill at this late date with fewer DCI budget authorities than originally believed to be important. Nonetheless, there are some innovations still in the bill which will help the DCI better execute his responsibilities.

Among these innovations is the creation of the positions of three Assistant Directors of Central Intelligence.

Generally, intelligence is conducted in three steps. First, information is collected. Second, the information is analyzed and a report is written. Third, the report is disseminated to policymakers. Today, no one other than the DCI is personally responsible for the collection of the information and its analysis. I think we can all agree the DCI is far too busy to focus on each day's priorities and requirements for collecting information. Further, he cannot personally supervise the daily work of the thousands of intelligence analysts to ensure their reports are properly focused, comprehensive, and delivered on time. Thus, the DCI relies on a series of interagency committees to help him manage intelligence collection and analysis. We all know what it means when someone says a committee is in charge: no one is in charge. The bill attempts to correct this lack of accountability for intelligence collection and analysis by creating assistant directors who will be in charge of those areas important for the production of intelligence.

The bill also creates a third Assistant Director of Central Intelligence. Today, most people believe the Director of Central Intelligence is responsible for administering an intelligence community consisting of tens of thousands of people. But, like the areas of intelligence collection and analysis, there is no one other than the DCI who is personally responsible for the daily management of the rambling institution we call the intelligence community. In order to assist the DCI in the daily execution of this important responsibility, the bill creates the position of an Assistant Director of Central Intelligence for Administration.

The committee also has attempted in this bill to strengthen the DCI's abilities to discharge his responsibilities by statutorily requiring his participation in important executive branch deliberations. As many of my colleagues will remember, late last year the media carried stories stating the National Reconnaissance Office had amassed a large amount of funds excess to their immediate needs. Responding quickly in the media, senior Defense officials placed blame elsewhere. They accused the congressional oversight committees of being lax. They said a secret agreement between the DCI and Secretary of Defense prevented the Office of the Secretary of Defense from keeping tabs on NRO funding. They said excess funding levels found in the NRO would not be found in DOD programs because the NRO was not ''subject to the annual [DOD] programming and budgeting 'scrub'.'' Based on these rapid Department of Defense off the record denials in the press, everyone turned to the DCI and asked, ''Where were you?''

As it turns out Mr. President, there was no secret agreement between DOD and the DCI. In fact, there was no agreement, secret or otherwise. When asked to produce a copy of the supposed agreement, the Office of the Secretary of Defense provided the committee with a memo signed in the early 1980's. In it, the Secretary of Defense simply reminded his staff they could not add or take money away from the National Foreign Intelligence Program without officially coordinating it with the DCI.

Further, at the committee's request, the DOD Inspector General looked at eight of DOD's hundreds of procurement programs to see if there were funding levels in excess of annual requirements such as those Congress found in the NRO. The results are quite enlightening. Despite DOD s earlier denials in the media, five of the eight randomly selected programs had more money available than they needed in 1996. On the average, these five programs had almost 3 months extra funding. In fact, one program had 10 months more funding available to it than it could use in 1996. So after only a superficial IG evaluation of several DOD programs and despite DOD's protestations and claims of budget scrubs, we know DOD ends up each year with more funds than they can spend. I do not say this in criticism of Defense managers, but rather to point to a characteristic common to complex multi-year efforts involving new technology, regardless of the Government department responsible for them.

What may be a surprise is the answer to the question: where was the DCI when the National Reconnaissance Office was accumulating a backlog of spending authority? The answer is, the DCI has no authority over how the NRO spends its money after Congress authorizes and appropriates the funds. Having no direct authority to move money around or to determine if the money could be spent better elsewhere, it should not be a surprise the DCI was not monitoring NRO's execution of its budget. That authority rested with the Secretary of Defense.

The Director of Central Intelligence does not have the authority to execute the intelligence budget. This has many serious consequences both from an internal executive branch oversight perspective and from an operational perspective. Budget execution authority has occupied a lot of the committee's attention. In the original version of the bill, the committee attempted to give the DCI greater authority over his own budget. In order to get the bill to this stage in the annual authorization process, however, we have dropped several provisions which would have ensured greater internal oversight of spending on intelligence. Nonetheless, the bill still gives the Director some insight into the Joint Military Intelligence Program, and Tactical Intelligence and Related Activities—programs funded by the Department of Defense. While a modest improvement in aligning the DCI's authorities with his responsibilities, this new authority is important for ensuring better intelligence support of policy and for improving internal executive branch oversight of the Intelligence Community.

The bill also has one other significant improvement for ensuring better oversight of intelligence. The committee is recommending the position of General Counsel of the Central Intelligence Agency be appointed by the President and confirmed by the Senate. As stated in its report, the committee believes the confirmation process enhances accountability and strengthens the oversight process. Currently, all elements of the intelligence community, except the CIA, are part of departments having statutory general counsels who are Senate confirmed. Many legal issues are unique to the CIA. Unlike the other Senate-confirmed general counsels, there is little informed public debate to aid the CIA's general counsel in its deliberations because the issues often involve sensitive intelligence sources or methods. The confirmation process allows the Senate to ensure better accountability and oversight of this important position.

Finally, the bill enhances the Director of Central Intelligence's authorities by giving him a formal say in the naming of the directors of two of his most important agencies: the National Security Agency and the National Reconnaissance Office. Under current law and regulation, the Secretary of Defense could name the heads of these two intelligence community agencies without seeing if the DCI agrees with the nominations. I think it should be obvious to my colleagues what I meant when I called the DCI the Coordinator of Central Intelligence. Not only does the Director not have much direct control over his budget, he also does not even have a required formal role in the naming of the heads of the intelligence community's agencies. The bill takes a small step forward in giving him the opportunity to formally concur with an appointment made by the Secretary of Defense. Even under the bill's provisions, the Secretary of Defense has sufficient independence he could appoint the heads of the National Reconnaissance Office and the National Security Agency over the DCI's objection.

I must add one thing in closing. During the intense discussions over the appropriate authorities of the Director of Central Intelligence, it became clear to some of us there is a basic misunderstanding of intelligence and its relationship to the Department of Defense. Mr. President, as I have said time and time again, intelligence supports policy. It also supports the planning and the operations of our military forces. The Secretary of Defense directly controls the intelligence assets to ensure that this essential function of intelligence will be fulfilled, and our troops will be properly supported. In addition, as a principal customer of the DCI and the most knowledgeable and articulate customer, the Secretary of Defense will correctly ensure that national intelligence fulfills military requirements. This is appropriate and everyone

agrees it must occur without exception. But the Department of Defense is only one of many agencies that executes the foreign policy of the United States. And, historically, DOD is the last part of the executive branch the President relies upon when he executes U.S. policy overseas. We are a nation that believes military power is the court of last resort in resolving international disputes, not the first. This makes intelligence support to the warfighter the last step of intelligence support to foreign policy—not the first. Thus, as some push for more and more intelligence support to the warfighter, they in fact risk diminishing the creativity and quality of our foreign policy by forcing the intelligence community to become ''militarized.'' The intelligence community's scarce resources can only do so much and if they focus almost exclusively on the Department of Defense, the other elements of our Government will not have the benefit of their advice and support. This is dangerous for the effectiveness of our foreign policy and could eventually lead to an over-reliance on the Department of Defense to solve our foreign policy problems simply because the best information we have on a foreign policy problem is focused on how to solve it with military force. Intelligence support outside of the Department of Defense is important, and it is critical to the proper functioning of the Government. The Congress must remain vigilant to make sure we do not cripple intelligence by relying too heavily on uninformed criticisms of intelligence support to the warfighter.

Mr. COHEN. Mr. President, I rise today to urge my colleagues to support the fiscal year 1997 intelligence authorization bill. In addition to containing the annual schedule of authorizations for intelligence activities, a matter vital to U.S. national security, this legislation contains important provisions intended to reorganize the U.S. intelligence community in order to increase its efficiency and effectiveness. This bill also contains badly needed legislation to criminalize the theft of U.S. economic and proprietary data by foreign governments or their agents.

My colleagues should be aware that notwithstanding the fall of the Soviet Union and the rise of modern information systems, the organization of the United States intelligence community has remained essentially unchanged since 1947. The modest changes proposed in this legislation, intended to assist the Director of Central Intelligence manage this disparate and complex community in behalf of its many consumers, are in my view long overdue.

The U.S. intelligence community is without equal in terms of its sophistication and global access. Yet, I believe that we can acquire even more capability from our intelligence community if changes are made to its organization and management. During the course of the last few years, for example, we have learned that the National Reconnaissance Office carried billions of dollars in so-called forward-funding on its books. These funds, which might have been either returned to the Treasury or used for more pressing activities in the intelligence community or Defense Department, remained hidden from view in large part because the Director of Central Intelligence [DCI] and his staff were not even aware of their existence. I think this episode illustrates as well as any the fact that DCI has often been less of a director than a spokesman and ombudsman for the intelligence community. His degree of control and access to information has often been shockingly limited, yet he is the individual that the President, Congress, and the Secretary of Defense look to ensure that the intelligence community is operating both effectively and within the law.

Another startling example of the limits of the DCI's control and access occurred during the Intelligence Committee's investigation into the tragic Aldrich Ames case. One of the surprising facts to emerge from this investigation was the revelation that neither William Webster nor Bob Gates knew the extent of the losses caused by Aldrich Ames within the ranks of the CIA's Russian assets, nor the degree of penetration that had obviously occurred. Senior managers in the Directorate of Operations, like senior managers in the National Reconnaissance Office, felt free to withhold this critical information from the individual nominally responsible for the performance of the U.S. intelligence community.

The bill currently before the Senate would significantly strengthen the role of the DCI as the leader of the U.S. intelligence community and thereby help to ensure greater coherence and discipline within its ranks.

First, section 707 of this bill grants the DCI new statutory authority to participate with the Secretary of Defense in developing the Joint Military Intelligence Program [JMIP] and individual service department [TIARA] intelligence budgets. The intent of this section is to eliminate duplication among national and military intelligence programs.

Second, this measure stipulates that the DCI is responsible for approving all intelligence collection requirements and priorities.

Third, it requires the DCI to be consulted regarding proposed reprogrammings within the Joint Military Intelligence budget.

Finally, section 707 requires the DCI and Secretary of Defense to develop a joint data base for all intelligence programs' budget and activities. This provision will help to eliminate waste and duplication by ensuring that the DCI and his staff have access to all of the information necessary to evaluate programs within different intelligence organizations.

Section 716 of the bill will give DCI a voice in the selection of the individuals who serve as the heads of U.S. intelligence organizations. While these same officials must in some cases also report to the Secretary of Defense, there is no reason in my view not to involve the DCI in their selection. Imagine trying to run a business in the private sector, or manage your office here in the Senate, if you were not free to select or discipline your subordinates. Yet, that is the situation that the DCI finds himself in with regard to his nominal subordinates at DIAA, NSA, and NRO—the organizations which account for the great preponderance of personnel and resources within the intelligence community. This bill will ensure that the DCI concurs in the selection of intelligence agency heads by the Secretary of Defense, or that his nonconcurrence be brought to the attention of the President in the event of a disagreement. The DCI, pursuant to this provision, would also provide the Secretary of Defense an annual performance evaluation of the heads of NSA, NRO, and the new National Imagery and Mapping Agency.

Sections 709, 710, and 711 of the bill strengthen the DCI's staff by establishing new, senior intelligence community staff positions directly subordinate to the DCI. Specifically, the bill establishes DCI deputies for collection, analysis, and administration. This approach differs from that proposed by the administration, which seeks to have a single DCI deputy for community affairs and a second for the CIA. I am confident that these different approaches, which share a common objective, can be resolved in discussions with the House Intelligence Committee and the administration prior to approval of the Intelligence conference report later this month.

Mr. President, these organizational provisions are the product of numerous hearings held by the Intelligence Committee dating back to 1990. They are also to some degree the product of the Presidential Commission on Intelligence sponsored 2 years ago in the Senate by our distinguished colleague Senator JOHN WARNER of Virginia. Finally, these provisions reflect substantial contributions and refinements made by the members and staff of the Senate Armed Services Committee. These provisions have been the subject of substantial discussions, hearings, and debate, and I believe they deserve the support of every Senator.

In addition to these very substantial and important organizational provisions, I would like to draw the attention of my colleagues to title V of S. 1718, which criminalizes economic espionage conducted against the United States by foreign governments and their agents. Too often, when considering the issue of economic espionage, the question that has been asked is whether or not the United States should try to collect information that might be of value to U.S. industry. I believe the answer to that question is

clearly ''no.'' The issue that has not received as much attention as it deserves, in my opinion, concerns the threat posed to the U.S. economy by acts of industrial espionage perpetrated by foreign governments.

Over the last few years I have tried to move the discussion of these matters out of the closed-door settings of the Intelligence and Armed Services Committees and into the public domain. Nearly 3 years ago the Senate adopted an amendment I offered to S. 4, the National Competitiveness Act, requiring the President to submit an annual report on foreign industrial espionage modeled on the State Department's annual report on terrorism, which has done a great deal to increase media, and thus public, awareness of the terrorism threat. I offered my amendment to the competitiveness bill so that it would attract the attention of the business media, rather than the defense-oriented press, and so that the Commerce Committee would have jurisdiction over it and become a forum for congressional oversight of this problem.

While this reporting requirement had to be moved to the intelligence authorization bill after S. 4 stalled in conference, I am pleased that the first two annual reports have resulted in more and better media coverage of the threat that economic espionage poses to U.S. industry. At the same time, the President's report relegated too much information to the classified appendix, not because release of the information would have put at risk sources and methods, but because it would have diplomatic repercussions. Nevertheless, awareness of the problem has been increasing, as has the need to provide new tools to the FBI to deter the theft of critical U.S. trade and economic information.

To their credit, Director Freeh and other administration officials have been forward-leaning in addressing the problem, and we are now in the position of enjoying administration support for the legislation that Senator SPECTER and I introduced, which has been incorporated in this bill, to provide the FBI the tools necessary to defeat and when necessary successfully prosecute acts of economic espionage. I expect the FBI and the Justice Department to use the new authorities provided by this legislation to aggressively investigate and prosecute acts of economic espionage.

Mr. President, I would like to commend the chairman and vice chairman of the Intelligence Committee, as well as their staff, for their dedication and hard work. It has not been easy to forge a consensus on the many legislative provisions contained in this bill, but the very dedicated managers of the bill have found solutions to the concerns raised by the Armed Services Committee and the Department of Defense.

In closing, I would like to also express my admiration for the thousands of dedicated personnel who labor in obscurity within the U.S. intelligence community. Most of their accomplishments remain secret, but in my nearly 10 years of service on the Intelligence Committee, I have developed enormous respect and appreciation for their achievements. They deserve the support and appreciation of the American people, the best managerial structure we can provide, and the resources necessary to accomplish their many missions. I believe this bill is fully consistent with those objectives and I urge its adoption by the Senate.

Mr. SPECTER. Mr. President, I ask unanimous consent that the committee amendments be agreed to; further, that an amendment offered by the managers and an amendment offered by Senator THURMOND which are at the desk be considered and agreed to en bloc.

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

The committee amendments were agreed to.

The amendments (Nos. 5355 and 5356) considered and agreed to en bloc are as follows:

AMENDMENT NO. 5355

(Purpose: To strike section 718, relating to terms of service of members of the Select Committee on Intelligence of the Senate)

On page 72, strike out line 14 and all that follows through page 73, line 9.

AMENDMENT NO. 5356

(Purpose: Relating to the functions of the Assistant Director of Central Intelligence for Collection)

On page 52, beginning on line 18, strike out ''shall manage'' and all that follows through page 52, line 23, and insert in lieu thereof ''shall assist the Director of Central Intelligence in carrying out the Director's collection responsibilities in order to ensure the efficient and effective collection of national intelligence.'''.

Mr. SPECTER. Mr. President, I ask unanimous consent that the bill then be read a third time and the Senate then proceed to the consideration of Calendar No. 420, H.R. 3259, the House companion measure; further, that all after the enacting clause be stricken and the text of S. 1718, as amended, be inserted in lieu thereof, H.R. 3259 then be deemed read a third time and passed, with the motion to reconsider laid upon the table.

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

The bill (H.R. 3259), as amended, was deemed read for a third time and passed, as follows:

Resolved, That the bill from the House of Representatives (H.R. 3259) entitled ''An Act to authorize appropriations for fiscal year 1997 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.'', do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Intelligence Authorization Act for Fiscal Year 1997''.

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

Sec. 1. Short title; table of contents.

TITLE I—INTELLIGENCE ACTIVITIES

Sec. 101. Authorization of appropriations.
Sec. 102. Classified schedule of authorizations.
Sec. 103. Personnel ceiling adjustments.
Sec. 104. Community Management Account.

TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

Sec. 201. Authorization of appropriations.

TITLE III—GENERAL PROVISIONS

Sec. 301. Increase in employee compensation and benefits authorized by law.
Sec. 302. Restriction on conduct of intelligence activities.
Sec. 303. Postponement of applicability of sanctions laws to intelligence activities.
Sec. 304. Post-employment restrictions.
Sec. 305. Executive branch oversight of budgets of elements of the intelligence community.

TITLE IV—FEDERAL BUREAU OF INVESTIGATION

Sec. 401. Access to telephone records.

TITLE V—ECONOMIC ESPIONAGE

Sec. 501. Short title.
Sec. 502. Prevention of economic espionage and protection of proprietary economic information.

TITLE VI—COMBATTING PROLIFERATION

Sec. 601. Short title.

Subtitle A—Assessment of Organization and Structure of Government for Combatting Proliferation

Sec. 611. Establishment of commission.
Sec. 612. Duties of commission.
Sec. 613. Powers of commission.
Sec. 614. Commission personnel matters.
Sec. 615. Termination of commission.
Sec. 616. Definition.
Sec. 617. Authorization of appropriations.

Subtitle B—Other Matters

Sec. 621. Reports on acquisition of technology relating to weapons of mass destruction and advanced conventional munitions.

TITLE VII—RENEWAL AND REFORM OF INTELLIGENCE ACTIVITIES

Sec. 701. Short title.
Sec. 702. Committee on Foreign Intelligence.
Sec. 703. Annual reports on intelligence.
Sec. 704. Transnational threats.
Sec. 705. Office of the Director of Central Intelligence.
Sec. 706. National Intelligence Council.
Sec. 707. Enhancement of authority of Director of Central Intelligence to manage budget, personnel, and activities of intelligence community.
Sec. 708. Responsibilities of Secretary of Defense pertaining to the National Foreign Intelligence Program.
Sec. 709. Improvement of intelligence collection.
Sec. 710. Improvement of analysis and production of intelligence.
Sec. 711. Improvement of administration of intelligence activities.
Sec. 712. Pay level of Assistant Directors of Central Intelligence.
Sec. 713. General Counsel of the Central Intelligence Agency.
Sec. 714. Office of Congressional Affairs of the Director of Central Intelligence.
Sec. 715. Assistance for law enforcement agencies by intelligence community.
Sec. 716. Appointment and evaluation of officials responsible for intelligence-related activities.
Sec. 717. Requirements for submittal of budget information on intelligence activities.

Sec. 718. Report on intelligence community policy on protecting the national information infrastructure against strategic attacks.

TITLE VIII—NATIONAL IMAGERY AND MAPPING AGENCY

Sec. 801. National mission and collection tasking authority for the National Imagery and Mapping Agency.

TITLE I—INTELLIGENCE ACTIVITIES

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

Funds are hereby authorized to be appropriated for fiscal year 1997 for the conduct of the intelligence and intelligence-related activities of the following elements of the United States Government:

(1) The Central Intelligence Agency.

(2) The Department of Defense.

(3) The Defense Intelligence Agency.

(4) The National Security Agency.

(5) The Department of the Army, the Department of the Navy, and the Department of the Air Force.

(6) The Department of State.

(7) The Department of Treasury.

(8) The Department of Energy.

(9) The Federal Bureau of Investigation.

(10) The Drug Enforcement Administration.

(11) The National Reconnaissance Office.

(12) The Central Imagery Office.

SEC. 102. CLASSIFIED SCHEDULE OF AUTHORIZATIONS.

(a) SPECIFICATIONS OF AMOUNTS AND PERSONNEL CEILINGS.—The amounts authorized to be appropriated under section 101, and the authorized personnel ceilings as of September 30, 1997, for the conduct of the intelligence and intelligence-related activities of the elements listed in such section, are those specified in the classified Schedule of Authorizations prepared to accompany the conference report on the bill ____ of the One Hundred Fourth Congress.

(b) AVAILABILITY OF CLASSIFIED SCHEDULE OF AUTHORIZATIONS.—The Schedule of Authorizations shall be made available to the Committees on Appropriations of the Senate and House of Representatives and to the President. The President shall provide for suitable distribution of the Schedule, or of appropriate portions of the Schedule, within the executive branch.

SEC. 103. PERSONNEL CEILING ADJUSTMENTS.

(a) AUTHORITY FOR ADJUSTMENTS.—With the approval of the Director of the Office of Management and Budget, the Director of Central Intelligence may authorize employment of civilian personnel in excess of the number authorized for fiscal year 1997 under section 102 when the Director of Central Intelligence determines that such action is necessary to the performance of important intelligence functions, except that the number of personnel employed in excess of the number authorized under such section may not, for any element of the intelligence community, exceed two percent of the number of civilian personnel authorized under such section for such element.

(b) NOTICE TO INTELLIGENCE COMMITTEES.—The Director of Central Intelligence shall promptly notify the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate whenever he exercises the authority granted by this section.

SEC. 104. COMMUNITY MANAGEMENT ACCOUNT.

(a) AUTHORIZATIONS OF APPROPRIATIONS.—There is authorized to be appropriated for the Community Management Account of the Director of Central Intelligence for fiscal year 1997 the sum of $95,526,000. Within such amounts authorized, funds identified in the classified Schedule of Authorizations referred to in section 102(a) for the Advanced Research and Development Committee and the Environmental Task Force shall remain available until September 30, 1998.

(b) AUTHORIZED PERSONNEL LEVELS.—The staff of the Community Management Account of the Director of Central Intelligence is authorized 265 full-time personnel as of September 30, 1997. Such personnel of the Community Management Staff may be permanent employees of the Community Management Staff or personnel detailed from other elements of the United States Government.

(c) REIMBURSEMENT.—During fiscal year 1997, any officer or employee of the United States or member of the Armed Forces who is detailed to the staff of the Community Management Account from another element of the United States Government shall be detailed on a reimbursable basis, except that any such officer, employee, or member may be detailed on a non-reimbursable basis for a period of less than one year for the performance of temporary functions as required by the Director of Central Intelligence.

TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for the Central Intelligence Agency Retirement and Disability Fund for fiscal year 1997 the sum of $184,200,000.

TITLE III—GENERAL PROVISIONS

SEC. 301. INCREASE IN EMPLOYEE COMPENSATION AND BENEFITS AUTHORIZED BY LAW.

Appropriations authorized by this Act for salary, pay, retirement, and other benefits for Federal employees may be increased by such additional or supplemental amounts as may be necessary for increases in such compensation or benefits authorized by law.

SEC. 302. RESTRICTION ON CONDUCT OF INTELLIGENCE ACTIVITIES.

The authorization of appropriations by this Act shall not be deemed to constitute authority for the conduct of any intelligence activity which is not otherwise authorized by the Constitution or the laws of the United States.

SEC. 303. POSTPONEMENT OF APPLICABILITY OF SANCTIONS LAWS TO INTELLIGENCE ACTIVITIES.

Section 905 of the National Security Act of 1947 (50 U.S.C. 441d) is amended by striking ''the date which is one year after the date of the enactment of this title'' and inserting ''January 6, 1998''.

SEC. 304. POST-EMPLOYMENT RESTRICTIONS.

(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Director of Central Intelligence shall prescribe regulations requiring each new and current employee of the Central Intelligence Agency to sign a written agreement restricting the activities of that employee upon ceasing employment with the Central Intelligence Agency.

(b) AGREEMENT ELEMENTS.—The regulations shall provide that an agreement contain provisions specifying that the employee concerned not represent or advise the government, or any political party, of a foreign country during the five-year period beginning on the termination of the employee's employment with the Central Intelligence Agency.

(c) DISCIPLINARY ACTIONS.—The regulations shall specify appropriate disciplinary actions (including loss of retirement benefits) to be taken against any employee determined by the Director of Central Intelligence to have violated the agreement of the employee under this section.

SEC. 305. EXECUTIVE BRANCH OVERSIGHT OF BUDGETS OF ELEMENTS OF THE INTELLIGENCE COMMUNITY.

(a) REPORT.—Not later than 90 days after the date of the enactment of this Act, the President shall submit to the congressional intelligence committees a report setting forth the actions that have been taken to ensure adequate oversight by the executive branch of the budget of the National Reconnaissance Office and the budgets of other elements of the intelligence community within the Department of Defense.

(b) REPORT ELEMENTS.—The report required by subsection (a) shall—

(1) describe the extent to which the elements of the intelligence community carrying out programs and activities in the National Foreign Intelligence Program are subject to requirements imposed on other elements and components of the Department of Defense under the Chief Financial Officers Act of 1990 (Public Law 101–576), and the amendments made by that Act, and the Federal Financial Management Act of 1994 (title IV of Public Law 103–356), and the amendments made by that Act;

(2) describe the extent to which such elements submit to the Office of Management and Budget budget justification materials and execution reports similar to the budget justification materials and execution reports submitted to the Office of Management and Budget by the non-intelligence components of the Department of Defense;

(3) describe the extent to which the National Reconnaissance Office submits to the Office of Management and Budget, the Community Management Staff, and the Office of the Secretary of Defense—

(A) complete information on the cost, schedule, performance, and requirements for any new major acquisition before initiating the acquisition;

(B) yearly reports (including baseline cost and schedule information) on major acquisitions;

(C) planned and actual expenditures in connection with major acquisitions; and

(D) variances from any cost baselines for major acquisitions (including explanations of such variances); and

(4) assess the extent to which the National Reconnaissance Office has submitted to Office of Management and Budget, the Community Management Staff, and the Office of the Secretary of Defense on a monthly basis a detailed budget execution report similar to the budget execution report prepared for Department of Defense programs.

(c) DEFINITIONS.—For purposes of this section:

(1) The term ''congressional intelligence committees'' shall mean the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives.

(2) The term ''National Foreign Intelligence Program'' has the meaning given such term in section 3(6) of the National Security Act of 1947 (50 U.S.C. 401a(6)).

TITLE IV—FEDERAL BUREAU OF INVESTIGATION

SEC. 401. ACCESS TO TELEPHONE RECORDS.

(a) ACCESS FOR COUNTERINTELLIGENCE PURPOSES.—Section 2709(b)(1) of title 18, United States Code, is amended by inserting ''local and long distance'' before ''toll billing records''.

(b) CONFORMING AMENDMENT.—Section 2703(c)(1)(C) of such title is amended by inserting ''local and long distance'' after ''address,''.

(c) CIVIL REMEDY.—Section 2707 of such title is amended—

(1) in subsection (a), by striking ''customer'' and inserting ''other person'';

(2) in subsection (c), by adding at the end the following: ''If the violation is willful or intentional, the court may assess punitive damages. In the case of a successful action to enforce liability under this section, the court may assess the costs of the action, together with reasonable attorney fees determined by the court.'';

(3) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively; and

(4) by inserting after subsection (c) the following new subsection (d):

''(d) DISCIPLINARY ACTIONS FOR VIOLATIONS.—If a court determines that any agency or department of the United States has violated this chapter and the court finds that the circumstances surrounding the violation raise the question whether or not an officer or employee of the agency or department acted willfully or

intentionally with respect to the violation, the agency or department concerned shall promptly initiate a proceeding to determine whether or not disciplinary action is warranted against the officer or employee.''.

TITLE V—ECONOMIC ESPIONAGE

SEC. 501. SHORT TITLE.

This title may be cited as the ''Economic Espionage Act of 1996''.

SEC. 502. PREVENTION OF ECONOMIC ESPIONAGE AND PROTECTION OF PROPRIETARY ECONOMIC INFORMATION.

(a) IN GENERAL.—Part I of title 18, United States Code, is amended by inserting after chapter 27 the following new chapter:

"CHAPTER 28—ECONOMIC ESPIONAGE

''Sec.
''571. Definitions.
''572. Economic espionage.
''573. Criminal forfeiture.
''574. Import and export sanctions.
''575. Scope of extraterritorial jurisdiction.
''576. Construction with other laws.
''577. Preservation of confidentiality.
''578. Law enforcement and intelligence activities.

"§ 571. Definitions

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

''(1) FOREIGN AGENT.—The term 'foreign agent' means any officer, employee, proxy, servant, delegate, or representative of a foreign nation or government.

''(2) FOREIGN INSTRUMENTALITY.—The term 'foreign instrumentality' means any agency, bureau, ministry, component, institution, association, or any legal, commercial, or business organization, corporation, firm, or entity that is substantially owned, controlled, sponsored, commanded, managed, or dominated by a foreign government or any political subdivision, instrumentality, or other authority thereof.

''(3) OWNER.—The term 'owner' means the person or persons in whom, or the United States Government component, department, or agency in which, rightful legal, beneficial, or equitable title to, or license in, proprietary economic information is reposed.

''(4) PROPRIETARY ECONOMIC INFORMATION.—The term 'proprietary economic information' means all forms and types of financial, business, scientific, technical, economic, or engineering information (including data, plans, tools, mechanisms, compounds, formulas, designs, prototypes, processes, procedures, programs, codes, or commercial strategies, whether tangible or intangible, and whether stored, compiled, or memorialized physically, electronically, graphically, photographically, or in writing), if—

''(A) the owner thereof has taken reasonable measures to keep such information confidential; and

''(B) the information derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable through proper means by, the public.

''(5) UNITED STATES PERSON.—The term 'United States person' means—

''(A) in the case of a natural person, a citizen of the United States or a permanent resident alien of the United States; and

''(B) in the case of an organization (as that term is defined in section 18 of this title), an entity substantially owned or controlled by citizens of the United States or permanent resident aliens of the United States, or incorporated in the United States.

"§ 572. Economic espionage

''(a) IN GENERAL.—Any person who, with knowledge or reason to believe that he or she is acting on behalf of, or with the intent to benefit, any foreign nation, government, instrumentality, or agent, knowingly—

''(1) steals, wrongfully appropriates, takes, carries away, or conceals, or by fraud, artifice, or deception obtains proprietary economic information;

''(2) wrongfully copies, duplicates, sketches, draws, photographs, downloads, uploads, alters, destroys, photocopies, replicates, transmits, delivers, sends, mails, communicates, or conveys proprietary economic information;

''(3) being entrusted with, or having lawful possession or control of, or access to, proprietary economic information, wrongfully copies, duplicates, sketches, draws, photographs, downloads, uploads, alters, destroys, photocopies, replicates, transmits, delivers, sends, mails, communicates, or conveys the same;

''(4) receives, buys, or possesses proprietary economic information, knowing the same to have been stolen or wrongfully appropriated, obtained, or converted;

''(5) attempts to commit any offense described in any of paragraphs (1) through (4);

''(6) wrongfully solicits another to commit any offense described in any of paragraphs (1) through (4); or

''(7) conspires with one or more other persons to commit any offense described in any of paragraphs (1) through (4), and one or more of such persons do any act to effect the object of the conspiracy,

shall, except as provided in subsection (b), be fined not more than $500,000 or imprisoned not more than 25 years, or both.

''(b) ORGANIZATIONS.—Any organization that commits any offense described in subsection (a) shall be fined not more than $10,000,000.

''(c) EXCEPTION.—It shall not be a violation of this section to disclose proprietary economic information in the case of—

''(1) appropriate disclosures to Congress; or

''(2) disclosures to an authorized official of an executive agency that are deemed essential to reporting a violation of United States law.

"§ 573. Criminal forfeiture

''(a) IN GENERAL.—Notwithstanding any provision of State law to the contrary, any person convicted of a violation under this chapter shall forfeit to the United States—

''(1) any property constituting, or derived from, any proceeds the person obtained, directly or indirectly, as the result of such violation; and

''(2) any of the property of that person used, or intended to be used, in any manner or part, to commit or facilitate the commission of such violation.

''(b) COURT ACTION.—The court, in imposing sentence on such person, shall order, in addition to any other sentence imposed pursuant to this chapter, that the person forfeit to the United States all property described in this section.

''(c) APPLICABILITY OF OTHER LAW.—Property subject to forfeiture under this section, any seizure and disposition thereof, and any administrative or judicial proceeding in relation thereto, shall be governed by the provisions of section 413 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853), other than subsection (d) of that section.

"§ 574. Import and export sanctions

''(a) ACTION BY THE PRESIDENT.—The President may, to the extent consistent with international agreements to which the United States is a party, prohibit, for a period of not longer than 5 years, the importation into, or exportation from, the United States, whether by carriage of tangible items or by transmission, any merchandise produced, made, assembled, or manufactured by a person convicted of any offense described in section 572 of this title, or in the case of an organization convicted of any offense described in such section, its successor entity or entities.

''(b) ACTION BY THE SECRETARY OF THE TREASURY.—

''(1) CIVIL PENALTY.—The Secretary of the Treasury may impose on any person who knowingly violates any order of the President issued under the authority of this section, a civil penalty equal to not more than 5 times the value of the exports or imports involved, or $100,000, whichever is greater.

''(2) SEIZURE AND FORFEITURE.—Any merchandise imported or exported in violation of an order of the President issued under this section shall be subject to seizure and forfeiture in accordance with sections 602 through 619 of the Tariff Act of 1930.

''(3) APPLICABILITY OF OTHER PROVISIONS.—The provisions of law relating to seizure, summary and judicial forfeiture, and condemnation of property for violation of the United States customs laws, the disposition of such property or the proceeds from the sale thereof, the remission or mitigation of such forfeiture, and the compromise of claims, shall apply to seizures and forfeitures incurred, or alleged to have been incurred under this section to the extent that they are applicable and not inconsistent with the provisions of this chapter.

"§ 575. Scope of extraterritorial jurisdiction

''This chapter applies—

''(1) to conduct occurring within the United States; and

''(2) to conduct occurring outside the United States if—

''(A) the offender is a United States person; or

''(B) the act in furtherance of the offense was committed in the United States.

"§ 576. Construction with other laws

''This chapter shall not be construed to preempt or displace any other remedies, whether civil or criminal, provided by Federal, State, commonwealth, possession, or territorial laws that are applicable to the misappropriation of proprietary economic information.

"§ 577. Preservation of confidentiality

''In any prosecution or other proceeding under this chapter, the court shall enter such orders and take such other action as may be necessary and appropriate to preserve the confidentiality of proprietary economic information, consistent with the requirements of the Federal Rules of Criminal Procedure, the Federal Rules of Civil Procedure, the Federal Rules of Evidence, and all other applicable laws. An interlocutory appeal by the United States shall lie from a decision or order of a district court authorizing or directing the disclosure of proprietary economic information.

"§ 578. Law enforcement and intelligence activities

''This chapter does not prohibit, and shall not impair, any lawful activity conducted by a law enforcement or regulatory agency of the United States, a State, or a political subdivision of a State, or an intelligence agency of the United States.''.

(b) CLERICAL AMENDMENT.—The table of chapters at the beginning of part I of title 18, United States Code, is amended by inserting after the item relating to chapter 27 the following new item:

"28. Economic espionage ..... 571".

(c) CONFORMING AMENDMENT.—Section 2516(1)(a) of title 18, United States Code, is amended by inserting ''chapter 28 (relating to economic espionage),'' after ''or under the following chapters of this title:''.

TITLE VI—COMBATTING PROLIFERATION

SEC. 601. SHORT TITLE.

This title may be cited as the ''Combatting Proliferation of Weapons of Mass Destruction Act of 1996''.

Subtitle A—Assessment of Organization and Structure of Government for Combatting Proliferation

SEC. 611. ESTABLISHMENT OF COMMISSION.

(a) ESTABLISHMENT.—There is established a commission to be known as the Commission to Assess the Organization of the Federal Government to Combat the Proliferation of Weapons of Mass Destruction (in this subtitle referred to as the ''Commission'').

(b) MEMBERSHIP.—The Commission shall be composed of eight members of whom—

(1) four shall be appointed by the President;

(2) one shall be appointed by the Majority Leader of the Senate;

(3) one shall be appointed by the Minority Leader of the Senate;

(4) one shall be appointed by the Speaker of the House of Representatives; and

(5) one shall be appointed by the Minority Leader of the House of Representatives.

(c) QUALIFICATIONS OF MEMBERS.—(1) To the maximum extent practicable, the individuals appointed as members of the Commission shall be individuals who are nationally recognized for expertise regarding—

(A) the nonproliferation of weapons of mass destruction;

(B) the efficient and effective implementation of United States nonproliferation policy; or

(C) the implementation, funding, or oversight of the national security policies of the United States.

(2) An official who appoints members of the Commission may not appoint an individual as a member if, in the judgment of the official, the individual possesses any personal or financial interest in the discharge of any of the duties of the Commission.

(d) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(e) INITIAL MEETING.—No later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

(f) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(g) CHAIRMAN AND VICE CHAIRMAN.—The Commission shall select a Chairman and Vice Chairman from among its members.

(h) MEETINGS.—The Commission shall meet at the call of the Chairman.

SEC. 612. DUTIES OF COMMISSION.

(a) STUDY.—

(1) IN GENERAL.—The Commission shall carry out a thorough study of the organization of the Federal Government, including the elements of the intelligence community, with respect to combatting the proliferation of weapons of mass destruction.

(2) SPECIFIC REQUIREMENTS.—In carrying out the study, the Commission shall—

(A) assess the current structure and organization of the departments and agencies of the Federal Government having responsibilities for combatting the proliferation of weapons of mass destruction; and

(B) assess the effectiveness of United States cooperation with foreign governments with respect to nonproliferation activities, including cooperation—

(i) between elements of the intelligence community and elements of the intelligence-gathering services of foreign governments;

(ii) between other departments and agencies of the Federal Government and the counterparts to such departments and agencies in foreign governments; and

(iii) between the Federal Government and international organizations.

(3) ASSESSMENTS.—In making the assessments under paragraph (2), the Commission should address—

(A) the organization of the export control activities (including licensing and enforcement activities) of the Federal Government relating to the proliferation of weapons of mass destruction;

(B) arrangements for coordinating the funding of United States nonproliferation activities;

(C) existing arrangements governing the flow of information among departments and agencies of the Federal Government responsible for nonproliferation activities;

(D) the effectiveness of the organization and function of interagency groups in ensuring implementation of United States treaty obligations, laws, and policies with respect to nonproliferation;

(E) the administration of sanctions for purposes of nonproliferation, including the measures taken by departments and agencies of the Federal Government to implement, assess, and enhance the effectiveness of such sanctions;

(F) the organization, management, and oversight of United States counterproliferation activities;

(G) the recruitment, training, morale, expertise, retention, and advancement of Federal Government personnel responsible for the nonproliferation functions of the Federal Government, including any problems in such activities;

(H) the role in United States nonproliferation activities of the National Security Council, the Office of Management and Budget, the Office of Science and Technology Policy, and other offices in the Executive Office of the President having responsibilities for such activities;

(I) the organization of the activities of the Federal Government to verify government-to-government assurances and commitments with respect to nonproliferation, including assurances regarding the future use of commodities exported from the United States; and

(J) the costs and benefits to the United States of increased centralization and of decreased centralization in the administration of the nonproliferation activities of the Federal Government.

(b) RECOMMENDATIONS.—In conducting the study, the Commission shall develop recommendations on means of improving the effectiveness of the organization of the departments and agencies of the Federal Government in meeting the national security interests of the United States with respect to the proliferation of weapons of mass destruction. Such recommendations shall include specific recommendations to eliminate duplications of effort, and other inefficiencies, in and among such departments and agencies.

(c) REPORT.—(1) Not later than 18 months after the date of the enactment of this Act, the Commission shall submit to Congress a report containing a detailed statement of the findings and conclusions of the Commission, together with its recommendations for such legislation and administrative actions as it considers appropriate.

(2) The report shall be submitted in unclassified form, but may include a classified annex.

SEC. 613. POWERS OF COMMISSION.

(a) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out the purposes of this subtitle.

(b) INFORMATION FROM FEDERAL AGENCIES.—

(1) IN GENERAL.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the provisions of this subtitle. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(2) CLASSIFIED INFORMATION.—A department or agency may furnish the Commission classified information under this subsection. The Commission shall take appropriate actions to safeguard classified information furnished to the Commission under this paragraph.

(c) 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.

(d) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

SEC. 614. COMMISSION PERSONNEL MATTERS.

(a) COMPENSATION OF MEMBERS.—Each member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(b) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(c) STAFF.—

(1) IN GENERAL.—The Chairman of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.

(2) COMPENSATION.—The Chairman of the Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(d) 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.

(e) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairman of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

SEC. 615. TERMINATION OF COMMISSION.

The Commission shall terminate 60 days after the date on which the Commission submits its report under section 612(c).

SEC. 616. DEFINITION.

For purposes of this subtitle, the term ''intelligence community'' shall have the meaning given such term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

SEC. 617. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated for the Commission for fiscal year 1997 such sums as may be necessary for the Commission to carry out its duties under this subtitle.

(b) AVAILABILITY.—Amounts appropriated pursuant to the authorization of appropriations in subsection (a) shall remain available for expenditure until the termination of the Commission under section 615.

Subtitle B—Other Matters

SEC. 621. REPORTS ON ACQUISITION OF TECHNOLOGY RELATING TO WEAPONS OF MASS DESTRUCTION AND ADVANCED CONVENTIONAL MUNITIONS.

(a) REPORTS.—Not later than 6 months after the date of the enactment of this Act, and every 6 months thereafter, the Director of Central Intelligence shall submit to Congress a report on—

(1) the acquisition by foreign countries during the preceding 6 months of dual-use and other

technology useful for the development or production of weapons of mass destruction (including nuclear weapons, chemical weapons, and biological weapons) and advanced conventional munitions; and

(2) trends in the acquisition of such technology by such countries.

(b) FORM OF REPORTS.—The reports submitted under subsection (a) shall be submitted in unclassified form, but may include a classified annex.

TITLE VII—RENEWAL AND REFORM OF INTELLIGENCE ACTIVITIES

SEC. 701. SHORT TITLE.

This title may be cited as the ''Intelligence Activities Renewal and Reform Act of 1996''.

SEC. 702. COMMITTEE ON FOREIGN INTELLIGENCE.

Section 101 of the National Security Act of 1947 (50 U.S.C. 402) is amended—

(1) by redesignating subsection (h) as subsection (j); and

(2) by inserting after subsection (g) the following new subsection (h):

''(h)(1) There is established within the National Security Council a committee to be known as the 'Committee on Foreign Intelligence'.

''(2) The Committee shall be composed of the following:

''(A) The Director of Central Intelligence.

''(B) The Secretary of State.

''(C) The Secretary of Defense.

''(D) The Assistant to the President for National Security Affairs, who shall serve as the chairperson of the Committee.

''(E) Such other members as the President may designate.

''(3) The function of the Committee shall be to assist the Council in its activities by—

''(A) identifying the intelligence required to address the national security interests of the United States as specified by the President;

''(B) establishing priorities (including funding priorities) among the programs, projects, and activities that address such interests and requirements; and

''(C) establishing policies relating to the conduct of intelligence activities of the United States, including appropriate roles and missions for the elements of the intelligence community and appropriate targets of intelligence collection activities.

''(4) In carrying out its function, the Committee shall—

''(A) conduct an annual review of the national security interests of the United States;

''(B) identify on an annual basis, and at such other times as the Council may require, the intelligence required to meet such interests and establish an order of priority for the collection and analysis of such intelligence; and

''(C) conduct an annual review of the elements of the intelligence community in order to determine the success of such elements in collecting, analyzing, and disseminating the intelligence identified under subparagraph (B).

''(5) The Committee shall submit each year to the Council and to the Director of Central Intelligence a comprehensive report on its activities during the preceding year, including its activities under paragraphs (3) and (4).''.

SEC. 703. ANNUAL REPORTS ON INTELLIGENCE.

(a) IN GENERAL.—Section 109 of the National Security Act of 1947 (50 U.S.C. 404d) is amended by striking out subsections (a) and (b) and inserting in lieu thereof the following new subsections:

''SEC. 109. (a) IN GENERAL.—(1) Not later than January 31 each year, the President shall submit to the appropriate congressional committees a report on the requirements of the United States for intelligence and the activities of the intelligence community.

''(2) The purpose of the report is to facilitate an assessment of the activities of the intelligence community during the preceding fiscal year and to assist in the development of a mission and a budget for the intelligence community for the fiscal year beginning in the year in which the report is submitted.

''(3) The report shall be submitted in unclassified form, but may include a classified annex.

''(b) MATTERS COVERED.—(1) Each report under subsection (a) shall—

''(A) specify the intelligence required to meet the national security interests of the United States, and set forth an order of priority for the collection and analysis of intelligence required to meet such interests, for the fiscal year beginning in the year in which the report is submitted; and

''(B) evaluate the performance of the intelligence community in collecting and analyzing intelligence required to meet such interests during the fiscal year ending in the year preceding the year in which the report is submitted, including a description of the significant successes and significant failures of the intelligence community in such collection and analysis during that fiscal year.

''(2) The report shall specify matters under paragraph (1)(A) in sufficient detail to assist Congress in making decisions with respect to the allocation of resources for the matters specified.

''(c) DEFINITION.—In this section, the term 'appropriate congressional committees' means the following:

''(1) The Select Committee on Intelligence, the Committee on Appropriations, and the Committee on Armed Services of the Senate.

''(2) The Permanent Select Committee on Intelligence, the Committee on Appropriations, and the Committee on National Security of the House of Representatives.''.

(b) CONFORMING AMENDMENTS.—(1) The section heading of such section is amended to read as follows:

''ANNUAL REPORT ON INTELLIGENCE''.

(2) The table of contents in the first section of that Act is amended by striking the item relating to section 109 and inserting the following new item:

''Sec. 109. Annual report on intelligence.''.

SEC. 704. TRANSNATIONAL THREATS.

Section 101 of the National Security Act of 1947 (50 U.S.C. 402) is amended by inserting after subsection (h), as amended by section 702 of this Act, the following new subsection:

''(i)(1) There is established within the National Security Council a committee to be known as the 'Committee on Transnational Threats'.

''(2) The Committee shall include the following members:

''(A) The Director of Central Intelligence.

''(B) The Secretary of State.

''(C) The Secretary of Defense.

''(D) The Attorney General.

''(E) The Assistant to the President for National Security Affairs, who shall serve as the chairperson of the Committee.

''(F) Such other members as the President may designate.

''(3) The function of the Committee shall be to coordinate and direct the activities of the United States Government relating to combatting transnational threats.

''(4) In carrying out its function, the Committee shall—

''(A) identify transnational threats;

''(B) develop strategies to enable the United States Government to respond to transnational threats identified under subparagraph (A);

''(C) monitor implementation of such strategies;

''(D) make recommendations as to appropriate responses to specific transnational threats;

''(E) assist in the resolution of operational and policy differences among Federal departments and agencies in their responses to transnational threats;

''(F) develop policies and procedures to ensure the effective sharing of information about transnational threats among Federal departments and agencies, including law enforcement agencies and the elements of the intelligence community; and

''(G) develop guidelines to enhance and improve the coordination of activities of Federal law enforcement agencies and elements of the intelligence community outside the United States with respect to transnational threats.

''(5) For purposes of this subsection, the term 'transnational threat' means the following:

''(A) Any transnational activity (including international terrorism, narcotics trafficking, the proliferation of weapons of mass destruction and the delivery systems for such weapons, and organized crime) that threatens the national security of the United States.

''(B) Any individual or group that engages in an activity referred to in subparagraph (A).''.

SEC. 705. OFFICE OF THE DIRECTOR OF CENTRAL INTELLIGENCE.

(a) IN GENERAL.—Title I of The National Security Act of 1947 (50 U.S.C. 402 et seq.) is amended—

(1) in section 102 (50 U.S.C. 403)—

(A) by striking the section heading and all that follows through paragraph (1) of subsection (a) and inserting the following:

''OFFICE OF THE DIRECTOR OF CENTRAL INTELLIGENCE

''SEC. 102.'';

(B) by redesignating paragraph (2) of subsection (a) as subsection (a) and in such subsection (a), as so redesignated, by redesignating subparagraphs (A), (B), and (C) as paragraphs (1), (2), and (3), respectively; and

(C) by striking subsection (d) and inserting the following:

''(d)(1) There is an Office of the Director of Central Intelligence. The function of the Office is to assist the Director of Central Intelligence in carrying out the duties and responsibilities of the Director under this Act and to carry out such other duties as may be prescribed by law.

''(2) The Office of the Director of Central Intelligence is composed of the following:

''(A) The Director of Central Intelligence.

''(B) The Deputy Director of Central Intelligence.

''(C) The National Intelligence Council.

''(D) The Assistant Director of Central Intelligence for Collection.

''(E) The Assistant Director of Central Intelligence for Analysis and Production.

''(F) The Assistant Director of Central Intelligence for Administration.

''(G) Such other offices and officials as may be established by law or the Director of Central Intelligence may establish or designate in the Office.

''(3) To assist the Director in fulfilling the responsibilities of the Director as head of the intelligence community, the Director shall employ and utilize in the Office of the Director of Central Intelligence a professional staff having an expertise in matters relating to such responsibilities and may establish permanent positions and appropriate rates of pay with respect to that staff.''; and

(2) by inserting after section 102, as so amended, the following new section:

''CENTRAL INTELLIGENCE AGENCY

''SEC. 102A. There is a Central Intelligence Agency. The function of the Agency shall be to assist the Director of Central Intelligence in carrying out the responsibilities referred to in paragraphs (1) through (4) of section 103(d) of this Act.''.

(b) CLERICAL AMENDMENT.—The table of contents in the first section of that Act is amended by striking the item relating to section 102 and inserting the following new items:

''Sec. 102. Office of the Director of Central Intelligence.

''Sec. 102A. Central Intelligence Agency.''.

SEC. 706. NATIONAL INTELLIGENCE COUNCIL.

Section 103(b) of the National Security Act of 1947 (50 U.S.C. 403–3(b)) is amended—

(1) in paragraph (1)(B), by inserting '', or as contractors of the Council or employees of such contractors,'' after ''on the Council'';

(2) by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively;

(3) by inserting after paragraph (3) the following new paragraph (4):

''(4) Subject to the direction and control of the Director of Central Intelligence, the Center may carry out its responsibilities under this subsection by contract, including contracts for substantive experts necessary to assist the Center with particular assessments under this subsection.''; and

(4) in paragraph (5), as so redesignated, by adding at the end the following: ''The Center shall also be readily accessible to policymaking officials and other appropriate individuals not otherwise associated with the intelligence community.''.

SEC. 707. ENHANCEMENT OF AUTHORITY OF DIRECTOR OF CENTRAL INTELLIGENCE TO MANAGE BUDGET, PERSONNEL, AND ACTIVITIES OF INTELLIGENCE COMMUNITY.

(a) IN GENERAL.—Section 103(c) of the National Security Act of 1947 (50 U.S.C. 403–3(c)) is amended—

(1) by striking paragraph (1) and inserting the following new paragraph (1):

''(1) facilitate the development of an annual budget for intelligence and intelligence-related activities of the United States by—

''(A) developing and presenting to the President an annual budget for the National Foreign Intelligence Program; and

''(B) participating in the development by the Secretary of Defense of the annual budgets for the Joint Military Intelligence Program and the Tactical Intelligence and Related Activities Program;'';

(2) by redesignating paragraphs (3) through (6) as paragraphs (4) through (7), respectively; and

(3) by inserting after paragraph (2) the following new paragraph (3):

''(3) approve collection requirements, determine collection priorities, and resolve conflicts in collection priorities levied on national collection assets, except as otherwise agreed with the Secretary of Defense pursuant to the direction of the President;''.

(b) USE OF FUNDS.—Section 104 of the National Security Act of 1947 (50 U.S.C. 403–4) is amended—

(1) by adding at the end of subsection (c) the following: ''The Secretary of Defense shall consult with the Director of Central Intelligence before reprogramming funds made available under the Joint Military Intelligence Program.'';

(2) by redesignating subsections (e), (f), and (g) as subsections (f), (g), and (h), respectively; and

(3) by inserting after subsection (d) the following new subsection (e):

''(e) DATABASE AND BUDGET EXECUTION INFORMATION.—The Director of Central Intelligence and the Secretary of Defense shall jointly issue guidance for the development and implementation by the year 2000 of a database to provide timely and accurate information on the amounts and status of resources, including periodic budget execution updates, for national, defense-wide, and tactical intelligence activities.''.

SEC. 708. RESPONSIBILITIES OF SECRETARY OF DEFENSE PERTAINING TO THE NATIONAL FOREIGN INTELLIGENCE PROGRAM.

Section 105 of the National Security Act of 1947 (50 U.S.C. 403–5) is amended—

(1) in subsection (a), by inserting '', in consultation with the Director of Central Intelligence,'' after ''Secretary of Defense'' in the matter preceding paragraph (1); and

(2) by adding at the end the following:

''(d) ANNUAL EVALUATION OF THE DIRECTOR OF CENTRAL INTELLIGENCE.—The Director of Central Intelligence, in consultation with the Secretary of Defense and the Chairman of the Joint Chiefs of Staff, shall submit each year to the Committee on Foreign Intelligence of the National Security Council and the appropriate congressional committees (as defined in section 109(c)) an evaluation of the performance and the responsiveness of the National Security Agency, the National Reconnaissance Office, and the National Imagery and Mapping Agency in meeting their national missions.''.

SEC. 709. IMPROVEMENT OF INTELLIGENCE COLLECTION.

(a) ASSISTANT DIRECTOR OF CENTRAL INTELLIGENCE FOR COLLECTION.—Section 102 of the National Security Act of 1947, as amended by section 705(a)(1) of this Act, is amended by adding at the end the following:

''(e)(1) To assist the Director of Central Intelligence in carrying out the Director's responsibilities under this Act, there shall be an Assistant Director of Central Intelligence for Collection, who shall be appointed by the President, by and with the advice and consent of the Senate.

''(2)(A) If neither the Director of Central Intelligence nor the Deputy Director of Central Intelligence is a commissioned officer of the Armed Forces at the time of the nomination of an individual to the position of Assistant Director of Central Intelligence for Collection, the President shall nominate an individual for that position from among the commissioned officers of the Armed Forces who have substantial experience in managing intelligence activities.

''(B) The provisions of subsection (c)(3) shall apply to any commissioned officer of the Armed Forces while serving in the position of Assistant Director for Collection.

''(3) The Assistant Director for Collection shall assist the Director of Central Intelligence in carrying out the Director's collection responsibilities in order to ensure the efficient and effective collection of national intelligence.''.

(b) CONSOLIDATION OF HUMAN INTELLIGENCE COLLECTION ACTIVITIES.—Not later than 90 days after the date of the enactment of this Act, the Director of Central Intelligence and the Deputy Secretary of Defense shall jointly submit to the Committee on Armed Services and the Select Committee on Intelligence of the Senate and the National Security Committee and Permanent Select Committee on Intelligence of the House of Representatives a report on the ongoing efforts of those officials to achieve commonality, interoperability, and, where practicable, consolidation of the collection of clandestine intelligence from human sources conducted by the Defense Human Intelligence Service of the Department of Defense and the Directorate of Operations of the Central Intelligence Agency.

SEC. 710. IMPROVEMENT OF ANALYSIS AND PRODUCTION OF INTELLIGENCE.

Section 102 of the National Security Act of 1947, as amended by section 709(a) of this Act, is further amended by adding at the end the following:

''(f)(1) To assist the Director of Central Intelligence in carrying out the Director's responsibilities under this Act, there shall be an Assistant Director of Central Intelligence for Analysis and Production, who shall be appointed by the President, by and with the advice and consent of the Senate.

''(2) The Assistant Director for Analysis and Production shall—

''(A) oversee the analysis and production of intelligence by the elements of the intelligence community;

''(B) establish standards and priorities relating to such analysis and production;

''(C) monitor the allocation of resources for the analysis and production of intelligence in order to identify unnecessary duplication in the analysis and production of intelligence;

''(D) identify intelligence to be collected for purposes of the Assistant Director of Central Intelligence for Collection; and

''(E) provide such additional analysis and production of intelligence as the President and the National Security Council may require.''.

SEC. 711. IMPROVEMENT OF ADMINISTRATION OF INTELLIGENCE ACTIVITIES.

Section 102 of the National Security Act of 1947, as amended by section 710 of this Act, is further amended by adding at the end the following:

''(g)(1) To assist the Director of Central Intelligence in carrying out the Director's responsibilities under this Act, there shall be an Assistant Director of Central Intelligence for Administration, who shall be appointed by the President, by and with the advice and consent of the Senate.

''(2) The Assistant Director for Administration shall manage such activities relating to the administration of the intelligence community as the Director of Central Intelligence shall require.''.

SEC. 712. PAY LEVEL OF ASSISTANT DIRECTORS OF CENTRAL INTELLIGENCE.

Section 5315 of title 5, United States Code, is amended by adding at the end the following:

''Assistant Directors of Central Intelligence (3).''.

SEC. 713. GENERAL COUNSEL OF THE CENTRAL INTELLIGENCE AGENCY.

(a) ESTABLISHMENT OF POSITION.—The Central Intelligence Agency Act of 1949 (50 U.S.C. 403a et seq.) is amended by adding at the end the following:

''GENERAL COUNSEL OF THE CENTRAL INTELLIGENCE AGENCY

''SEC. 20. (a) There is a General Counsel of the Central Intelligence Agency, appointed from civilian life by the President, by and with the advice and consent of the Senate.

''(b) The General Counsel is the chief legal officer of the Central Intelligence Agency.

''(c) The General Counsel of the Central Intelligence Agency shall perform such functions as the Director of Central Intelligence may prescribe.''.

(b) EXECUTIVE SCHEDULE IV PAY LEVEL.—Section 5315 of title 5, United States Code, as amended by section 712 of this Act, is further amended by adding at the end the following:

''General Counsel of the Central Intelligence Agency.''.

SEC. 714. OFFICE OF CONGRESSIONAL AFFAIRS OF THE DIRECTOR OF CENTRAL INTELLIGENCE.

Section 102 of the National Security Act of 1947, as amended by section 711 of this Act, is further amended by adding at the end the following:

''(h)(1) There is hereby established the Office of Congressional Affairs of the Director of Central Intelligence.

''(2)(A) The Office shall be headed by the Director of the Office of Congressional Affairs of the Director of Central Intelligence.

''(B) The Director of Central Intelligence may designate the Director of the Office of Congressional Affairs of the Central Intelligence Agency to serve as the Director of the Office of Congressional Affairs of the Director of Central Intelligence.

''(3) The Director shall coordinate the congressional affairs activities of the elements of the intelligence community and have such additional responsibilities as the Director of Central Intelligence may prescribe.

''(4) Nothing in the subsection may be construed to preclude the elements of the intelligence community from responding directly to requests from Congress.''.

SEC. 715. ASSISTANCE FOR LAW ENFORCEMENT AGENCIES BY INTELLIGENCE COMMUNITY.

(a) IN GENERAL.—Title I of the National Security Act of 1947 (50 U.S.C. 402 et seq.) is amended by inserting after section 105 the following new section:

''ASSISTANCE TO UNITED STATES LAW ENFORCEMENT AGENCIES

''SEC. 105A. (a) AUTHORITY TO PROVIDE ASSISTANCE.—Subject to subsection (b), elements of

the intelligence community may, upon the request of a United States law enforcement agency, collect information outside the United States about individuals who are not United States persons. Such elements may collect such information notwithstanding that the law enforcement agency intends to use the information collected for purposes of a law enforcement investigation or counterintelligence investigation.

''(b) LIMITATION ON ASSISTANCE BY ELEMENTS OF DEPARTMENT OF DEFENSE.—(1) With respect to elements within the Department of Defense, the authority in subsection (a) applies only to the National Security Agency, the National Reconnaissance Office, and the National Imagery and Mapping Agency.

''(2) Assistance provided under this section by elements of the Department of Defense may not include the direct participation of a member of the Army, Navy, Air Force, or Marine Corps in an arrest or similar activity.

''(3) Assistance may not be provided under this section by an element of the Department of Defense if the provision of such assistance will adversely affect the military preparedness of the United States.

''(4) The Secretary of Defense shall prescribe regulations governing the exercise of authority under this section by elements of the Department of Defense, including regulations relating to the protection of sources and methods in the exercise of such authority.

''(c) DEFINITIONS.—For purposes of subsection (a):

''(1) The term 'United States law enforcement agency' means any department or agency of the Federal Government that the Attorney General designates as law enforcement agency for purposes of this section.

''(2) The term 'United States person' means the following:

''(A) A United States citizen.

''(B) An alien known by the intelligence agency concerned to be a permanent resident alien.

''(C) An unincorporated association substantially composed of United States citizens or permanent resident aliens.

''(D) A corporation incorporated in the United States, except for a corporation directed and controlled by a foreign government or governments.''.

(b) CLERICAL AMENDMENT.—The table of contents in the first section of that Act is amended by inserting after the item relating to section 105 the following new item:

''Sec. 105A. Assistance to United States law enforcement agencies.''.

SEC. 716. APPOINTMENT AND EVALUATION OF OFFICIALS RESPONSIBLE FOR INTELLIGENCE-RELATED ACTIVITIES.

(a) IN GENERAL.—Section 106 of the National Security Act of 1947 (50 U.S.C. 403–6) is amended to read as follows:

''APPOINTMENT AND EVALUATION OF OFFICIALS RESPONSIBLE FOR INTELLIGENCE-RELATED ACTIVITIES

''SEC. 106. (a) CONCURRENCE OF DCI IN CERTAIN APPOINTMENTS.—(1) In the event of a vacancy in a position referred to in paragraph (2), the Secretary of Defense shall obtain the concurrence of the Director of Central Intelligence before recommending to the President an individual for appointment to the position. If the Director does not concur in the recommendation, the Secretary may make the recommendation to the President without the Director's concurrence, but shall include in the recommendation a statement that the Director does not concur in the recommendation.

''(2) Paragraph (1) applies to the following positions:

''(A) The Director of the National Security Agency.

''(B) The Director of the National Reconnaissance Office.

''(b) CONSULTATION WITH DCI IN CERTAIN APPOINTMENTS.—(1) In the event of a vacancy in a position referred to in paragraph (2), the head of the department or agency having jurisdiction over the position shall consult with the Director of Central Intelligence before appointing an individual to fill the vacancy or recommending to the President an individual to be nominated to fill the vacancy.

''(2) Paragraph (1) applies to the following positions:

''(A) The Director of the Defense Intelligence Agency.

''(B) The Assistant Secretary of State for Intelligence and Research.

''(C) The Director of the Office of Nonproliferation and National Security of the Department of Energy.

''(D) The Assistant Director, National Security Division of the Federal Bureau of Investigation.''.

(b) CLERICAL AMENDMENT.—The table of contents in the first section of that Act is amended by striking the item relating to section 106 and inserting in lieu thereof the following new item:

''Sec. 106. Appointment and evaluation of officials responsible for intelligence-related activities.''.

SEC. 717. REQUIREMENTS FOR SUBMITTAL OF BUDGET INFORMATION ON INTELLIGENCE ACTIVITIES.

(a) SUBMITTAL WITH ANNUAL BUDGET.—Notwithstanding any other provision of law, the President shall include in each budget for a fiscal year submitted under section 1105 of title 31, United States Code, the following information:

(1) The aggregate amount appropriated during the current fiscal year on all intelligence and intelligence-related activities of the United States Government.

(2) The aggregate amount requested in such budget for the fiscal year covered by the budget for all intelligence and intelligence-related activities of the United States Government.

(b) FORM OF SUBMITTAL.—The President shall submit the information required under subsection (a) in unclassified form.

SEC. 718. REPORT ON INTELLIGENCE COMMUNITY POLICY ON PROTECTING THE NATIONAL INFORMATION INFRASTRUCTURE AGAINST STRATEGIC ATTACKS.

(a) IN GENERAL.—(1) Not later than 120 days after the date of the enactment of this Act, the Director of Central Intelligence shall submit to Congress a report setting forth—

(A) the results of a review of the threats to the United States on protecting the national information infrastructure against information warfare and other non-traditional attacks; and

(B) the counterintelligence response of the Director.

(2) The report shall include a description of the plans of the intelligence community to provide intelligence support for the indications, warning, and assessment functions of the intelligence community with respect to information warfare and other non-traditional attacks by foreign nations, groups, or individuals against the national information infrastructure.

(b) DEFINITIONS.—For purposes of this section:

(1) The term ''national information infrastructure'' includes the information infrastructure of the public or private sector.

(2) The term ''intelligence community'' has the meaning given that term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

TITLE VIII—NATIONAL IMAGERY AND MAPPING AGENCY

SEC. 801. NATIONAL MISSION AND COLLECTION TASKING AUTHORITY FOR THE NATIONAL IMAGERY AND MAPPING AGENCY.

(a) IN GENERAL.—(1) Title I of the National Security Act of 1947 (50 U.S.C. 402 et seq.) is amended by adding at the end the following:

''NATIONAL MISSION AND COLLECTION TASKING AUTHORITY FOR THE NATIONAL IMAGERY AND MAPPING AGENCY

''SEC. 110. (a) NATIONAL MISSION.—The National Imagery and Mapping Agency shall have a national mission to support the imagery requirements of the Department of State, the Department of Defense, and other departments and agencies of the Federal Government. The Director of Central Intelligence shall establish requirements and priorities to govern the collection of national intelligence by the National Imagery and Mapping Agency. The Secretary of Defense and the Director of Central Intelligence, in consultation with the Chairman of the Joint Chiefs of Staff, shall jointly identify deficiencies in the capabilities of the National Imagery and Mapping Agency to accomplish assigned national missions and shall jointly develop policies and programs to review and correct such deficiencies.

''(b) COLLECTION AND TASKING AUTHORITY.—Except as otherwise agreed by the Director of Central Intelligence and the Secretary of Defense pursuant to direction provided by the President, the Director of Central Intelligence has the authority to approve collection requirements, determine collection priorities, and resolve conflicts in collection priorities levied on national imagery collection assets.''.

(2) The table of contents in the first section of that Act is amended by inserting after the item relating to section 109 the following new item:

''Sec. 110. National mission and collection tasking authority for the National Imagery and Mapping Agency.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the later of—

(1) the date of the enactment of the National Defense Authorization Act for Fiscal Year 1997; or

(2) the date of the enactment of this Act.

Mr. SPECTER. Mr. President, I ask unanimous consent that the Senate insist on its amendment to H.R. 3259 and request a conference with the House, the Chair be authorized to appoint conferees on the part of the Senate, and, finally, S. 1718 be placed back on the calendar.

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

The Presiding Officer (Mr. BROWN) appointed Mr. SPECTER, Mr. LUGAR, Mr. SHELBY, Mr. DEWINE, Mr. KYL, Mr. INHOFE, Mrs. HUTCHISON, Mr. COHEN, Mr. BROWN, Mr. KERREY, Mr. GLENN, Mr. BRYAN, Mr. GRAHAM, Mr. KERRY, Mr. BAUCUS, Mr. JOHNSTON, and Mr. ROBB, and from the Committee on Armed Services, Mr. THURMOND and Mr. NUNN conferees on the part of the Senate.

Mr. SPECTER. Mr. President, I now ask unanimous consent that the RECORD remain open for the insertion of any additional statements as any member of the committee or other Senator may wish to add.

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

Mr. SPECTER. Mr. President, as I understand the procedure, that now concludes the intelligence authorization bill, but since I am here and it has just been acted upon, I would like to make a few comments to supplement my more extended statement.

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

Mr. SPECTER. Mr. President, I believe that this legislation is a very, very significant step forward in reform of the U.S. intelligence community—candidly, not as far as we should have

gone, not as far as I would like to have gone, but a considerable distance, a significant distance in improving the intelligence community in the United States.

The intelligence community has been under considerable attack with disclosures of Aldrich Ames, with the problems in Guatemala, with many problems around the globe. And last year, at the initiative of our distinguished colleague, Senator JOHN WARNER, a commission was appointed to make recommendations on what should be done to reform the U.S. intelligence community. The commission—first headed by former Secretary of Defense Aspin, whose untimely death caused a vacancy and the need to appoint a subsequent chairman, another former Secretary of Defense, Harold Brown—came up with a comprehensive list of recommendations, and the Intelligence Committee then held extensive hearings on a subject that goes back many years.

The Intelligence Committee then submitted a program which we thought would make very major changes in the U.S. intelligence community. There was very considerable objection then raised from a number of quarters, principally by the Senate Armed Services Committee.

Finally, after very extensive negotiations, not only with the Armed Services Committee but also with the Governmental Affairs Committee and, to a lesser extent, with the Rules Committee, we have hammered out the agreement which has been presented here and has been agreed to and will now go to conference.

It had been my desire that there should have been more authority in the Director of Central Intelligence on reprogramming, more authority on concurrence on the appointment of key officials because of the general responsibility of the Director of Central Intelligence, but that was not to be.

We filed our report at an early stage, but there was a reference under the rules of referral to the Armed Services Committee which took considerable time and considerable time by the Governmental Affairs Committee, and I thank Senator WARNER for not taking time in the Rules Committee.

We find ourselves, as we frequently do in the legislative process, very close to the end of the session, not with sufficient time to bring the matter to the floor and to debate the issues of reprogramming or concurrence or appointments or many other issues, so we have had to make an accommodation to have the bill handled by unanimous consent in the course of a few minutes as we have already done earlier today. Senator KERREY, my distinguished vice chairman, and I have agreed to this because, as I say, this is a significant step forward. We want to go to conference. We want to get these provisions accepted and placed into law even though a great deal more should have been done.

This bill contains very significant provisions on economic espionage, contains a very significant provision on a commission to be established to streamline the Federal Government on our handling of weapons of mass destruction. Some 96 different agencies now touch that issue. There is not centralized command. And those are very, very important matters.

An interest which I had pursued, to try to give greater authority to the Director of Central Intelligence, has come into the spotlight with the terrorist attack on Khobar Towers on June 25 of this year, and the allegation by the Secretary of Defense, in a July 9 hearing in the Senate Armed Services Committee, that there was intelligence failure, which I think was an incorrect assertion. The staff of the Intelligence Committee—and I emphasize ''the staff'' and not the full Intelligence Committee—but the staff prepared a report which was released last Thursday with my conclusions in my capacity as chairman of the Intelligence Committee, but again not the full committee, but my individual conclusions that there was not an intelligence failure.

Then yesterday we had the report of the Downing task force which took to task the Pentagon as well as the local field commanders. I personally visited Khobar Towers last month, and on viewing Khobar Towers and seeing a fence only 60 feet from these high-rise apartments, which house thousands of our airmen, 19 of whom were killed and hundreds of whom were injured, it was apparent to me, in the face of the many intelligence reports which had been received, that there was not an intelligence failure and that there was in fact a failure by the military, going to the Pentagon and the highest levels of the Pentagon, on failing to act to protect our airmen.

The conclusions yesterday of the Downing task force, as featured in the Associated Press reports, faulted the Pentagon, as well as the local commanders, for what had been done. I make comment of this at this time because I believe this ties into the reform of the intelligence community to have a Director of Central Intelligence who collects all of the information and could, in effect, rattle the cages, where necessary, to call attention to the top Pentagon officials, including the Secretary and the Chairman of the Joint Chiefs of Staff, about the need for greater protection of our forces. We have not gone that far, and we have not accomplished that. I make these comments in the context of what had occurred on June 25 and what happened just yesterday with the filing of the Downing committee report.

But I have talked to my colleagues about where we stand now, and the sentiments have been expressed that we will have a chance to further improve the intelligence community at a later date. But that remains, to some substantial extent, unfinished business, as we have unfinished business as to how we handle not only intelligence but force protection around the United States.

But this is a significant step forward. This is the very best we could do. Those who do not know the interworkings of the Senate might be interested to know that any one Senator can tie up this bill. A number of Senators interposed objections, which we had to work through laboriously to get this bill to the stage where it is now where it has been passed.

I thank my distinguished colleague, Senator KERREY from Nebraska, who has done an extraordinary job in many things over many years, but especially on the Senate Intelligence Committee. As we have worked together, we have had some tough times, especially as the election grows nearer. We have kept the Intelligence Committee working on a bipartisan, nonpartisan basis. I think it is indispensable on a committee of this sort that the chairman and the vice chairman and really members on both sides of the aisle work very closely to keep partisan politics out of it. Senator KERREY and I have worked laboriously at that and I think we have succeeded, notwithstanding the fact that we face some very, very difficult issues and continue to face difficult issues as we work to complete quite a number of projects which yet remain undone.

I would like to single out for special praise—this is always a delicate matter—some key staffers, Charles Battaglia, who is the staff director, and Chris Straub, who is the staff director for the Democrats, the minority staff director, for the extraordinary work which they have done on the nights, Saturdays, Sundays, you name it; and for general counsel, Suzanne Spaulding, and for Ed Levine, who has been a powerhouse in drafting very complex reports. I thank the Chair, and I note the presence of my colleague, Senator PELL. I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. PELL. I thank my colleague and friend for yielding at this time.

IT IS TIME TO DEBUNK THE DANGEROUS MYTHS ABOUT THE UNITED NATIONS

Mr. PELL. Mr. President, today the U.N. General Assembly will convene its 51st session. This occasion has particular meaning for me because 51 years ago I had the honor of serving on the International Secretariat of the San Francisco Conference that drew up the United Nations' charter. In 1970, I was privileged to serve as a Representative of the United States to the 25th session of the General Assembly of the United Nations. This year I have been honored again with my nomination by President Clinton and confirmation by my Senate colleagues to be a representative of the United States to the 51st session of the United Nations General Assembly.

Having been present at the United Nations' creation and observed its work over the last 50 years, I strongly believe in the need for such a body and in the principles upon which it was founded. While I have applauded and participated in efforts to amend and improve the organization, I would argue that these last 51 years have witnessed an impressive record of achievement. Though it has not always lived up to all the expectations of its founders, the United Nations has irrevocably changed the world in which we live. Despite the obstacles posed by the politics of the cold war, I can think of numerous examples where the United Nations succeeded in promoting international peace and security—in Namibia, El Salvador, Cambodia, and countless other countries. Whether brokering peaceful settlements to violent conflicts, halting the proliferation of nuclear weapons, protecting the international environment, or immunizing children from disease, the United Nations has made the world a safer place. Clearly, if the United Nations did not exist today, we would have to invent it.

I am therefore troubled by the increasingly violent attacks on this important institution—in Congress, the press, and other public fora. These attacks seem symptomatic of a broader and dangerous tendency to seek to retreat from our international commitments and obligations. Revolutionary changes in communications, transportation, capital flows, and the nature of warfare have irreversibly linked our fate with that of the rest of the world. Today, there is no ocean wide enough—nor border fence we could build that would be high enough—to keep out an often turbulent world.

Rather than abandoning our role as part of the international community, we should endeavor to expand and improve cooperation with those states that share our values in order to address our common problems. The United Nations offers a valuable forum for such cooperation.

With this in mind, I would like to use this opportunity to address three of the more dangerous myths that have been propagated recently regarding the United Nations:

The first of these myths is that the United Nations somehow threatens American sovereignty. Critics of the United Nations have often depicted the organization as a nascent world government eager to supplant the nation-state. In fact, the United Nations more accurately resembles an unruly debating club, where members control and vote on its activities. Moreover, the United Nations charter clearly states that resolutions of the General Assembly are non-binding on member states. In similar fashion, United Nations conventions only apply to nations that elect to ratify them. The one United Nations body in which decisions could be binding upon member-states is the Security Council, where the United States and other permanent members enjoy veto power. Because of these institutional checks, the United Nations usually must struggle to achieve enough of a consensus to make action possible. In no way could one mistake this organization for an out-of-control bureaucracy trampling upon the prerogatives of nation-states.

A second myth about the United Nations is that it does not serve American interests. In the most extreme version of this myth, critics imagine that the United States always fares worse when it acts multilaterally, than when it goes it alone. In fact, given that many of today's most pressing problems—be it crime, disease, environmental degradation, terrorism, or currency crises—transcend national boundaries, there is much to be gained from forging common solutions to common problems.

The end of the artificial divisions of the cold war has presented the United States with an extraordinary opportunity to use the United Nations to advance its foreign policy goals. In the last U.N. session, members of the General Assembly voted with the United States 88.2 percent of the time; 91 percent of Security Council resolutions were adopted unanimously. The United Nations has enabled the United States to avoid unilateral responsibility for costly and entangling activities in regions of critical importance, even as it yields to the United States a position of tremendous authority. To paraphrase former Secretary of State James Baker, U.N. peacekeeping is a pretty good bargain. For every dollar the United States spends on peacekeeping, it saves many more dollars by preventing conflicts in which it might otherwise have to become involved.

From a cost-benefit perspective, U.S. contributions to the United Nations and its agencies have been a very worthwhile investment. In addition to the American lives and dollars saved by U.N. peacekeeping missions, other U.N. agencies have worked to prevent disaster and death and to promote health and security both here in the United States and abroad. In 1977, the World Health Organization [WHO] averted an estimated 2 million deaths per year by eradicating smallpox. Today, WHO's children immunization program saves an estimated 3 million lives every year. In 1992, during a severe drought in Africa, the Food and Agriculture Organization and the World Food Programme saved an estimated 20 million people from starvation. And in this last week, the U.N. General Assembly overwhelmingly adopted the Comprehensive Test Ban Treaty, which will contribute to the security and well-being of generations of peoples to come.

Which brings me to the third myth: that U.S. participation in the United Nations is ruinously expensive. In fact, in fiscal year 1996, the United States' assessed and voluntary contributions to the U.N. system totaled $1.51 billion. That includes $304 million for the U.N. general budget, $359 million for peacekeeping operations, $7 million for war crimes tribunals, $337 million in assessments to the United Nations' specialized agencies, and $501 million in voluntary contributions to programs such as UNICEF and other programs that the United States has treaty obligations to support. This total American contribution represented less than half of 1 percent of the current defense budget; that allotted for peacekeeping less than the annual budget of the New York City police force.

On a per capita basis, the annual U.S. contribution to the U.N. regular budget breaks down to slightly more than $1 per American. This is considerably less than what most other people in the world pay. For example, the per capita contribution of the U.N.'s newest member state, Palau, is over $6 per person. Clearly, the American taxpayer is getting a good deal for his money.

Of course there is certainly room for further economies. Like many large organizations, the United Nations could be leaner, more efficient, and more responsive. But rather than eviscerating one of the key institutional underpinnings of the present international order by starving it of funds, we should work patiently but determinedly with like-minded states and with the U.N. Secretariat to reform and to improve it. I am heartened by the consensus among such strong advocates for U.N. reform as former Ambassador Jeane Kirkpatrick and former Assistant Secretary of State John Bolton that the U.S. benefits greatly from its membership in the United Nations. I also agree with them that a U.S. withdrawal from the United Nations would be contrary to our national interests.

How we go about the task of reforming the United Nations will say a lot about the prospects for American leadership in the twenty-first century. As after World War II, the United States faces a decisive challenge: whether to maintain the mantle of international leadership and stay engaged in the creation of a new international order, or to seek to retreat into isolationism. The latter course is an even more dangerous option today than it would have been 51 years ago. Only through international engagement and assertive leadership can America hope to prosper and safeguard its security in the next century. The United Nations can serve as an important vehicle for advancing these vital national interests.

THE RIGHT TO SAY NO

Mr. BAUCUS. Mr. President, I rise to make a short statement on my strong disappointment that the energy and water conference report does not include the Senate-passed amendment giving the States and the cities the right to say no to the importation of out-of-State garbage.

I must say, and I think you remember, Mr. President, this is not a new

issue. This has been around since 1989. Essentially, it is a battle between those States who want to export their trash to another State and those States on the receiving end who do not want it.

Not long ago in my State, the city of Miles City faced a prospect that was practically a Noah's flood of garbage imports. Fortunately, that plan fell through, but the really crazy and humiliating part of it all was that the 5,000 citizens of Miles City could only sit and wait. They had no say at all and no way to stop the waste from coming in. Why? Very simply, because the Supreme Court has struck down attempts by States to limit importation of garbage, saying it violates the commerce clause of the Constitution. So we in the Congress have to act and pass Federal legislation that enables States and enables local communities to say no.

It is obviously wrong, Mr. President. It is unfair for any city, whether Miles City or any other city in the United States, to not have the right to say no to garbage coming into their State. As you recall, we in the Senate have done our part. Way back in May of 1995, we passed a bill to let Montana and other States say no to the importation of out-of-State garbage. The House of Representatives, however, has a different story. They have stalled. They have stalled on any action in this measure for a couple of years.

I say that the people of Montana, the people of Pennsylvania, Indiana, Michigan, Ohio, and other States affected by the deluge of garbage coming into their States cannot afford to wait any longer. They are anxious. They are concerned. They feel the Government ought to be able to do something to address this situation. Some of these States are already importing millions of tons of garbage, and they do not want to import more.

Now it appears that New York City may add 10,000 tons or more of trash every day—10,000 tons of trash every day—when it closes its Fresh Kills landfill on the outskirts of New York City. That should drive home to everyone, and especially the House, how important it is to act and to act quickly.

We talk a lot around here about local control, about letting States decide their own destiny, letting local communities decide their own destiny. By saying no to the Senate amendment on this conference report, the House is preventing the people from controlling their own destiny. By saying no, States cannot stop out-of-State garbage from being dumped in their own backyard.

Obviously, the Senate bill we passed is not perfect. It is a compromise. It is a compromise between the importing States that take garbage and do not want the garbage and the exporting States that, frankly, want to export more. It is a compromise. It is a compromise we can live with.

Now, the House, apparently, does not want to act. It is not compromising. I say the House should pass something which at least they think makes sense for them. That way, we can work another compromise that is between the House and the Senate, and we can finally solve this problem—it is not the perfect way, but in a way that generally resolves the problems so that today more local communities can say no to the importation of garbage coming into their States. That is only fair. I ask the House to act quickly.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1997

The PRESIDING OFFICER. Under the previous order, the hour of 11 a.m. having arrived, the Senate will resume consideration of H.R. 3662, which the clerk will report.

The bill clerk read as follows:

A bill (H.R. 3662) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1997, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Pressler Amendment No. 5351, to promote the livestock industry.

Bumpers modified amendment No. 5353 (to committee amendment on page 25, line 4 through line 10), to increase the fee charged for domestic livestock grazing on public rangelands.

AMENDMENT NO. 5353, AS MODIFIED

Mr. GORTON. Mr. President, it is my understanding that we have now resumed consideration of the Bumpers-Gregg amendment?

The PRESIDING OFFICER. The Senator is correct.

Mr. GORTON. Between now and 12:30, while we are on the Bumpers-Gregg amendment relating to grazing fees, I believe that that amendment was debated thoroughly yesterday afternoon. In addition, there will be 20 minutes equally divided on the amendment after we reconvene following the party luncheons before our vote on that amendment.

As a consequence, Mr. President, I suspect that there is time between now and 12:30 to deal with any other amendments that Members of the Senate may wish to propound. There are some 25 or 30, at least, amendments that are relevant to this bill on which the managers have been notified. Probably half or more of them can be accepted in their present form or another form can be worked out.

So all Senators who are within hearing of these proceedings can be on notice that this may be a particularly convenient time in which to bring such amendments to the floor and to have them considered.

With that, and until we have some business to do, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

IMMIGRATION

Mr. KENNEDY. Mr. President, just a few moments ago the Democratic conferees that had intended to meet in conference between the House and the Senate to consider the immigration bill were notified that conference was indefinitely postponed. No time was established when there might be a follow-up conference.

The issues of illegal immigration are of enormous importance to this country. There are a number of States that are directly impacted by illegal immigration, but the problems of illegal immigration also affect just about every State in this country in one form or another. There has been considerable discussion and debate about what policies we ought to follow to address the issues of illegal immigration.

For a number of years, we have had special commissions that were set up by the Congress to look at various immigration issues. We had the Hesburgh Commission. The commission was bipartisan in nature and made a series of recommendations both with regard to legal and illegal immigration. The Congress acted on both of the recommendations.

Subsequently, because of the enormous flow of illegal immigrants coming to the United States, the Hesburgh Commission called for the United States to respond to the problem. After all, it is a function of our National Government to deal with protection of the borders, and also to guard the borders themselves. This area of public policy presented an extremely important responsibility for national policymakers.

Beginning just about 2 years ago my colleague and friend, the Senator from Wyoming became the Chair of the Immigration Subcommittee. I have enjoyed working with him on immigration—we have agreed on many, many different items; we differ on some issues, and some we have had the good opportunity to debate on the floor of the Senate on various occasions.

In fact, we agreed on many of the provisions in the Senate immigration bill. I welcomed the opportunity to support the legislation which passed overwhelmingly—97 to 3. Although the legislation was not perfect, it represented a bipartisan effort to try to

deal with the problem of illegal immigration. I can remember how Chairman SIMPSON dealt with the issues over a year ago when the Jordan Commission was winding up their consideration of illegal immigration issues. There were many who felt we ought to rush to judgment. That we ought to provide amendments on different pieces of legislation. Senator SIMPSON said, ''No; we are going to follow a process and a procedure.'' He spoke as a senior legislator and as someone who has provided important leadership on the issues of immigration.

So we consulted the Judiciary Subcommittee on Immigration and later the full Judiciary Committee, and we consulted with the Jordan Commission. We had extensive hearings. We moved through the process of markup. In the markup itself Senator SIMPSON took the time to visit the members of the committee, Republican and Democrat alike, to find their principal areas of concern—to see if we could find common ground. Then, in the best traditions of legislating, we had a series of days of markups. I daresay the participation of Republican and Democrat alike in those markups was enormously impressive. I do not think there is a member of that committee on any side of any issue who does not feel they were given a full opportunity to make the presentation of their concerns and to engage in a dialog, discussion and debate. We had a fair hearing of every issue—conducted under the chairmanship of Senator HATCH. I believe the entire process took 9 days. They were full days. We did it section by section of the legislation, with notification so members would have an idea which areas were going to be addressed each day. This was really in the best traditions of legislating.

We moved forward, passed the bill out of the Judiciary Committee, and had extensive debate here on the floor of the Senate. It took a number of days, I believe 7 or 8 days. Sometimes the debate was tied up on the issues of minimum wage. By and large, the discussion focused on the issues of illegal immigration. Then we had the rollcall vote. As I mentioned earlier, rarely do we have a matter of this importance pass by a margin of 97 to 3 in the U.S. Senate. Especially involving an issue on which Senators have many different opinions.

Then something happened, Mr. President. We had the appointment of conferees in the Senate, Republican and Democrat, but the Democratic conferees were never invited to participate in pre-conference negotiations with our Republican colleagues. There were only negotiations between the Republicans in the House of Representatives and the Republicans in the Senate. It has only been in the last few days that the House Democrats were actually appointed. It was only in the last few days that they were able to obtain the legislation itself. And before the Democrats could find out what was in the bill the Republicans drafted, the Democrats had to threaten parliamentary maneuvers in the House.

Nonetheless, we were notified we were going to have the conference meeting today at noon; that we were going to have a conference, break for the leadership meetings and then go back and resume the conference. There was a clear anticipation that action would occur on the conference report. I had hoped we would be able to revisit some of the items. We had tried to work together with members of the conference who were interested in some of these issues that were not necessarily partisan to see if we would at least have an opportunity for a brief debate on some of those. I think we were prepared to have that discussion and debate and to raise those issues. The most important of all of the issues, of course, is the Gallegly amendment, and whether we, as a public policy, are going to dismiss from the public schools of this country those children who may be the sons and daughters of illegal immigrants. The Gallegly provision is strongly opposed by the law enforcement officials and by teachers, who do not become teachers only to be turned into a truant officer who turns in names of suspected illegal immigrant children to INS. There were a number of other important issues in the Republican conference report, which I will mention in a few moments.

Then we were notified just a few moments ago that our Republican friends are in disarray about what their position is with regard to the Gallegly amendment, and that there is no consensus. Even right now, since we have been notified that this conference is postponed, there is no effort to try to include Democrats in the conference, or to talk about issues of concern to us. There is still no effort, even at this late date, to craft legislation that would deal with a central concern of the people of this country, and that is the growth of illegal immigration. The Republican conferees still have not allowed us to address in a bipartisan way what this conference report means in terms of job loss for American workers, what it means in terms of crowded schools, and what it means for the challenges that we are facing on the borders, with all of the complex social and economic criminal elements associated with it. These are complex issues that the Democratic Members want to address and come to some conclusion on.

Now we are notified that we still do not have an opportunity to resolve these issues in a bipartisan way. The conference is postponed again, but the Republicans say they somehow going to get together again. I now understand the power of the majority in being able to push legislation through. Certainly, they do in the House of Representatives. They are able to have the power to jam legislation through there. It is more difficult in the Senate. Although a conference report is a privileged item, nonetheless, what we find is, rather than just sitting down and discussing it in an open kind of forum, where the public would be invited to at least observe and to understand the public policy issues that are being debated, there are negotiations taking place not with the Members of the Congress and Senate that have to vote on the legislation, not with the Members of the House and Senate who have worked to try to be constructive and who have supported the legislation here in the U.S. Senate the last time that we came—oh, no, the negotiation is taking place with the Dole campaign officials—the Dole campaign officials. They are the ones that are negotiating with the Republican leadership on the shape of the immigration bill.

The stories have been out there of the meetings that took place last week and the positions of candidate Dole, who wants, evidently, the Gallegly amendment included in the final immigration bill, and others within the Republican Party do not want to have that. It is tied up, I dare suggest. It is always a concern to speculate on what the motivations of other people are. But, it is increasingly apparent to many of us that the Republicans want to make very difficult for the Members to deal in a bipartisan way with the issue of illegal immigration. It seems they either want the President to veto the legislation, or let it die in the Senate in the final hours of the Congress while Republicans and Democrats alike express their dislike of the Gallegly provisions.

So then there might be the opportunity for those to say, look what has happened on the important issue of illegal immigration; we were not able to get the bill to the President. The Republican side says that if they take the Gallegly amendment out, the bill may well go through the Senate of the United States and House of Representatives, and the President might sign it and get some credit for it. He might get some credit for the bill in California in an important election year.

Now, Mr. President, I don't think I am far off from the facts with that kind of a speculation, particularly when we find that about the inability of Republican leadership to try and bring forth a conference report that reflects agreement among Republicans. The American people can say, well, if we can get a good bill, why don't we do it? Do we always have to include the Democrats in it? The fact of the matter is, we have supported illegal immigration proposals. We are interested in this issue of illegal immigration. It is an issue for the Nation to deal with, but it is also a matter which has a dramatic impact on the lives of workers in this country, because when they find out that unscrupulous employers are going to hire illegals and pay them less than their American counterparts, it has a dampening affect on wages for American workers. That has been debated and discussed, and we have various studies in the RECORD. But it is

pretty self-evident that one of the principal factors of holding down wages in our country is the fact of illegal immigrants taking jobs here in the United States.

Was it so unworthy that we would try, in dealing with the problems of illegals. We must recognize that of the million and a half people that come into the United States illegally each year, about 350,000 remain in the United States. Get this: Of the workers that come here and remain here as illegal workers, half of them came to the United States legally, and overstayed their visas. No amount of border enforcement can deal with them. But they are still taking American jobs, and they are continuing to depress the wages of American workers. The only way you are going to get to these illegal workers is in the workplace. As the Jordan Commission pointed out, the most likely employers that hire illegals are also the ones that do not respect the fair standards for workers and the working conditions for American workers.

We find that in regions of the country where you have the exploitation of workers, you find, by and large, the greatest numbers of those employers that hire the illegals. Now, in the Senate bill we added 350 labor inspectors to find employers who violate our labor laws by hiring illegal immigrants. That is a 50-percent increase in the amount of inspectors the Department of Labor currently has. What happened to that provision? It has been eliminated by the Republicans. It has been cut out of the conference. It has been absolutely cut out of the conference report.

One of the important provisions that we debated in the Senate was the development of various pilot programs to verify the eligibility of people to work in the United States. We had Senate provisions crafted to test what pilot program would work most effectively, so we can help employers make sure they are able to hire without the fear of discriminating against American workers. Well, what happened with that language? We had good pilot programs. But they were dropped. And a different series of programs—and many of us question the effectiveness of their results—are authorized. Many would say that the Republican conferees eliminated the Senate pilot programs under the weight and pressure of the business community and unscrupulous employers, so they do not have to face the problems of dealing with hiring illegals.

And then, of course, there are the provisions in the law that undermine, in a very dramatic way, provisions placed in the Senate bill by Senator SIMPSON dealing with breeder documents—the birth certificates and drivers licenses. This was controversial issue on the Senate floor. But, we debated it in a bipartisan way. Now, they too have been changed.

One of the principal reasons breeder documents are so essential to the control of illegal immigration is that the breeder document is the fundamental document to establish eligibility to work in the United States. We need to cut back on the forgery taking place. What do we find out from that? That provision has been emasculated. It says tamper-resistant birth certificates will only be required for future births, which means that we are going to have this problem for 30 or 40 years, while the next generation begins to grow up and go into the job market. The conference report has made a sham out of true reform on this issue.

It effectively emasculated those very, very important provisions that had been included with the leadership of Senator SIMPSON. And I think those were tough, difficult provisions for him to adopt and accept. But, nonetheless, it was a very, very key element to controlling illegal immigration.

We also understand from the Republican conference report, that for the first time in the history of American immigration law, if you are a worker working 40 hours a week for 52 weeks of the year, you have a very good chance you will not make enough income to bring in your wife, or your husband, or your child. For first time in American immigration, they set a standard of what your income is going to have to be in order to bring in a spouse, or a small child. The standard is even higher for other members of the family.

So the conference report says, if you have the resources, if you are wealthy, you are going to have the open opportunity to bring in your wife, your kids, your brothers, or your sisters, or your grandparents, but not if you are a member of the working class.

This conference report is three strikes and you are out in terms of protecting American workers. They lose protection in the workplace because the Republicans struck the provisions to provide protection for American jobs. They lose the protections that would come out of the pilot programs to protect American workers—and we are talking about American workers—that may trace their ancestry to different parts of the world. But because of the color of their skin, or their accent, or their appearance, they are the subjects of discrimination. Discrimination which we know exists because GAO has documented it in the past. We are interested in trying to deal with illegal immigration; those who are going to be a burden on the American taxpayer. But we are also interested in trying to protect American workers. And these are the provisions that would have helped to protect American workers, and these are the provisions which have been changed or removed altogether.

Mr. President, we had an excellent meeting just a short while ago with a number of our Democratic colleagues from the House and the Senate. We reviewed some of the problems we have with this legislation. I will try and include as part of a general statement their comments. Congressman BECERRA talked about the additional kinds of burdens needy legal immigrants are going to face under this legislation. Senator LEAHY's excellent presentation on summary exclusion pointed out that summary exclusion was a good name for his amendment because so many of the Members of the House and Senate have been summarily excluded from any of the conference considerations. But he has reminded us of what would happen to those that have a very legitimate fear of persecution and death coming here under the procedures which have been accepted into this legislation despite the fact that the Justice Department in this administration has doubled the number of deportations. Congressman FRANK and Senator SIMON talked about the changes in the test for following proving discrimination in the workplace. Under the conference report, you must prove discrimination by an intent test rather than the effects test. They talked about how that will complicate enforcement and make it exceedingly more difficult to hold any employer liable even if they had a pattern or practice of discrimination; Congressman RICHARDSON, HOWARD BERMAN, ZOE LOFGREN of California; and others, including Congressman BRYANT—the ranking member of the House Immigration Subcommittee.

They talked about the different aspects of this conference. Most, if not all, supported the original legislation. We are deeply disappointed in the process and the conference report. It has been four months since we passed the immigration bill in both the House and the Senate. In the Senate we voted in early May, and now it is going into the backside of September. We voted on this issue. And we have the cancellation of the conference. The Senate conferees were appointed right away in May. Now 4 months later, nothing.

Now we hear they are cooking up yet another version of the Gallegly amendment.

Mr. President, this demonstrates that the Republicans really are not serious about dealing with illegal immigration. They want a campaign issue, not a bill. If they were serious, the conference would be meeting now with bipartisan input. And with the challenge to all of the Members of the House and the Senate—Republicans and Democrats—can we get a bill that is going to deal with the problems of illegal immigration?

Illegal immigration is a problem. We are committed, as the vote in the U.S. Senate showed, to trying to do something about it. It is not too late to do something about illegal immigration. But as long as our Republican friends are going to continue to meet behind the closed doors, refusing to let the sunshine in, I fear for what eventually will come out of it.

It is a real, great disservice to the American people and to this institution that we are in this situation. But

we will be resolute. We still are strongly committed to trying to get legislation that is responsible and that will be effective. We still await any opportunity that might come up to try to offer whatever judgments that we might have that can move this process forward in a way which would deserve strong bipartisan support for this legislation.

It is a complex and a difficult issue. But there is no reason in the world that we can't do it, and do it before the end of this session. But to do so, we have to have the doors and windows opened up for the public's involvement.

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

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

RECESS

Mr. GORTON. Mr. President, obviously, we are not going to be able to do any more business between now and the scheduled recess for the two parties to meet. As a consequence, I ask unanimous consent that the recess scheduled to begin at 12:30 begin immediately.

There being no objection, the Senate, at 12:19 p.m., recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. SANTORUM).

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1997

The Senate continued with the consideration of the bill.

AMENDMENT NO. 5353, AS MODIFIED

The PRESIDING OFFICER. Under the previous order, there will be 20 minutes equally divided remaining prior to a motion to table the Bumpers amendment.

The Senator from Arkansas.

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

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

Mr. BUMPERS. Mr. President, let me explain to my colleagues the difference between this amendment and my amendment that you voted on earlier this year. In March, I offered an amendment that increased the Federal grazing fee for all permittees and those who controlled more than 2,000 animal unit months paid a higher fee. This amendment is different. I have raised the ante to provide that, unless a permittee controls 5,000 animal unit months, he is totally unaffected by my amendment. In fact, any permittee who controls less than 5,000 animal unit months pays the present grazing fee.

Let me go back. What is an animal unit month? When you lease lands to graze cattle on Federal lands, you lease it by what is called an AUM, or animal unit month. That is the amount of grass it takes to feed one cow and her calf for 1 month. Some ranchers, for example those in southern Arizona and New Mexico, graze 12 months a year. However, most of the permittees only graze 4 or 5 months because there is not any grass in the winter months. So you can calculate, based on the current rate of $1.35 an AUM, how much a permittee is paying.

Why is this important? It is not the money. It is the principle. Mr. President, grazing occurs on 270 million acres of our Forest Service and Bureau of Land Management lands, all Federal lands belonging to the taxpayers of this country—270 million acres. 97 percent of the people who hold grazing permits on those 270 million acres, and there are 22,350 total operators, are unaffected by the Bumpers amendment. Even the other 3 percent, who are the really big boys, are unaffected on the first 5,000 AUM's.

In other words, if you have 6,000 AUM's on your permit, for the first 5,000 you would pay the same rate you are paying right now, but on the extra 1,000 you pay whatever rate you would have to pay if you leased State lands in that particular State where the lands lie.

What does that amount to? It means, for example, that the average on State lands is $5.58. In Colorado the rate is $4.04. So you pay the difference in Colorado lands for every AUM over 5,000, and you would pay $4.04.

Who are these people? Who are these 3 percent that have these AUM's? I will show you. I want you to bear in mind we passed a rather harsh welfare bill here just recently. The poorest of the poor in this country took it on the chin, and yet here is the biggest corporate welfare ripoff going on in America.

Who are these people that have more than 5,000 AUM's? And can they afford to pay more? If they lease State lands, they pay $5.58. If they lease private lands they have to pay $11.20. If they lease Federal lands it is $1.35. Can they afford it? Here is Zenchiku, a Japanese corporation, 40,000 acres, 6,000 AUM's. Newmont Mining Co., the biggest gold mining company in the world, 12,000 AUM's. William Hewlett of Hewlett-Packard, 100,000 acres and 9,000 AUM's. Anheuser-Busch, one of the 80 biggest corporations in America, 8,000 AUM's. So I ask you, can these people—J.R. Simplot, in Idaho, an Idaho billionaire, a multibillionaire that controls 50,000 AUM's. Can Mr. Simplot, who is worth billions, afford to pay maybe $2.50 more for all his cows above 5,000?

Mr. President, this national ripoff has been going on for almost 50 years. In March the offer I made to the Senate was anything above 2,000 AUM's, and I lost by three votes. So yesterday I amended my amendment to make it 5,000 hoping I could at least cause three people to change their minds about this. It is a terrible thing for us to continue to allow.

The PRESIDING OFFICER. The Senator's 6 minutes has expired.

Mr. BUMPERS. Mr. President, I reserve the balance of my time.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I believe Senator CRAIG will be down here shortly. I ask that the Chair inform me when I have used 5 minutes, if you would, please, Mr. President.

Mr. President, first of all, there are very different ways in which the public domain is used from the standpoint of grazing permits. It happens in a State like mine we have 5,000 permittees. The overwhelming number are small ranchers. And they use, for the most part, the public domain for 12 months out of the year.

So the amendment that Senator BUMPERS is talking about uses this big number, 5,000 animal unit months, which is really about 400 head of cattle if you graze on the public domain for 12 months out of the year. So it sounds like a monster, but in States like mine it is a relatively modest cattle ranching operation.

Second, to say to those who ranch on the Federal land, ''You may be asked to pay the same as the State fee for this land,'' not only invites a fee schedule that is different from State to State, but the State leases its land on completely different rules than the Federal Government.

Yesterday, in a few minutes on the floor, I suggested that if the distinguished Senator from Arkansas would like to make the public domain in a sovereign State subject to the same inhibitions and/or restrictions that the State land has, then maybe some consideration might be given to charging a State fee.

Let me give you a major example. In one of the States, the State land cannot be used for anything other than grazing, if you lease it for grazing, everyone else is denied access to that land. You cannot get on it for recreation. You cannot get on it for hunting and fishing. But we have decided on the public domain that we lease our land under completely different conditions. We lease for grazing, and it is still open to hunting and fishing and to the building of habitat for wild game and for fish.

So the argument that there is some kind of advantage and some kind of reality and some kind of logic to saying, let us charge what the State's charge is, ignores the fact that the State leases its land under completely different rules, regulations, conditions, and inhibitions.

Additionally, we do not need two sets of fees. We do not need a fee for the rancher in northern New Mexico who has 200 head of cattle and up the road

for somebody who has 600 head of cattle a different fee schedule. That is subject to manipulation. Even the Department of the Interior, when we suggested it before, said it will not work to have two separate sets of fees. I am not here defending large versus small, but clearly, we do not need that. I gave some examples yesterday of how that might work. It would come out with very large corporations being able to pay the lower fee and very small, independent operators with 450 head having to pay a higher fee.

Last, but not least, an amendment comparable to this was introduced last year. It failed. We took a comprehensive bill to the House. That bill changes some of the rules and regulations and increases the fee about 40 percent. We believe you need to change the rules and regulations before you increase the fees. That is pending between the House and the Senate. And to come along on an Interior appropriations bill and change the fee schedule, as recommended, does not seem to this Senator to be the thing to do at this time.

So when the time is up, I will move, on behalf of all of those who have supported the grazing reform and the defeat of a similar amendment, I will move to table it. I hope that the Senate will respond by letting this matter lie where it is, an argument now between the House and the Senate on a comprehensive reform bill which also will provide for very significant increases in grazing fees. I yield the floor.

Mr. HATCH. Mr. President, I rise today to express my opposition to the Bumpers amendment to raise grazing fees on public lands. The future of many livestock producers in Utah and elsewhere in the country is threatened by this amendment.

I am not aware of any cattle producers in Utah who will be making a profit this year. At the same time as Utah ranchers are facing dismally low prices for their cattle, they have been hit with a devastating drought. On top of this, economic conditions in Canada and Mexico have flooded our United States market with their cattle.

Ranchers who have grazed these lands for generations are being forced to pull up their stakes and close up shop. With the cattle industry in such bad shape, many agricultural lenders, aware of the possibility of increased grazing fees on public lands, have become increasingly unwilling to lend to livestock producers. An increase in grazing fees now could be devastating.

This amendment would exempt ranchers from higher fees who have permits for fewer than 5,000 AUM's, or animal unit months. Animals are numbered and accounted for by animal unit months. An AUM represents a unit of forage that is normally consumed by one cow and her calf or five sheep over a 1-month period. Unlike many States, Utah public lands are grazed in the summer and the winter. A rancher owning as few as 500 head of cattle and grazing them for 10 months would need 5,000 AUM's. Such a rancher would be subject to these higher fees. Especially hard hit by this amendment would be Utah's beleaguered sheep grazers, a large proportion of whom would be faced with these higher fees.

Grazing fee increases will accomplish little more than to drive many family ranchers out of business. Of course, some private land owners charge more than the Federal Government for grazing on their lands. Private owners provide services which public lands do not. The Federal Government does not stock water ponds, provide fences, or provide roads. Ranchers using the public lands must provide these things for themselves at their own expense.

Mr. President, this amendment will not result in increased revenue from public lands. It will more than likely decrease revenue as ranchers who can no longer afford to use public lands find other options or go out of business.

I might add, Mr. President, that there are few other options for grazing land in Utah. The BLM controls 22 million acres of land in our State. The Federal Government controls 70 percent of our State.

Mr. President, I urge my colleagues to vote to maintain what is not only an important part of our Western heritage, but an important sector of the economy of many Western States. The next time my colleagues sit down to a nice juicy steak or to a hamburger with their kids at the local fast food restaurant, I hope my colleagues will remember that some rancher worked hard to produce it and may have even lost money for this effort.

Mr. President, I urge my colleagues in the Senate to oppose the Bumpers amendment.

Mr. SIMPSON. Mr. President, I have certainly enjoyed over the years the spirited debates in which I have engaged with my good friend from the State of Arkansas. He is a most passionate and articulate representative of his constituents and he is certainly a credit to them. In the debate over raising grazing fees on ranchers who use the public lands, however, I find myself pining for a new subject. We have oft been down this road before. We have heard it all; about how those rotten billionaire ranchers are ripping off the American people; about how they are overgrazing and ruining the lands; about how we should have a progressive fee system that would hit some ranchers hard and leave others alone; about the inequity of rates charged for Federal versus State lands. It is all ''old hat.''

Mr. President, I commend Senators THOMAS, CRAIG, DOMENICI, BURNS and all the others who have spoken out against this poor idea. I would be hard pressed to express my objections more cogently than they have done. Let me just underline a few concerns that those of us from Western States share with regard to this issue.

And these concerns are many. Indeed, I dare say that I cannot see one virtue in this amendment. To begin with, let there be no doubt about it: This amendment is not an effort to inject fairness into public lands grazing. Rather, this is the effort of interests who want nothing more than to get private ranchers off of public lands. ''Cattle free in 93'' was the clarion call during the last Presidential election of those who hold this view. Fairness? What is fair about it? As my good friend and colleague from the State of Idaho has pointed out, if it is fairness this amendment is after, then all parties should be paying the same rate, rather than pitting one class against the other. Of course, those of us on this side of the aisle are not surprised by this pitch: It is just such attempts to engender class warfare that those on the other side of the aisle have excelled at for lo these many years. Fairness? What is fair about penalizing success? What is fair about discouraging small ranchers from becoming successful ranchers? The supporters of this amendment moan that the taxpayers aren't getting their money's worth out of our ranchers. How much money do they think will be returned to the Treasury when many of these ranchers go out of business because they have been barred from these lands—and again let me stress: This is most assuredly their ultimate goal.

Environmentalists are forever trying to sell the American people a quick Persian rug about ''enviro dollars,'' and all of the money just waiting to be generated by tourism. Good heavens. In Western States like mine the tourist season on these lands is only a few months long at best. And has it occurred to no one what tourist jobs pay? Unless you own the motel you are probably making five bucks an hour changing bed sheets. Colonial Williamsburg, just a couple hours drive south of here, is one of the healthiest tourist enterprises in the country, yet there are people with 15 years seniority there who topped out long ago at eight or nine dollars an hour. The chimera of Tourism as a substitute for natural resource use on our public lands is one of the great hoaxes perpetrated on the American people by environmentalists. I guarantee you that tourism will not return more money to the Treasury than grazing lease holders.

But perhaps most offensive about the effort to rid our public lands of private ranchers is the fact that Western States are owned to an enormous degree by the Federal Government: My State of Wyoming—52 percent; Idaho—63 percent; Nevada—a whopping 87 percent. What are the people of the West to do but use these lands? Eastern States are not owned by the Federal Government to near this degree. Nor is the State of Arkansas, as my friend from Idaho has pointed out.

Fairness? What is fair about charging the same to graze on BLM lands as that charged on State and private

lands? BLM land users have to furnish their own improvements; fences, culverts, water tanks. They must contend with public access to their herds. They have tighter restrictions on what predators they can and cannot control and a host of other differences.

Mr. President, this amendment is neither fair nor prudent. We have defeated it before and I encourage my colleagues to defeat it again. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. Who yields to the Senator?

Mr. DOMENICI. How much time remains on our side and on Senator BUMPERS' side?

The PRESIDING OFFICER. The Senator from New Mexico has 4 minutes, 53 seconds remaining; the Senator from Arkansas has 3 minutes, 42 seconds.

Mr. DOMENICI. Mr. President, I yield all of my time to Senator CRAIG.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, let me echo again what the Senator from New Mexico has just said. This is a fascinating precedent being established here in this amendment by the Senator from Arkansas, precedent in the way we would sell public resources.

Never before have we said to a large timber company, ''You're going to pay a premium for the tree because you're larger,'' and to the smaller timber producer, ''You'll pay less.'' We have never said to a rich person who walked into a national park, ''You're rich, so you'll pay more.'' And we have never said, therefore, to the poor person, ''You will pay less.'' We have always established what we believed was a fair market price for the value of the public resource. That is your job, Mr. President, and that is mine.

This past year we made every effort to accomplish that. We debated it long and loud in the committee that the Senator from Arkansas and I are members of. We agreed and disagreed; and we came back again and structured another provision to reform. It had a fee increase in it for all parties who would lease the public's grass.

But what the Senator from Arkansas is saying is, ''If you're rich, this blade of grass for your cow will cost you more than if you are less rich.'' You and I both know that deciding who is rich and who is not rich is very arbitrary. Sometimes you can own 1,000 head of cattle, and owe the bank $5 million, and have a net worth of nearly zero. That happens in the cattle business on occasion. I doubt that the Senator from Arkansas would call that rich, because if that individual rancher liquidated, there may be nothing left, especially after estate taxes and all of those kinds of things.

But the important issue here is that the Senate heard the need from the public to raise the grazing fees and to reform grazing, and we did, and the Senate acted.

I do not know where the Senator from Arkansas is coming from at this moment other than for the political sound bite for the up and coming campaign, because it is precedent setting, very precedent setting, to argue that we will divvy up the blades of grass of the public domain by who is rich and who is poor, and we will use that as a determination. We have never done it in any other way of selling a public resource, and we all recognize the importance of marketing public resources to get a fair and effective return to the Treasury.

Mr. President, that is what this Senate did. I think we ought to be proud of that work. Now, to attempt an end run around that effort, an end run that is precedent setting and totally unbalanced, is, without question, in my opinion, the wrong way to go. It divides the grazing communities of the West. It should not be allowed to do that. It totally rearranges what has been a historic arrangement that has stabilized the West and brought good stewardship to the public lands.

The stewardship now recognized by the Department of the Interior has resulted in better conditions on Western grazing lands than in the last 100 years. We, as trustees of that public domain, ought to be proud of that because we have insisted that stewardship go forward.

Now, that stewardship is a product of the relationship of the permittee—that is, the rancher who has the permit that leases the grass that grazes the cattle—that stewardship resulted in the quality of the rangeland we now have. If you break it up into a rolling crap shoot of a kind that has been proposed by the Senator from Arkansas, that stewardship goes away. No longer do you have the kind of longevity in grazing that goes from generation to generation with the clear recognition that that has produced quality stewardship, quality rangeland, quality wildlife habitat, and by the Department of Interior managers' own admission, the best conditions in rangelands in 100 years.

Mr. President, I hope we could table this amendment. I think it is wrong. I think it is unfair to divide the rich and the poor and establish that kind of an argument. If we do that, I think you and I will want to come back here and say to the millionaires that walk into our national parks, ''You are rich, you pay more; for those on food stamps, if you can get to the parks, you pay less.''

That that should not be the way we do it, but that is what is being proposed here today.

The PRESIDING OFFICER. All time has expired. The Senator from Arkansas has 3 minutes and 42 seconds remaining.

Mr. BUMPERS. I yield 2 minutes to the Senator from New Hampshire.

Mr. GREGG. Mr. President, I rise in support of this amendment, which is not about rich and poor, but about marketplace economies and capitalism, which made this country great. Basically, what we have here is a program which essentially allows people to take advantage at an extraordinarily low rate, a subsidized interest, paid for by the taxpayers of America.

Mr. President, $58 million a year is spent on this land. The United States gets back $14 million. What we are suggesting is that for those people who use this land excessively, who have a large number of AUM's that exceed the 97 percent of the people who are not going to be impacted, just the top 3 percent of the people using this land, who use it to such an extensive rate, that those people should pay a rate that is a higher rate.

Today's rate is 43 percent less than what was paid in 1980. What we are suggesting is a rate which does not even account for what the inflation increase would be had that 1980 rate not been brought forward. It is a reduced rate, even by the simple terms of reflecting back to the 1980's and adding inflation.

We are suggesting a rate much closer to fairness, to equity, that gives to the taxpayers of this country, all of whom happen to own this land—it is not just owned by folks in the West—a reasonable return on the investment they are making.

I yield the floor.

The PRESIDING OFFICER (Mr. COATS). The Senator from Arkansas.

Mr. BUMPERS. Mr. President, the Senator from New Mexico and the Senator from Idaho alluded to what fair market prices are. If you live in Idaho—the Senator from Idaho mentioned he tried to establish a fair market price—the price is $1.35 AUM if you lease lands for grazing from the U.S. Government. But if you lease lands for grazing from his home State of Idaho, you have to pay $4.88 for the same thing, and in New Mexico, it is $3.54.

The average that States charge for the same thing we get $1.35 for is $5.58. Why are the States so much smarter than we are? If you rent in the private sector, the national average is $11.20.

The Senator from Idaho said we are trying to separate the rich from the poor. Nothing of the kind. These people I am talking about—Anheuser-Busch, Newmont—I do not think they argue they are poor, they cannot afford to pay more, for example, than what his State would charge. If they are poor, if people who have 5,000 AUM's, which is all this amendment covers, if they are poor, who are these 97 percent below them? We do not touch anybody except people like Anheuser-Busch, Newmont Mining, William Hewlett, J.R. Simplot, the biggest corporations, wealthiest people in America.

I do not blame them. I would get land for $1.35 before I would lease it from the State of Idaho for $4.88, or lease it from somebody who owned land for $11.20. All we are trying to do is say, if you want this land, fine, we will give you 5,000 AUM's at this ridiculously low price. If you go above that, you will have to pay a little more.

We all know what this is. I heard all of this debate yesterday about all these poor little ranchers. The poor little ranchers out there are not touched under this amendment. They can graze 418 head every month for 12 months. Most permittees do not graze livestock on the Federal lands for 12 months. Most of them only graze about 5 months a year, so you have to have 1,000 head on most of this land before you even get touched by this. If you have 1,000 head, you ain't poor.

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

Mr. DOMENICI. I move to table the Bumpers amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from New Mexico to lay on the table the amendment of the Senator from Arkansas.

The yeas and nays have been ordered.

The clerk will call the roll on the motion to table.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote? The result was announced—yeas 50, nays 50, as follows:

[Rollcall Vote No. 291 Leg.]

YEAS—50

Abraham	Dorgan	Kyl
Ashcroft	Faircloth	Lott
Baucus	Feinstein	Lugar
Bennett	Frahm	Mack
Bingaman	Frist	McCain
Bond	Gorton	McConnell
Brown	Gramm	Murkowski
Bryan	Grams	Nickles
Burns	Grassley	Pressler
Campbell	Hatch	Reid
Cochran	Hatfield	Shelby
Conrad	Heflin	Simpson
Coverdell	Helms	Stevens
Craig	Hutchison	Thomas
D'Amato	Inhofe	Thompson
Daschle	Kassebaum	Thurmond
Domenici	Kempthorne	

NAYS—50

Akaka	Gregg	Murray
Biden	Harkin	Nunn
Boxer	Hollings	Pell
Bradley	Inouye	Pryor
Breaux	Jeffords	Robb
Bumpers	Johnston	Rockefeller
Byrd	Kennedy	Roth
Chafee	Kerrey	Santorum
Coats	Kerry	Sarbanes
Cohen	Kohl	Simon
DeWine	Lautenberg	Smith
Dodd	Leahy	Snowe
Exon	Levin	Specter
Feingold	Lieberman	Warner
Ford	Mikulski	Wellstone
Glenn	Moseley-Braun	Wyden
Graham	Moynihan	

The motion to lay on the table amendment No. 5353, as modified, was rejected.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, have the yeas and nays been ordered on the amendment itself?

The PRESIDING OFFICER. Yes. And the yeas and nays have been ordered on H.R. 3816, the energy and water appropriations bill.

Mr. GORTON. Mr. President, I ask unanimous consent that we vote now on the amendment.

Mr. President, this vote having been 50 to 50 on the motion to table, and the order having been that we vote on or in relation to the amendment, it seems at least to this Senator that the logical course of action would be to vote now on the amendment and then to vote on the energy and water bill thereafter. As a consequence, I ask unanimous consent that we proceed to vote on the Bumpers-Gregg amendment.

The PRESIDING OFFICER. Is there objection?

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I think it would be well to debate this amendment awhile longer. I am not prepared to vote on this amendment.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request of the Senator from Washington?

Mr. BUMPERS. I object.

The PRESIDING OFFICER. Objection is heard.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 1997—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

The PRESIDING OFFICER. Under the regular order, the vote now occurs, as previously agreed, on the adoption of the conference report on H.R. 3816, the energy and water appropriations bill. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

The result was announced—yeas 92, nays 8, as follows:

[Rollcall Vote No. 292 Leg.]

YEAS—92

Abraham	Frahm	Mack
Akaka	Frist	McConnell
Ashcroft	Glenn	Mikulski
Baucus	Gorton	Moseley-Braun
Bennett	Graham	Moynihan
Biden	Gramm	Murkowski
Bingaman	Grams	Murray
Bond	Grassley	Nickles
Boxer	Gregg	Nunn
Bradley	Harkin	Pell
Breaux	Hatch	Pressler
Bumpers	Hatfield	Pryor
Burns	Heflin	Reid
Byrd	Helms	Robb
Campbell	Hollings	Rockefeller
Chafee	Hutchison	Santorum
Coats	Inhofe	Sarbanes
Cochran	Inouye	Shelby
Cohen	Jeffords	Simon
Conrad	Johnston	Simpson
Coverdell	Kassebaum	Smith
Craig	Kempthorne	Snowe
D'Amato	Kennedy	Specter
Daschle	Kerrey	Stevens
DeWine	Kohl	Thomas
Dodd	Lautenberg	Thompson
Domenici	Leahy	Thurmond
Dorgan	Levin	Warner
Exon	Lieberman	Wellstone
Feinstein	Lott	Wyden
Ford	Lugar	

NAYS—8

Brown	Feingold	McCain
Bryan	Kerry	Roth
Faircloth	Kyl	

CHANGE OF VOTE

Mr. KERRY. Mr. President, I was recorded as an ''aye'' on the previous vote. I meant to be recorded as ''nay.'' I ask unanimous consent that I be recorded as a ''nay.'' This would not affect the outcome of the vote.

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

(The foregoing tally has been changed to reflect the above order.)

Mr. KERRY. 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. GORTON. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1997

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER (Mr. KEMPTHORNE). The Senator from Washington is recognized.

Mr. GORTON. Mr. President, obviously, under normal circumstances, we would now go back to the Bumpers-Gregg amendment on grazing fees. The Senator from Arkansas, and I think the Senator from New Mexico as well, wish a little time before we do that. I believe it totally appropriate to grant that time.

Second, the distinguished senior Senator from Alaska wants about 15 minutes to speak on the former Sergeant at Arms of the Senate. I will soon make a unanimous-consent request that about 15 minutes be devoted to that subject. After that point, I will ask we set this amendment aside and be ready to go to other amendments on the subject.

With that, I suggest the absence of a quorum. Excuse me, the Senator from Alaska is here, so I ask unanimous consent the Senate grant 15 minutes to the Senator from Alaska or his designee to speak on the recently retired Sergeant at Arms.

Mr. DASCHLE. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. I ask, upon conclusion of the Senator's remarks, I be recognized for purposes of offering an amendment.

Mr. GORTON. I object to that, Mr. President, and 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. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

SALUTING THE SERVICE OF HOWARD O. GREENE, JR.

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Senate Resolutions 293 and 294, and I ask unanimous consent they be considered en bloc.

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

Mr. STEVENS. I ask that the clerk read the resolution which is the resolution pertaining to the former Sergeant at Arms.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

A resolution (S. Res. 293) saluting the service of Howard O. Greene, Jr.:

S. RES. 293

Whereas, Howard O. Greene, Jr. has served the United States Senate since January 1968;

Whereas, Mr. Greene has during his Senate career served in the capacities of Doorkeeper, Republican Cloakroom Assistant, Assistant Secretary for the Minority, Secretary for the Minority, Secretary for the Majority, culminating in his election as Senate Sergeant-At-Arms during the 104th Congress;

Whereas, throughout his Senate career Mr. Greene has been a reliable source of advice and counsel to Senators and Senate staff alike;

Whereas, Mr. Greene's institutional knowledge and legislative skills are well known and respected;

Whereas, Mr. Greene's more than 28 years of service have been characterized by a deep and abiding respect for the institution and customs of the United States Senate;

Therefore be it resolved,

That the Senate salutes Howard O. Greene, Jr. for his career of public service to the United States Senate and its Members.

SECTION 2. The Secretary of the Senate shall transmit a copy of this resolution to Howard O. Greene, Jr.

PROVIDING FOR SEVERANCE PAY

The PRESIDING OFFICER. The clerk will report the second resolution.

The bill clerk read as follows:

A resolution (S. Res. 294) to provide for severance pay.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolutions?

There being no objection, the Senate proceeded to consider the resolutions.

Mr. FORD. I ask unanimous consent I be made a cosponsor of the resolution commending Howard Greene.

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

Mr. STEVENS. I ask unanimous consent that all Senators have an opportunity through the remainder of the day to add their names as cosponsors, if they so desire.

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

Mr. STEVENS. Mr. President, Howard Greene traveled across the Chesapeake Bay from Lewes, DE, to the Senate in 1968, and he has been present in the Halls of the Capitol ever since. He developed a deep knowledge and understanding of the Senate as he rose through the ranks from Doorkeeper to Cloakroom assistant to Secretary for the Minority and Majority to Sergeant at Arms. His loyal service spans from Republican leaders Everett Dirksen, Howard Baker, Bob Dole, and TRENT LOTT. He served almost three decades.

Members have come to rely on Howard's ability to help count noses. I know I did when I was whip in the Chamber here for 8 years.

While sometimes it seemed that Howard had a crystal ball, it was his careful analysis, knowledge of the issues, understanding of the Members, and his hard work that provided information that usually made his forecasts correct. Vice Presidents, in their role as Presidents of the Senate, have relied on Howard's assistance and experience particularly during times when debates were intense and votes could be close.

We have been able to count on Howard for almost 30 years, and he has been there when he was needed by the Senate. But better than that, he has been able to participate where he could be of help. He has not had to be asked. His colorful descriptions of everyday situations and sense of humor helped lighten the atmosphere during some of our longer and longest days and nights. He was here on some of the longest ones.

Those of us who traveled with Howard over the years know what a fine traveling companion he really is. One of his sad tasks was to arrange for Senators to travel to funerals or memorial services for departed Senators. When Howard made those arrangements, the appearance of Members of the Senate was one of dignity, organization, and meaningful caring for those who survived one of our former colleagues.

Mr. President, I believe Senators on both sides of the aisle know that Howard's allegiance to the Senate and his loyalty to its Members and his love of our country would be hard to match. Many Senators and staff members who have retired would echo my words of tribute to my friend.

Today, as his service in the Senate is about to end, I have asked for permission to request the Senate to pay this special tribute to Howard Greene. He will be missed by many of us.

I understand there will be time up to 15 minutes for Members of the Senate to add their comments, but let me first ask unanimous consent that the resolutions be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, and statements made to these resolutions appear at this point in the RECORD.

The second resolution is comparable to that which was offered for several other Sergeants of Arms and recognizes their service by a provision for terminal leave compensation.

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

The resolutions (S. Res. 293 and S. Res. 294) were agreed to.

The preamble to Senate Resolution 293 was agreed to.

The resolution (S. Res. 294) is as follows:

S. RES. 294

Resolved, (a) That the individual who was the Sergeant at Arms and Doorkeeper of the Senate on September 1, 1996, and whose service as the Sergeant at Arms and Doorkeeper of the Senate terminated on or after September 1, 1996 but prior to September 6, 1996, shall be entitled to one lump sum payment consisting of severance pay in an amount equal to two months of the individual's basic pay at the rate such individual was paid on September 1, 1996.

(b) The Secretary of the Senate shall make payments under this resolution from funds appropriated for fiscal year 1996 from the appropriation account ''Miscellaneous Items'' within the contingent fund of the Senate.

(c) A payment under this resolution shall not be treated as compensation for purposes of any provision of title 5, United States Code, or of any other law relating to benefits accruing from employment by the United States, and the period of entitlement to such pay shall not be treated as a period of employment for purposes of any such provision of law.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I am pleased to join my distinguished colleague, Senator STEVENS, in praising Howard Greene. During the 16 years that I have had the privilege of serving in the Senate, I have come to know Howard Greene and have great admiration and respect for him.

Senator STEVENS talked about the Republican majority leaders Dirksen and Baker and Dole and what great service they received from Howard Greene. In a sense, Howard Greene was a leader's leader because he would always provide information and insights of enormous value to the leadership.

We are blessed, in the Senate, to have personnel who serve in the capacity of—you might call them clerks, or you might call them directors, or you might call them, in effect, assistant leaders. When Howard Greene was here, I would frequently go to him, as would most of my colleagues, and want a prediction about what was going to happen. People who may watch the Senate intermittently on C–SPAN do not know that our schedules are very unpredictable. Some times people ask, ''When will the Senate adjourn?'' I customarily say, ''When the last Senator stops speaking.'' Howard Greene customarily had a good idea as to when the last Senator would stop speaking.

When he was promoted to the Sergeant at Arms, a very important and prestigious position in the Senate, I was, in a sense, sorry to see it happen, because no longer would Howard Greene patrol the floor. That familiar sight when he would come out of those double doors, straighten his tie and adjust his coat and walk down that step. Even Elizabeth Greene laughs at the recapture of Howard Greene entering

the Senate Chamber. He was always busy. Howard Greene was really a great aid and comfort to all the Senators. When the going got rough, I would call him in the evening or call him on weekends, and he was always available to help over the rough administrative hurdles.

I know my colleague Senator ROTH has come to the floor, and he intends to talk about Howard Greene as well. But I think Howard Greene was a tremendous asset to the U.S. Senate. I, for one, am very sorry to see him terminate his service here. But I wish him the very best in the years ahead, and I know we will all continue to work with him and admire him and respect him for his contribution to this body.

I yield the floor.

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

Mr. FORD. Mr. President, may I just take a moment to associate myself with the remarks of the distinguished Senators from Alaska and Pennsylvania, as they relate to our friend Howard Greene.

I think you have to understand the institution to understand the value of an individual like Howard Greene. I think you have to understand the fairness, you have to understand that your word is good, that when you tell a Senator something, that is the way it is. If something happens that it cannot occur that way, you have the good judgment to come back and say to that Senator it cannot happen now, and tell him why.

I have never talked to Howard Greene and asked for anything, but what I received the most courteous attention as if I was the only one seeking any kind of information or help from him.

So I will miss Howard Greene. I think the Senate will miss Howard Greene. I hope those who are taking Howard's place will understand that they are filling very, very large shoes.

To my friend Howard, I wish him well. I hope his days ahead are full of pleasure, and I hope that he can find something that will fulfill him as much as his operation here in the Senate.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. PRESSLER. Mr. President, I join in the tribute to Howard Greene. I worked with him here in my 17½ years in the Senate. He has been very helpful to me. He has been a friend of mine. He has been an outstanding public servant, a man of conviction and honesty and hard work.

I do not know if the public realizes how hard some of these staff people work around here to keep this place going. I saw it firsthand, in many cases when we were in session at night.

Howard Greene certainly exemplifies hard work and honesty and goodness. I join my colleagues in paying tribute to him here today.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HATCH. 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. HATCH. Mr. President, I just want to pay my respects to Howard Greene for being such a good friend and a solid worker around here in the U.S. Senate. Wherever he has worked he has served with distinction, he served with a great deal of verve, and he has been a very good friend for all of us. I would feel very badly if I did not get out here and say a few nice things about him, because Howard has always had an open mind, he has always been willing to listen, he has always tried to help. He has helped me on a number of occasions, as I know he has every Senator, and he deserves our respect, and I certainly want to pay my respect to him today.

I am sorry he is retiring, but I wish him the very best in his retirement, and I hope, if there is ever any occasion for me to give any assistance or help to him, I would certainly like to be there for him. He is a great person who I think served this U.S. Senate with great distinction. I just wanted to say those few words here today.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Mr. President, it is fitting for me to offer a few words concerning Howard Greene and his service to the U.S. Senate. Howard is from my home State of Delaware. He began his service to the Senate in 1968, as a doorman in the gallery. At the time, he was only 26, attending the University of Maryland. His objective was to become a history teacher. Howard was an ambitious young man—bright and extremely able. In this environment, he gained the attention of Senators and became more and more interested in the political process—especially the daily proceedings here on Capitol Hill.

When an opportunity presented itself in the early 1970's, Howard moved into the Republican Cloakroom. After this important promotion in Howard's young life, you can imagine his surprise when his mother said, ''Congratulations, Dear. Does that mean you'll be hanging up the Senators' coats?'' It was while in the Cloakroom that Howard distinguished himself as one who could get things done. His attention to detail, and service to others became defining qualities, as did his keen insight into complex legislative issues.

Those who knew Howard, trusted his insights, and his activities drew him into even greater involvement with the daily affairs of the Senate. They prepared him well for a new assignment as Assistant Secretary for the Minority, under Mark Trice.

With the election of Ronald Reagan and the Republican majority, Howard was appointed Secretary by Howard Baker. It was while he served in that capacity that many of us came to appreciate his organizational skills, his diplomacy, and leadership.

Howard has now served 2 years as Sergeant at Arms. His love for the Senate and the legislative process have continued. In his years of service, he had done Delaware proud.

From his upbringing in the small town of Lewes, to his work in the most powerful legislative body on Earth, Howard Greene is, indeed, a smalltown boy who made good.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. WARNER. 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. WARNER. Mr. President, when I came to the Senate, I can say without any equivocation, Howard Greene was one of those individuals to whom I and my colleagues—we had one of the largest classes of Senators at that particular time; took our oaths in 1979—but he was the man to whom we looked for a lot of advice and guidance.

The distinguished Senator, Mr. Howard Baker, was then our leader on the Republican side. And it was clear that Mr. Baker placed in Howard Greene a great deal of confidence and respect, and indicated to Mr. Greene, to the extent he could be of assistance to the newcoming Senators, to do so. That early experience with him led to many, many times that we worked together.

I find him to be a person extremely knowledgeable about the rules of the Senate. While the rules of the Senate are the subject of great discussion many, many times, there is a lot that is not in the rules. But, nevertheless, Senators are expected to follow the traditions. And he was particularly astute about all the unwritten traditions of the Senate. And certainly in my class—and I hope it will always be a part of Senate life—we were very anxious to comply with the rules of the Senate, be they written or unwritten, as a part of tradition.

Howard Greene played a very valuable role to my class. I see my distinguished colleague here from Wyoming, Senator SIMPSON. He remembers well Howard Greene and how he worked with our class, and in the years thereafter. He was also pretty tightlipped. There were many times he sat in on meetings. I found that he was able to hold those exchanges that sometimes were heated between Senators, and do it very well.

So speaking for myself, and I hope others will join me, we wish him very well in his next challenge in life professionally. I wish to express my fond farewell and my gratitude in terms of what he did for me individually, what he did for my class of Senators, and

what he did for almost three decades of service in the U.S. Senate. I hope that younger persons now coming along and seeking to have a role in the Senate will look upon Howard Greene as one that set standards that they should strive to accept. Mr. President, I yield the floor.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, I join with my colleagues in paying tribute to Howard Greene for the service that he has provided this body. My personal association with Howard goes back to my election to the Senate and coming to this body in 1980. I had little association with Washington, DC, and little association with Senate procedure, and I found Howard extraordinarily talented in addressing the egos of some 100 individual Members of this body.

He always reminded me of a person who had the ability to keep all the balls up in the air, all at once if necessary, and in meeting the needs, the desires, not only of the Members during the normal course of business, but oftentimes it would be necessary to phone him after hours. I found him more than willing to go beyond just accommodating Members in the normal activities of our daily lives, but to make an effort to accommodate the needs of family and family members.

I think it is fair to say that as I look back on my career in the Senate, approaching some 16 years, I look back on it with fond memories of my association with Howard.

The occasional traveler. Howard was, in my opinion, a white-knuckle flier. He had some inhibitions about the ability of the particular craft to get him to where he was going and, more importantly, back. One night we were flying over the Atlantic, and I do not know whether we were in the Azores or where, but we had to refuel. And we were in an old Boeing 707 that the Air Force had, and occasionally the gear did not go down. One of the gears locked up on this particular night, would not go down. The normal procedure for eliminating that experience was to put the plane in a slide dive and pull up rather abruptly, and that theoretically would drop the gear. Of course, the Air Force aircraft are not known for their public address systems. Some of us had some idea of the procedure, and Howard was simply terrified through the entire process, which I think resulted in some libation of some nature, or at least a visit to a watering hole when we hit the ground, to which he was entitled and probably all of us as well.

I cite a more recent visit that I had with Howard when I had an opportunity to participate as chairman of the United States-Canadian Interparliamentary where we flew out of Prince Rupert, British Columbia, with many of our Canadian counterparts, Members from Parliament from both the lower house and the upper house, and then took an Alaskan ferry on up through Ketchikan and Juneau, and then went on past the Yukon Railroad out to Whitehorse where we were again joined by members of the Yukon territorial parliamentary body. And I found his insight, his long memory of the Senate, particularly some of the humorous sides of our relationships with one another, to be very interesting and rewarding.

So I just add, that Howard Greene's contribution to the Senate will be long remembered by those who served with him, who knew him, and who loved him. I join others in wishing him well as he proceeds with what is ahead of him in his life. And I thank him for his friendship and for his accommodation. I wish him well. I yield the floor, Mr. President.

Mr. SIMPSON. I thank my friend from Alaska, Mr. President.

Just let me pay my own personal tribute for a moment to Howard Greene. When I came here to the Senate with Senator WARNER, our first meeting, our first official conduct, our first official briefing, was with one Bill Hildenbrand and with Howard Greene, very special people, both of them. They worked so well together. These two smoothed my path in this place, and certainly Howard Greene was, in my role as assistant leader of the Senate, always there. He was there. He gave me full measure of himself, as so many have here who do the work of the Senate.

Those who are here today who knew Howard, worked with him closely, he was always there for me in my role as assistant leader. As I say, he gave me full measure—loyal, helpful, persistent, a source of good counsel—and a strong, yes, yes, strong, taskmaster. He was good at organizing things, the official visits, the trips, the Presidential funerals, the official trips we had to do, and he was always well organized.

He will be remembered for his love and loyalty to the Senate as an institution, for he loved this place from his youth and from his early beginnings. He was my strong right arm in my work, and I owe him my deepest thanks and respect. I shall miss his good humor, ribald as it was. I wish him well. There is much more for him to do in life. I wish him well. I wish him peace of mind. I wish him good health. He has many friends. He can certainly always know that this is one. Ann and I wish him the very best. God bless him in his new endeavors of life.

I thank the Chair.

Mr. FORD. 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. LUGAR. 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. LUGAR. Mr. President, I join my colleagues today in paying tribute to Howard Greene and in saying words about our good friend. He has been my good friend for the past 20 years.

I came to the Senate, and Bill Hildenbrand and Howard Greene were two people who took me under their wings. My own judgment at the time was that Bill Hildenbrand knew almost everything that needed to be known about Washington. He seemed to be a man of consummate experience, a person who had been involved in campaigns but, likewise, in the running of the Senate from time immemorial. Howard Greene seemed to be his deputy, his teammate, a person of great vigor, who would stride up and down the aisles of this Hall with determination and always with success in finding the person, the bill, the detail that was required.

It was exciting to watch them. It gave me confidence that some people had confidence in what was being done, and I thought if I watched carefully I might learn more, and I did from both of these gentlemen. During recent years, Howard's growing responsibilities have been a real pleasure—seeing his own growth as a person, as an administrator, as one who has served Government well, has served the people of the United States, really, with distinction, in large part because he helped all of us to be more effective and to have some idea of what we were doing and how we might do it better.

I am delighted to have this opportunity, and I appreciate the leader giving us the opportunity today, to say good words about people who have meant a lot to us, and especially about the person that we honor on this particular afternoon, Howard Greene.

Mr. FORD. 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. BENNETT. 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. BENNETT. Mr. President, I noticed that some of my colleagues commented about the service of Howard Greene, retiring as Sergeant at Arms of the Senate. They referred to their long years of experience with Howard and the great service that he has rendered to the Senate during those years.

I am a relatively new Senator and don't have that kind of experience to draw on, but I can offer the perspective of a relative newcomer to this body and to the service that Howard Greene provided when I was trying to find my way around. I found very quickly that if I wanted an answer to a question, I went to Howard Greene and I always got one—quickly, accurately, and sometimes very, very succinctly. Howard is not a man who wastes words.

I found when I needed assistance in working through possible committee

assignments and understanding the program and how it all works, Howard Greene was there at my side to give me the assistance I needed and helped me find my way through that, which could be so confusing to a newcomer. Subsequently, as a member of the Legislative Branch Subcommittee of the Appropriations Committee, I had the opportunity to interact with Howard during appropriations hearings that he was called upon to attend as the Sergeant at Arms. I found that he was not only concerned about Senators and taking care of the needs of Senators, he was also very concerned about the people under his jurisdiction. The Capitol Police come to mind as one area where Howard focused primarily on the personal needs of the members of the Capitol Police.

When I made a suggestion in the subcommittee about something that could be done within the law that would make life better for the Capitol Police, Howard picked up on it immediately and said, ''We will do that.'' A little while later, I checked back and said, ''Has anybody followed through on this?'' I needn't have done that checking back. It was Howard Greene who said, ''We will do that,'' and the staffers looked at me and said, ''Yes, Senator, that is in the bill.''

So as he moves on to another circumstance and phase in his life, I want him to know that he goes with not only the good wishes of some of the old-timers around here, but a few of us newcomers as well recognize the service he has rendered, the friendship that he has offered, and the excellence with which he has performed his job.

I wish Howard the very best in whatever he now undertakes and tell him that the Senator from Utah will always look fondly upon Howard Greene as one of his friends.

With that, Mr. President, I yield the floor.

Mr. PRYOR. Mr. President, I, too, would like to join with my colleagues this afternoon in paying special respect here on the floor of the U.S. Senate to our friend Howard Greene. He has served this institution with great dignity, with great candor, and certainly with great understanding and respect for the Senate of the United States and for each and every Senator.

He has respected and served and answered to not only the Senators on that side of the aisle, but he has been most respectful and most helpful also to the Senators on the Democratic side of the aisle.

Howard Greene is the type of individual who makes the U.S. Senate not only unique, but I think that because of his service to the Senate and his years involved with the Senate, the U.S. Senate is better today because of his years of very, very distinguished service. He is a part of the heart and the nerve and the sinew that makes the U.S. Senate what it is today, Mr. President.

I take great pride in being able to add this humble voice as a vote of confidence for this fine man and as one who has worked with him and alongside him for a number of years. Mr. President, it gives me great pleasure to add my words of support and best wishes to this fine servant of the people of our country and the U.S. Senate, Howard Greene.

Mr. President, I yield the floor.

Mr. THURMOND. Mr. President, each day the Senate is in session, at least one Member rises to pay tribute to a friend, a constituent, or a colleague who has distinguished himself, or has decided to leave Government service. Today, Most members of this body are taking to the floor to say ''goodbye'' to a gentleman who has not only been a fixture of the U.S. Senate for many years, but has grown to be a friend to most of us, Sergeant at Arms Howard Greene.

Howard is one of those unique individuals who has spent most of his adult life here on Capitol Hill. Beginning his career just outside this chamber as a doorkeeper, Howard worked hard and moved up the ladder of administrative jobs in the Senate, taking over the position of Secretary to the Majority at the beginning of the 104th Congress, later assuming the duties of the Sergeant at Arms. In every job he held, Howard distinguished himself as an individual of ability, dedication, and character, and he earned the respect of Members from both sides of the aisle for his thoroughness and commitment.

As the Republican Party had not held control of the Senate since the 1980's Howard had a challenging task before him at the beginning of the 104th Congress. No doubt, his encyclopedic knowledge of the history, traditions, and procedures of this great body aided him greatly as he administered to his tasks as Secretary to the Majority and Sergeant at Arms. I am certain that all would agree that the transfer of power from the Democrats to Republicans was smooth, and that the functions over which Howard had responsibility functioned efficiently and effectively during his tenure.

Mr. President, as you know, Howard Greene is about to end his service to the U.S. Senate. He can be proud of the work he has done as a part of this institution during his many years on the Hill, and I know that each of us wishes him good health, great success, and much happiness in the years to come.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. 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.

DOLE ECONOMIC PLAN: VOODOO II

Mr. EXON. Mr. President, last week, I delivered the first of a number of speeches on the fiscal follies of the Dole economic plan. I gave a brief history of voodoo economics in the Reagan-Bush years, its failure, and the economic carnage it left in its wake. I hope that I was able to shed a little light on an issue of great concern to all Americans.

Today, I ask the American people to look at the Dole economic plan—advanced voodoo economics, if you will. And if it wasn't for all of the harm it would cause, the Dole plan would be pretty amusing to this Senator who has worked on the budget for a long, long time.

I must say that Bob Dole's supply-side plan reminds me of a 17th century scientist by the name of van Helmont who actually had a formula for making mice out of old underwear. At its heart, that's the Dole plan: taking bits and pieces of discarded economics and turning them into something unrealistic.

Last week, I had the privilege to join with Democratic colleagues at an important forum on the Dole economic plan. Benjamin Friedman, professor of political economy at Harvard University, warned, ''The Dole-Kemp proposal is a reprise of a gamble that failed.''

Former Budget Director Charles Schultze concluded,

> A reasonable and prudent person would have to question severely the wisdom of repeating what the country did 15 years ago—enacting a large tax cut before budget balance is well in hand.

The Dole plan is mired in the same specious supply-side arguments and optimistic assumptions that made up the economic quicksand of 15 years ago. The original trickle-down economics delivered mediocre economic performance and a mountain of debt. Is there any reason to believe it will be different this time around? The answer is a resounding, ''No.''

Like the original voodoo, the Dole voodoo II relies on bogus assumptions to hide its disastrous deficit consequences. It's a Whitman's Sampler of candy-coated scenarios. The Dole plan includes a $254 billion fiscal dividend for cutting the deficit; a $147 billion growth dividend for expanding tax breaks; and an $80 billion revenue dividend from projecting out a short-term blip in revenues. It hides the cost of back-loaded tax breaks and massive, unspecified spending cuts that no one believes will happen. As Mr. Dole ups the ante on his economic plan, he raises questions about its credibility.

In spite of the truth nipping at his heels, candidate Dole assumes that he if he says nonsense enough times it will be believable. He's wrong. The latest New York Times: CBS poll shows that 64 percent of the electorate does not believe that Mr. Dole will be able to deliver the promised tax cuts.

True to form, the Dole plan postulates that tax cuts largely pay for themselves through economic dividends. The Dole dividends are doubly implausible because most of the tax cut consists of items that have nothing to do with the economy's longrun capacity to grow. Most will do little or

nothing to stimulate savings, investment, or work effort.

The Dole tax cuts' effects on the economy are likely to be worse than the lackluster performance posted during the Reagan-Bush years. The first supply-side gamble was taken at the trough of the 1981–82 Reagan recession, the deepest since World War II. Not surprisingly, the 1981 across-the-board tax cut did boost the economy by stimulating spending, and not savings—boosting demand in the economy, not supply. As a consequence, much of the employment growth during the Reagan years resulted merely from people getting back jobs they lost during the recession.

Unlike the early 1980's, when the unemployment rate reached 10.8 percent, strong job growth over the last few years has brought our current jobless rate down to 5.1 percent. A shot of demand stimulus now would risk overheating the economy, push up inflation and interest rates, and do little to improve the already tight labor market.

Any benefit from a trickle-down tax cut now would have to come from improvements in the economy's long-run capacity to grow. The prior experience with Reaganomics is not reassuring, since growth slowed to its previous longrun pace once the economy's slack had been taken up.

The Dole plan also assumes that an unexpected jump in revenues this year will persist forever, even though CBO in its latest Economic and Budget Update argues that this blip may well be temporary.

In fact, it could be worse. I am deeply concerned about the effects of the Dole tax cuts beyond the year 2002. There is no cutoff point; they keep growing and growing. The farther out the tax cuts are projected, the less coherence the Dole plan has, and the wider the deficit projections become.

Like his supply-side predecessors, who stretched credibility like taffy, candidate Dole promises to balance the budget despite tax cuts totaling $550 billion. This would require spending cuts far more extreme than those that the Republicans failed to pass over the past 2 years. And remember too, the number of programs that Dole has put off-limits: Social Security, Medicare, defense, veterans, interest on the debt, the New Mexico labs, military retirees, and the list keeps growing every day. Even George Bush's Budget Director, Richard Darman, said that the Dole plan was not realistic politically.

In most cases, the Dole plan leaves these huge spending reductions unspecified. In those instances where they are specific, however, the Dole campaign's own figures imply that some programs, like the Energy Department, should be cut by more than 100 percent. At least we can all agree that that will be a difficult task indeed.

As I have said, the Dole plan will merely build the current mountain of debt to new heights. And history does not provide much comfort to those of us concerned about this horrible monument of fiscal irresponsibility. If past is prolog, we are in for more debt. Some have incorrectly claimed that President Reagan would have balanced the budget in 4 years as promised, save for the fact those Democrats were in control of the legislative branch. For three-fourths of the time that President Reagan was in office, he enjoyed the support of a Republican majority in the Senate. The record clearly shows that President Reagan failed to use the ultimate and readily available authority he had—the veto to cut spending. He clearly had more than sufficient votes to sustain a veto. Furthermore, neither Presidents Reagan nor Bush submitted a balanced budget certified by the Congressional Budget Office.

So what's the bottom line on the Dole economic plan? In the September 2, 1996, New Republic, Matthew Miller writes ''It's a fraud, covered up through deception and double counting.'' That's pretty harsh but I have to agree. Bob Dole shouldn't gamble away the future of our Nation with a farfetched, losing proposition that in the end will only end up with more spending.

I simply say that the authority that the President has to cut spending should be used and the veto pen should always be their. It seems to me, Mr. President, that we should realize and recognize that we have had four straight reductions in the annual deficit of the United States.

It seems to me that we should not go hellbent for election with an economic plan that this Senator believes is doomed to failure.

Mr. President, I yield the floor.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER (Mr. SMITH). The Senator from Oklahoma.

SENATOR DOLE'S ECONOMIC PACKAGE

Mr. NICKLES. Mr. President, I wish to make a couple comments in response to my colleague from Nebraska. He made a very strong statement against Senator Dole's economic package. Let me make a couple of statements in rebuttal to that.

The Senator quoted a poll which said that 64 percent of the American people do not believe there is really going to be a tax cut. A lot of people are very skeptical of politicians, in particular when they make statements as it pertains to taxes and you look back in history a little bit. George Bush said, ''Read my lips. There will be no new taxes.'' And he passed a tax increase, and I believe it cost him his reelection.

Bill Clinton, when he was campaigning in 1992, campaigned on a tax cut, told people throughout the country there would be a tax cut, talked about a $500 tax credit per child, or at least a tax credit for families, but it did not happen. As a matter of fact, in 1993, there was not only not a tax cut but the largest tax increase in history.

So a lot of people are very cynical when politicians talk about taxes, maybe because for the last few years they have not seen people follow through with what they stated they were going to do. That quite possibly is understandable.

Candidate Bill Clinton in his book said there would not be an increase in the gasoline tax, but he actually did. He passed a gasoline tax increase, as we all know. He did not tell people there was going to be an increase on Social Security recipients, but there was.

So my point is, yes, there may be some people who are cynical, but that does not mean that just because Bill Clinton did not do what he said he was going to do Bob Dole will not. I have had the pleasure of serving with Bob Dole, and he is a man of his word, and he is very sincere. He is very sincere about cutting taxes and reducing the growth of spending. I will just mention that he doesn't even cut spending. He slows the growth of spending under his proposal. The facts are we are spending $1.55 trillion right now, and under Senator Dole's proposal we are going to end up spending about $1.8 trillion in the year 2001. But he does commit to balancing the budget. That is doable. We have done it. President Clinton, unfortunately, vetoed it.

Can you cut taxes and reduce the growth of spending and still end up with a balanced budget in a few years? Yes; you can. We have proved that you can.

I want to allude to one other thing that was mentioned. It is said, well, Senator Dole's tax cut is paid for by voodoo economics, or it is going to provide tax cuts to pay for itself. That is not the case. He took a very conservative assumption that the tax cuts proposed in his proposal would stimulate growth and that would pay for about 27 percent—not even half, 27 percent.

So I just make mention of the fact that some people assume this really does stimulate the economy and therefore pay for itself. Some people make that assumption. Senator Dole did not. He said it will stimulate the economy; the economy will grow a lot faster. It has grown a lot faster. The growth of the economy for the last 3 years has really been pretty anemic—about 2.2 percent compared to the last 10 or 12 years when it has been about 3.3 percent, about 50 percent higher. We can do better. We should do better. I hope we will do better.

I also heard a statement, well, very little is in Senator Dole's package that would stimulate the economy. I disagree. Allowing people to keep more of their own money, when you are talking about the child credit—Senator Dole's package has provision for a $500 tax credit per child. That is very family friendly. That says families, if you have four kids and you are making $60,000, maybe two people working, you are going to have $2,000 more of your own money to spend at the local restaurants or at schools or for your family. That is going to help those businesses. Those businesses are going to

make more money. They are going to generate more jobs. It is going to help the economy and, I believe, actually spend it better than how the Government would spend it.

He also cuts the capital gains rate in half. Some people disagree with that. I believe we have at least a strong majority vote in the Congress to do it, because if you reduce the tax on financial transactions, you are going to have more. Some countries do not even tax financial transactions.

I think there are several things in Senator Dole's proposal that will stimulate the economy, that will balance the budget. He is also calling for a constitutional amendment to balance the budget. So he is sincere about doing it. I think he will do it. In spite of the fact that maybe one or two of his predecessors did not do what they said they were going to do, did not follow through, did not tell the truth to the American people, I believe Senator Dole is telling the truth. He is a man of his word. We will cut taxes. We will balance the budget. We will pass a constitutional amendment to balance the budget. I think that is significant, it is positive, and it will help the American economy and help American families as well.

I yield the floor.

Mr. PRESSLER addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. PRESSLER. I do not want to cut off anybody, but I am trying to call up a bill that is a major bill. I do not want to block the Senator.

Does the Senator have a brief statement he wants to make?

Mr. INHOFE. Yes. I will be very brief.

The PRESIDING OFFICER. The Chair recognizes the Senator from Oklahoma.

EXPERIENCE IN INCREASING REVENUES

Mr. INHOFE. Mr. President, we have had three experiences in this century of increasing revenues: One was in the 1920's, one in the 1960's, and then in the 1980's. All three times it was a result, economists had to agree, of the fact that we reduced taxes and gave people more freedom. As a matter of fact, it was not a Republican but it was a Democrat, it was President Kennedy back in the 1960's, who observed that we have to increase revenues and the best way to do that is to reduce taxes. Of course, history showed that it did work. It worked again in the 1980's when we went from a total expenditure to run Government in 1980 of $517 billion to $1.03 trillion in 1990, a 10-year period in which we had the most dramatic decreases in taxes.

So I would certainly agree with the man who I believe will be the next President of the United States that the best way to get this country back on the right track is to reduce regulation, reduce taxes, and give people more individual freedoms.

I yield the floor.

FEDERAL AVIATION ADMINISTRATION PROGRAMS REAUTHORIZATION

Mr. PRESSLER. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 539, S. 1994, the FAA reauthorization bill.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 1994) to amend title 49, United States Code, to reauthorize programs of the Federal Aviation Administration, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. PRESSLER. Mr. President, I rise in support of S. 1994, the Federal Aviation Authorization Act of 1996. Today, I am offering a manager's amendment to the bill as originally considered by the Commerce Committee which includes a variety of critically needed improvements to address important safety and security issues affecting airports, airlines, and the travelling public.

This legislation is a comprehensive effort to deal with virtually all aspects of our Nation's air transportation system including: funding issues, security, the replacement of aging air traffic control equipment, and infrastructure development.

Mr. President, first and foremost, we must act to reauthorize the programs of the FAA before we leave this year or the FAA will be prohibited from issuing grants to airports for needed security and safety projects. In light of recent air transportation tragedies, we must act now to ensure this vital revenue stream remains available.

As I have indicated, there are dozens of important provisions in this legislation, but Mr. President, I would like to focus my remarks on three main areas.

First, aviation safety. Air transportation in this country is safe and remains the safest form of travel, however, we can and we must do more. This legislation facilitates the replacement of outdated air traffic control equipment. Importantly, it also puts in place a mechanism to evaluate long-term funding needs at the FAA. Much work has been done by Senator MCCAIN, HOLLINGS, FORD, STEVENS, and others, as well as the administration, and I want to congratulate them and thank them for their efforts in this regard. This effort is critically important given the projected growth in air travel over the next several years. Ensuring adequate funding in a time of increasing passenger traffic and diminishing Federal resources is a difficult issue and this legislation takes important steps forward.

A second area I want to highlight is aviation security. This legislation contains numerous provisions designed to improve security at our Nation's airlines and airports. Here again, I would like to thank a bipartisan group of Senators for their efforts to develop comprehensive recommendations for the bill. Senators HUTCHINSON and LAUTENBERG deserve special thanks for their tireless work in this area over the past several months. The measure before us today incorporates many of the suggestions from the House-passed antiterrorism bill, as well as new recommendations from the Gore Commission of which I am a member. Passage of this bill will improve aviation security by: spending deployment of the latest explosive detection systems; enhancing passenger screening processes; requiring criminal history record checks on screeners; requiring regular joint threat assessments and testing baggage match procedures.

The third and final area I wish to highlight Mr. President, is how this legislation will help small community air service and small airports, such as those in my State of South Dakota. The legislation before us today reauthorizes the Essential Air Service Program at the level of $50 million. This program is vital to States such as South Dakota and others. The bill also directs the Secretary of Transportation to conduct a comprehensive study on rural air service and fares. For too long, small communities have been forced to endure higher fares as a result of inadequate competition and the Department of Transportation will now look into this issue as a result of this bill. This follows on the important work that I instructed the General Accounting Office to initiate last year. And finally, in this legislation, we have taken steps to protect smaller airports in the event of funding downturns in the appropriations process.

The legislation guarantees that if airport funding were to be significantly reduced, smaller airports would not be disadvantaged disappropriately. As my colleagues know, larger facilities have a number of funding options available to them, including access to the bond communities, PFC, rates, and charges and the like. Smaller airports do not have the same options. I am pleased that we have developed a safeguard for smaller airports without significant modifications to the existing allocation formulas, while protecting existing letters of intent for multiyear funding projects at larger airports.

In summary, Mr. President, this legislation represents the culmination of over a year's work by the Commerce Committee and other interested Senators. It addresses our most pressing aviation needs—safety, security, and funding.

I urge all of my colleagues to support passage of S. 1994. We cannot adjourn for the year without taking final action on this important legislation. If we fail to act, the FAA's hands will be tied and they will be unable to address needed security and safety issues in every State in the Nation.

I should pay special tribute to the chairman and ranking member of the Aviation Subcommittee, Senators MCCAIN and FORD, who have done so much fine work on this.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I have a longer statement I will give in a minute, but I want to thank the distinguished chairman of the committee, Senator PRESSLER, who made possible this legislation through his leadership, through the efforts of his staff, whose names will be mentioned later.

I say to Senator PRESSLER, I do not believe this legislation would be before us today without your leadership. We look forward to your active participation and assistance as we move this legislation through to its completion, hopefully by tomorrow. I extend my deepest appreciation to Senator PRESSLER.

Although we have not completed this legislation yet, and I will save my remarks about my friend from Kentucky, with whom, for 10 years now, I have had the opportunity of working, the Senator from Kentucky has proven again that the only way you achieve legislative successes are through bipartisan efforts, not only working together on both sides of the aisle but with the administration. There are many people, including the Secretary of Transportation, Mr. Peña, and the FAA Administrator, and especially the Deputy Administrator, Linda Daschle, and their hard working staff.

I ask my friend from Kentucky if he would like to proceed with our opening statements, or would he like to go directly to the amendments that are pending?

Mr. FORD. I would say to my friend that I will have a very short opening statement. I think we can encourage our colleagues, if they have any amendments that have not been taken care of in the managers' amendment. I think many of those have already been taken care of. They will be in the managers' amendment. So, for all practical purposes, I would be more than pleased to see if any of my colleagues have any amendments they would like to put on, because, at some point tonight, I think the chairman of the subcommittee will want to get a finite list of any amendments that are not taken care of in the managers' amendment, or are agreed to or voted on tonight.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona has the floor.

Mr. MCCAIN. I would say to the Senator from Kentucky, I believe it is the wishes of the majority leader and the Democratic leader to get a finite list, unanimous-consent agreement on that, and have whatever votes are necessary sometime tomorrow morning. So I, like the Senator from Kentucky, urge my colleagues who have additional amendments to those that we already have to come over to propose those, propound those amendments, and let us act on them.

Mr. FORD. Mr. President, S. 1994 authorizes the programs of the FAA for 1 year. The bill must pass because it is an authorization bill. The FAA cannot issue any airport grants unless this bill is passed. Under S. 1994, the FAA would spend approximately $35 million more on small airports for fiscal year 1997 than was spent in fiscal year 1996. I believe the chairman of the committee, Senator PRESSLER, noted that was one of the things he felt was so important in S. 1994.

The House has passed its FAA reauthorization bill. That is H.R. 3539. They did that last week. So it is incumbent upon us to get our bill out so we can go to conference and have the bill back to be presented to both the House and the Senate as soon as possible.

S. 1994 also contains a title that addresses FAA reform, the long-term issues relating to how much money FAA needs, and how to raise the funds. A task force will review these issues and work with the Secretary of Transportation on developing legislation that will be submitted to Congress for review. We have no expedited procedures here, so what we are saying is that this task force will get it together with the advice and counsel of the Secretary of Transportation, and that package is to be submitted to Congress for our review or support or whatever it might be. So I think it is real important—very important that we get this out.

The structure of the FAA would change slightly—and I underscore ''slightly''—making it more independent of oversight by the Secretary of Transportation in the safety regulatory arena.

Finally, the bill includes a title concerning aviation security and covers many of the issues that Senator PRESSLER said, as a member of the Gore Commission, that they recommended. These items are generally consistent with the Gore Commission's recommendation.

The bill also authorizes the collection of up to $100 million in overflight fees, fees charged to foreign air carriers flying through our air traffic control system. Some of this money could help pay for the essential air service programs that are so important to less populated areas.

Mr. President, I might say, one of the reasons this is put in here is that other countries charge us overflight fees. We have never done that. So I do not think there could be any retribution of any kind if we add those fees, because we will be doing the same thing they are doing. They are using our system, they are flying over this country in a safe manner, and therefore we charge them a fee for our services.

So I hope my colleagues are listening. I hope if my colleagues have any amendments that they want us to consider as they relate to S. 1994, that they come forward and we be able to put those on the list. Those Senators who might be concerned if their amendment has been included in the managers' amendments or not, we will be more than pleased to visit with them right away so we can assure our colleagues that their amendment has been taken care of.

So, Mr. President, I look forward to moving this legislation forward. I look forward to cooperating with my friend from Arizona, Senator MCCAIN, and that we will pass a piece of legislation that will be acceptable and that we will be proud of in the final results.

I yield the floor.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, this collaborative work has resulted in legislation that will benefit everyone who uses this country's air transportation system, including air travelers, airports of all sizes, pilots and other airline and airport employees, the Federal Aviation Administration, major, regional, and short-haul air carriers, general aviation pilots and manufacturers, and all others in the aviation industry. This bill will do the following:

Ensure that the FAA and our Nation's airports will be adequately funded by reauthorizing key FAA programs, including AIP, for fiscal year 1997;

Ensure that the FAA has the resources it needs to improve airport and airline security in the near term;

Direct the National Transportation Safety Board to establish a program to provide for adequate notification of and advocacy services for the families of victims of aircraft accidents;

Enhance airline and air travelers' safety by requiring airlines to share employment and performance records before hiring new pilots;

Strengthen existing laws prohibiting airport revenue diversion, and provide DOT and the FAA with the tools they need to enforce Federal laws prohibiting revenue diversion;

Make needed changes relating to MWAA, which is Metropolitan Washington Airport Authority; and, most important, provide for thorough reform, including long-term funding reform, of the FAA.

Each of the elements of S. 1994 is essential to fulfilling Congress' responsibility to improving our country's air transportation system. Clearly, Congress, the White House, DOT, the FAA, and others throughout the aviation industry have been under close scrutiny regarding the state of the U.S. air transportation system. The traveling public has told us they are worried about the safety and security of U.S. airports and airlines, and the ability of the Government to alleviate these concerns. Recent tragic events suggest that this apprehension is justified, and we have been strongly encouraged to correct the problems in one air transportation system. I believe that the legislation we are considering today will go a long way toward making the system safer and better in every way.

I would like to discuss briefly the importance of addressing and resolving the FAA's funding problems. I have long been a strong supporter of comprehensive FAA reform, which includes helping to create a more autonomous and accountable FAA, giving the FAA flexibility in personnel, procurement, and regulatory matters, and ensuring that the FAA has a long-term, user fee based funding system that considers the FAA's costs of providing services, increases the efficiency with which the FAA provides its services, and enhances the safety of the U.S. air transportation system.

Although S. 1994 includes an FAA reform package that I fully support and that encompasses several elements that the FAA needs to resolve its problems, the legislation does not mandate a user fee based on long-term funding system for the FAA. I still believe that a user fee system would be the most equitable and efficient funding system for the FAA. Yet, after working and consulting with many others in Congress, the administration, and the aviation industry, this legislation instead sets up a task force, which will study and recommend to Congress the best funding system for the agency. I am pleased that we are taking this critical step today toward achieving long-needed, comprehensive FAA reform.

I would also like to address the safety and security provisions in this bill. We all know that the traveling public is worried about their safety when they fly. Provisions in this legislation were developed to respond quickly and precisely to concerns we have heard in first-hand conversations with those who use our Nation's airports and airlines.

In specific, to assure air travelers and other users of our air transportation system that safety is paramount, this bill requires the FAA to study and report to Congress on whether certain air carrier security responsibilities should be transferred to or shared with airports or the Federal Government; requires the NTSB to develop a program to provide family advocacy services following commercial aircraft accidents; requires NTSB and the FAA to work together to develop a system to classify aircraft accident and safety data maintained by the NTSB, and report to Congress on the effects of publishing such data; ensures that the FAA gives high priority to implement a fully enhanced safety performance analysis system, including automated surveillance; requires the FAA to conduct a study on weapons and explosive detection technology. And by the way, Mr. President, I believe that technology is out there and, with the proper funding in research and development, we can develop it, I have no doubt about that. Improves standards for airport security passenger, baggage, and property screeners, including requiring criminal history records checks; requires the FAA to facilitate quick deployment of commercially available explosive detection equipment; contains a sense of the Senate on the development of effective passenger profiling programs; authorizes airports to use project grant money and PFC's for airport security programs; establishes aviation security liaisons at key Federal agencies; requires the FAA and FBI to carry out joint threat and vulnerability assessments every 3 years; directs the FAA to set up a pilot program to determine whether baggage match requirements would enhance safety and security; requires all air carriers and airports to conduct periodic vulnerability assessments of security systems; and facilitates the transfer of pilot employment records between employing airlines so that passenger safety is not compromised.

This legislation addresses two other critical aviation issues. First, it contains provisions intended to reverse the disturbing trend of illegal diversion of airport revenues. To ensure that airport revenues are used only for airport purposes, this legislation would expand the prohibition on revenue diversion to cover more instances of diversion. It also would establish clear penalties and stronger mechanisms to enforce Federal laws prohibiting revenue diversion. In addition, the bill would impose additional reporting requirements so that illegal revenue diversion is easily identified and verified.

Finally, Mr. President, this legislation makes certain changes to the Metropolitan Washington Airports Authority required following recent Federal court rulings. In specific, the bill abolishes the MWAA Board of Review, and increases the number of Presidentially-appointed members of the MWAA Board of Directors. It also conveys the sense of the Senate that the MWAA should not provide free, reserved parking areas at either Washington National Airport or Washington Dulles International Airport for Members of Congress and other Government officials, or diplomats.

Mr. President, the recent horrible aircraft accidents, and continuing reports of power outages and equipment failures in our air traffic control centers, have raised questions about the safety of our Nation's air transportation system and the effectiveness of the Federal Government in safeguarding the traveling public. We must do our part to reassure the traveling public that we have the world's safest air transportation system. This comprehensive legislation will go a long way in reassuring the public that the system is safe, and ensure the FAA will have a stable, predictable, and sufficient funding stream for the long term.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. REID. Mr. President, at an appropriate time during the proceedings of this legislation, I will offer an amendment.

We live in a world that is increasingly unstable and more dangerous each day. Unfortunately, the origins of most of this danger are the nations around the world that export its violence and its terrorism.

This world is full of various cultures. Many diametrically differ from each other, but no clash of ideals and societies justifies state-sponsored terrorism and aggression.

The resolution unequivocally notifies the world that the United States will not tolerate state criminal activity against American citizens and their property. The amendment that I will offer will outline this in some detail.

Mr. President, those of us who serve in this body fly all the time, so perhaps because of that we recognize every time there is a TWA flight 800 or Pan-American, we cannot only see ourselves, but our families, in these aircraft that are so treacherously destroyed.

The resolution that I will offer warns the world that the United States will not accept in the slightest degree any assault on its citizens by another nation. The resolution that I will offer will convey a sense of the U.S. Senate that any state-sponsored condoned hostilities toward Americans will in fact be an act of war and that we should strongly consider that an act of war.

Mr. President, this principle applies to any act of hostility, including but not limited to airplanes that are hijacked or destroyed in the skies, to the hostage taking of American citizens living overseas and to the destruction of buildings in which Americans reside, either on American soil or otherwise.

The United States does not go to war against common criminals, but if a nation is going to plan and organize the aggression, assist in the execution of terrorism or condone the hostility by hiding the terrorists, then there will be a consideration of a state of war between America and that nation.

Mr. President, it is a responsible response to an aggressive act by a foreign state. The existence of these acts is itself, I believe, a declaration that they have no concern for human safety, of life, and that we should strongly consider this to be an act of war.

I hope that it will be a deterrent to continued terrorist activity, bringing down on a hostile government many numerous negative consequences, such as economic warfare, that is, affecting the ability of the country to obtain loans. No government in the world today can afford to have their credit cut off or their borrowing power removed.

Second, causing neutral nations to quit trading or doing business in a terrorist country is something we should consider would exist. If there is risk to

trading with a country who exports violence and upon whom there has been or is considered a declaration of war, then neutral nations will cease trading with these venues of violence.

Increasing insurance rates for the terrorist-sponsored government. Any nation that sponsors terrorism itself is at risk of violent retaliation, and consequently will see their insurance rates, which countries depend on in this modern world, as a detriment to their doing these acts of violence.

What is a state of war? Among other things, the first response that comes to mind, of course, is a military response, such as the one that President Reagan initiated against Libya. The military power of the United States is well known and respected throughout the world, and is a principal option we would have.

Additionally, of course, naval blockades are an option, though less dramatic and violent than a full military response. Mr. President, naval blockades have been used in recent times, particularly in Cuba, and in other nations whose reliance on ports and waterways are fundamental to their economy and their way of life.

A third form of response could be an economic response, in effect, economic warfare that engages a variety of sanctions against that nation's economy. This could range from a total embargo, to dramatic tariffs, to a removal of the most favored nation status. This response could vary with the resistance of the nation concerned.

I discuss these options of retaliation to clarify that this sense-of-the-Senate resolution is not necessarily saying, as we did during the Vietnam conflict, that we will, in effect, try to bomb them back to the Stone Age—nothing to that effect. Rather, we will take the responsible, firm actions necessary in a state of war to respond to state-sponsored terrorism.

To declare a state of war under such circumstances is well within the norm of international war and even historical precedent. The War of 1812 started because American sailors were being taken and impressed into the British Navy. The British Government declared war against the Barbary pirates who terrorized the American coastline. Of course, there was the threat of war by Theodore Roosevelt against the Moroccan Government over the kidnapping of an American family.

But even if it were not preceded in history, by the examples I have given, we must recognize the changing world in which terrorists are government supported, and that fanatical leaders of nations are willing to terrorize the lives of innocent people.

So, Mr. President, this resolution that I will offer at some subsequent time in these proceedings would send a clear, unequivocal message, both abroad and to our own communities and States, by saying that the American Government will protect its citizens when other nations sanction the assault, killing, and terrorizing of our citizens, that we will retaliate.

At the appropriate time, Mr. President, I will urge my colleagues to support this sense-of-the-Senate resolution that would articulate clearly the gravity with which we consider the terrorism that has been exported and is being exported by foreign nations.

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

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

ALLEGHENY COUNTY AIRPORT PRIVATIZATION

Mr. SPECTER. Mr. President, I met recently with County Commissioners Larry Dunn and Bob Cranmer, who are very interested in the economic development that could be generated from privatizing Allegheny County Airport, a general aviation airport which has not had commercial passenger service since 1956. During my visit to the airport on September 9, 1996, I again heard of the strong local interest in privatization, which the county has estimated could generate as much as $20 million in business growth in the Monongahela River Valley, an area hurt in recent years by severe unemployment.

I am advised that Federal law and regulations are the principal obstacles to privatization of airports. The House FAA reauthorization bill contains a provision allowing for the sale or long-term lease, with the approval of the FAA, of up to six airports, of which one must be a general aviation airport or similar airport not in commercial service, such as Allegheny County Airport. The Senate bill we are considering today does not contain language authorizing such a pilot program, but does provide for a report to the Secretary by an independent task force that will consider innovative financing mechanisms.

Upon this state of the record, and as a member of the Transportation Appropriations Subcommittee, I believe that for Allegheny County Airport to realize its fullest potential, private investment is crucial. I would ask my distinguished colleagues, the chairmen of the Aviation Subcommittee and the full Commerce Committee, whether the Allegheny County Airport is the type of airport in which privatization should be facilitated by Congress?

Mr. McCAIN. As my good friend, the senior Senator from Pennsylvania knows, I have been reluctant to support legislation in this bill directing the agency to establish a pilot program on airport privatization, particularly because of the revenue diversion issue. However, if there is a legislative effort to facilitate privatization, either as a result of an independent task force recommendation, as provided for in section 674, or as a result of subsequent conference negotiations on general aviation privatization with the House of Representatives, I could support privatization as long as no such legislation permits the egregious activity of revenue diversion and as long as it continues to meet the airport users' needs. Allegheny County Airport appears to meet the criteria of the Federal Aviation Administration for inclusion in a privatization test program.

Mr. PRESSLER. In response to the concerns raised by the senior Senator from Pennsylvania, I would note that I made my point in our recent correspondence that it is important to be openminded and innovative in thinking about airport funding at a time of declining Federal resources. Undoubtedly, the privatization issue will be taken up by the conference and I look forward to working with my colleagues to address the needs of general aviation airports, such as Allegheny County Airport. If the conferees determine that a privatization pilot program is appropriate for general aviation airports, I am sure that we will accord Allegheny County Airport all due consideration for inclusion in any such program and would hope that the agency would do likewise.

Mr. FORD. I want to add my voice to this discussion. I know that the House has included a privatization provision, which I cannot accept. I want to let my colleagues know of my grave concerns about this matter. I know others share my concerns. If Senator SPECTER's concern is over one general aviation report, I suspect we all can appropriately address that matter.

Mr. McCAIN. Mr. President, I want to thank the Senator from Pennsylvania, Senator SPECTER, for his agreement to a colloquy, and we will make sure that every consideration is given to his commitment to the Allegheny County Airport.

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. BROWN. 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. BROWN. Mr. President, I will be offering an amendment later this evening that is designed to give transparency to some of the bidding process with regard to large construction contracts.

I was surprised, in reviewing the records of the Denver Airport, to find that it was difficult to ascertain why people had not been awarded the contract even though they were the lowest qualified bidder. I had just assumed that, when you put a project out to bid and you had narrowed the field of people who bid on that contract, you were obliged to take the lowest bid. Certainly, that would be in the best interest of the taxpayers if you could get

the work done by someone who you yourself said was qualified. It came as a surprise to me that, at times, the lowest bidder did not get the work, even though deemed qualified.

What was of more concern was the fact that it was very difficult to identify when this had happened and how much it had cost the taxpayers. Literally, in working with the GAO audit at the Denver Airport, we were advised that it was going to be next to impossible for them to identify which contracts had not taken the lowest bid and how much was lost to the taxpayers or how much cost was increased because of that.

Mr. President, I am well aware of the problems of overregulating this area. I want to commend the committee for their efforts in the past to try to loosen up this area, to give more flexibility to the levels of government that work in this area. My understanding is that the advancements in that area have been made and that a general guideline indicating an effective contracting procedure should be set forth but that the Transportation Department has the ability to move away from the very restrictive legislation in this area which has existed in the past and still, for example, exists with the Pentagon.

So it is not my purpose to reregulate this area. But it is my purpose—and I think it would serve an advantage—if, when the lowest qualified bidder is not selected, that at least the information is available as to why the lowest qualified bidder wasn't selected and how much difference there was in the bids on the contract. I believe that, if there is something wrong—and I don't mean to suggest there is always something wrong if you don't take the lowest bidder. I suspect that there are circumstances where that is explainable and understandable. But I believe if you have to at least present the information and make it public and available, the free press in our free system will do a great deal to police the situation. Transparency, exposure of the facts, will help guarantee that the taxpayers get the best contract for their dollar and get the best performance.

Mr. President, I think it would be a mistake to continue a practice which allows people to literally hide from the public the fact that they haven't taken the best bid from qualified bidders in these circumstances. Mindful of the costs of imposing this burden, we have suggested a $1 million threshold, and maybe it should be even higher. The Defense Department has a $25,000 threshold for their requirement for the competitive bidding. So I don't suggest doing anything like what the Defense Department has done, but I think at least with the disclosure of the $1 million threshold—we will eliminate the small contracts—we will make it available. Literally, when you don't take the best bid, you at least ought to make an explanation and the facts available to the public.

Mr. FORD. If the Senator will yield for a question, without his losing the right to the floor. The Senator is asking for kind of a public notice of taking a bid when it is not the lowest bid, but we always put the lowest and best. So if you want us to say that we don't think the contractor is qualified and so, therefore, we put out openly that the reason we turned down the lowest bid is we didn't think the contractor was qualified, then you would open the airport board up—or whoever it is—to a lawsuit saying that this contractor is not qualified and, therefore, we are throwing out his bid. That gets to be a little bit tough, I imagine, when there is a bid of any significance.

I am trying to prevent lawsuits on my airport board.

Mr. BROWN. I appreciate the interest of the distinguished Senator from Kentucky. I know he is very knowledgeable in this area. You will be relieved to know that is not the way the amendment is drafted. My sense was that, in a circumstance where the airport authority, or others, have deemed the bidders qualified, among the bidders that they deemed qualified, if they don't take the best bid, they would be then obliged to give some indication of the reason they had not taken the best bid, but it would only be among those who were qualified. They would be the determinants of those qualified.

Mr. FORD. Sometimes, I say to my friend from Colorado, when you have to publicize the bid, it is in the local paper, and you can go by and pick up blueprints for $25 or $100, or whatever it is, and you take it and work up your estimate. When the bid date comes, you make your bid. When do they determine that contractor is qualified or not qualified?

Mr. BROWN. Obviously, the procedure followed will depend on the entity and, of course, we are dealing with a nationwide effort. The Department of Transportation, for the contracts that they let themselves, follows a different procedure than, perhaps, local airport boards would.

Mr. McCAIN. Will my colleague yield and allow me to make a statement on behalf of the leader?

Mr. BROWN. Yes.

Mr. McCAIN. Mr. President, I ask unanimous-consent, with the Senator from Colorado not losing his right to the floor, to make a statement on behalf of the majority leader.

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

Mr. McCAIN. Mr. President, the majority leader has asked me to announce that we are seeking a finite list of amendments, with the intention of propounding a unanimous-consent agreement at the appropriate time, and that it be a limited number of amendments, to be tentatively voted on—those that require votes—at 11 o'clock tomorrow morning.

The majority leader asked me to announce that there will be no further votes this evening. I urge my colleagues to come over with their amendments so we can compile a complete list of amendments, which we hope to follow with a unanimous-consent agreement limiting the bill to those amendments in further consideration of the bill.

I yield the floor back to the Senator from Colorado.

Mr. BROWN. I yield to the Senator from Kentucky.

Mr. FORD. Mr. President, I say to my friend, I haven't seen the amendment, so it is hypothetical. You made a statement that left an inference here on what we were supposed to do, and so I will wait and get a copy of your amendment. I think your intent is good, but I am not sure that the end result will get what you are looking for. I would like to see the amendment.

Mr. BROWN. Let me say that I appreciate my friend's interest and, particularly, his expertise in this area. We will get him a copy of the amendment and would, obviously, appreciate any suggestions the Senator has. It is not my purpose to restrict, in any way, airport authority, or anybody, from making determinations as to who is qualified to bid, nor would it be to require an investigation. It is my intention that when you come down to several parties being deemed qualified and the contract not going to the one who is qualified and the lowest, then I think the public is entitled to at least an explanation.

That is the intention of the amendment we will be offering. I will file it at the desk.

I yield the floor.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, I am disturbed by this amendment. This amendment is the total Department of Transportation. It has nothing to do directly with aviation. This is an aviation bill. This indicates to me that, if you do not like the winner, this gives you the ability to get rid of him. It is page after page of what a contractor has to do, what the Secretary of Transportation has to do, and all of these things. This is the total Department of Transportation. We are here today to talk about airports. I thought it was referring to airports, and about airport authority. This says the Secretary of Transportation or the Administrator to award a contract in an amount greater or equal to $1 million.

So the Senator from Colorado is going to have to do a lot of work on this one before this Senator agrees to it, and he will have to present it and have a vote in the Senate.

I yield the floor.

Mr. BROWN. Will the Senator yield?

The PRESIDING OFFICER. The Senator from Colorado.

Mr. BROWN. I thank the Chair.

Let me say it is my understanding that the amendment does not give anyone a chance to open up bids. All it does is merely ask for disclosure. It suggests that there ought to be a bidding process. I want to assure my

friend from Kentucky that I will be happy to work with him on his concerns. We will try to see if we can't develop what he wants.

Mr. FORD. Mr. President, one of the mistakes that has been made here tonight is, I guess, saying no more votes. When it is said ''no more votes,'' they scatter like a covey of quail. So we will be looking for amendments as best we can.

We have a managers' package that will take care of many of the Senators who have offered amendments. We are, I think, fairly close—down to maybe six or eight amendments that will be the finite list. But we never know.

The thing I want my colleagues to understand is that the majority leader has told the Senator from Arizona that he wants to get a unanimous-consent agreement tonight on a finite list of amendments and start voting on it at 11 o'clock tomorrow. All I can do is try to protect my colleagues as best as I can to a point.

So I hope at least those on my side, if you have an amendment, will please come and let me have it so that it can be on the list. If not, I think you may get left out.

I yield the floor.

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, I would like to echo the sentiments of my friend from Kentucky. I hope that the relevant amendments will be brought over. We are in the process of compiling that list. It is my understanding that the intention of the majority leader and the Democratic leader is to complete this bill tonight with the relevant votes held over until tomorrow at 11.

So I again urge my colleagues to come over.

Mr. STEVENS. I am pleased that this bill has made its way to the floor. Included in this important legislation is a provision I helped to craft which mandates an extensive review of the Federal Aviation Administration's financing needs. A private industry commission is established under this bill that will make recommendations on whether the FAA's financing system needs to be modified.

I know that we all agree that the aviation industry and the traveling public need to have a fully funded, efficient, Federal Aviation Administration.

What we disagree on, and what the industry disagrees on, is how to reach that goal.

There is a bill on the calendar which mandates the implementation of user fees to fund the Agency. That bill has drawn so much opposition that it is stalled.

The so-called big seven air carriers have visited many of our offices with a different user fee proposal—that concept also has not been adopted.

An alliance has been formed of air carriers, general aviation, manufacturers, and others to block all user fee proposals.

Rather than settling on a funding mechanism, the industry is battling amongst itself. Some players are urging a long-term reinstitution of the ticket tax. Others say they will fight to the death if the tax is extended beyond the end of this year.

And meanwhile, uncertainty mounts about how the FAA will meet the challenges of the 21st century.

Last year, when S. 1239 came before the Commerce Committee, I offered substitute legislation to remove the mandated user fee system contemplated by that legislation.

My concept was that Congress needed more facts to cut through the issues raised by both sides—and frankly, I was concerned that S. 1239 preordained user fees as the only way to meet the FAA's needs.

My belief then, and now, is that an independent authority must review the FAA's budgetary projections and determine whether they are sound. All of us must agree on the needs, before we mandate the solutions.

The compromise before us today does that. An independent assessment of the FAA's financial requirements is conducted, and then an independent panel takes the financial information and proposes to us, and the administration, specific recommendations on how to fund the agency, and how to get the most efficient system for the dollars spent.

I will be blunt. I believe the flat-tax concept of the excise taxes has worked. It is not perfect, but I fear there is no perfect funding mechanism in this area.

But we will let the independent task force work its will—and we will act on the proposals it promulgates.

I want to thank Senators McCAIN, FORD, HOLLINGS, and PRESSLER for their hard work and leadership on this bill. We all care about the FAA and want to see it work efficiently and effectively. Many good people work at the FAA, and the agency is absolutely essential in my State where more than three-quarters of our communities are accessible only by air.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mrs. HUTCHISON. 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. HUTCHISON. Mr. President, I thank the Senator from Arizona for the work that he has done on the aviation security issue and the aviation funding issue. He has worked on that for a long time. It is something that we share as an issue.

Having been a member of the National Transportation Safety Board, I have looked at aviation safety for a long time. I think that the United States and the FAA have done a very good job with the job at hand. The issue used to be hijacking. That is what we were worried about. That is when passenger screening came into being—when we worried about the possibility of someone with a firearm coming in and taking the plane away to hijack it and the passengers.

But now we have a different threat. Now we must meet a different test. And that threat, of course, is terrorism. We must do everything we can to protect the traveling public against the people in this country that would kill and maim innocent people in the name of a cause; people who would go in and blow up a building, or blow up an airplane, or any other kind of heinous crime not even knowing the victims, not even knowing their families. And, yet, because they believe in some cause that they want to get publicity for they would do these terrible acts.

It is hard to deal with something like that, but we must try. And we can do a lot just by having in place strong security measures that would protect the traveling public and let would-be terrorists know we are going to meet them at every point that they would try.

I think Senator McCAIN's bill is a good one because it does put in place studies where we are not sure what the ramifications would be, and regulations to be made by the FAA where we know that we can do certain things that will make it better.

I think baggage checks, which is something that is done on international flights, is something that we ought to look at on domestic flights. It is not easy. I know that the airlines are very concerned about not only passenger security but, of course, the ease of travel and the ability to keep time. It is an issue for them. I understand that. But I think we have to try. I think we have to see how we can make it work.

Technology is changing every day. It is getting better. I went to the airport yesterday morning, and they put my ticket through a screening device and brought out the boarding pass. Clearly, they are now being able to check whether a ticket is valid. That is good. I was pleased to have that little, tiny delay because I knew that it made me safer in the air.

So I think with the technology we have, that probably we can work out something with baggage checks that would not be onerous for the airlines. Certainly, background checks for baggage handlers and passenger screeners is going to be something we would like to have looked at.

We want to make sure that we are able to screen people who are going to have access to the tarmac. I think these are prudent measures and something that we need to know all the ramifications of. We need to know what the costs are. We need cost-benefit analyses. That is common sense. But I think, in the end, this can be done with a cost-benefit analysis that does make sense.

I am very pleased we are going to look at passenger facility charges and Airport Improvement Programs for the funding of these security measures. The Senator from Arizona is making it possible in this bill, in the managers' amendment, to have access to those funding mechanisms for more of the security screening systems that are a higher and better technology than those being used at most airports today.

We have a number of things that will improve our airport security in this bill. I do think it is important that we take every step we can, that we work with the FAA, that we bring the FBI in to an even greater extent. They are working now with the FAA, but I think they could do even more. I think it very important that we bring all of this together with the mandates and the studies to make sure we do everything possible to make the traveling public safe and to let them know we are taking these steps to make them safe and also to let the potential terrorists know we are taking these steps to counter the threats that they might make on our traveling public.

So I am very pleased to have worked with Senator MCCAIN on this bill, to bring what I learned in my days at the National Transportation Safety Board to bear on this, although I must say, when I was on the National Transportation Safety Board terrorism was not the threat. That was in the old days when we were worried about other safety issues, and I think now we do have the safest aviation system in the world, and we are just going to take the next step to make it safer.

I thank the Senator from Arizona and the Senator from Kentucky for their work on this bill. We must pass it, and we will.

I thank the Chair.

Mr. MCCAIN. Mr. President, I wish to take a moment to thank the Senator from Texas. She brings a degree of experience and expertise to the Commerce Committee on aviation issues that no other Member of the Senate has, due to her long involvement with aviation safety as a member of the National Transportation Safety Board. She worked on a special task force on antiterrorism after the TWA 800 tragedy. She has advised the Senator from Kentucky and me, but, more importantly, she has been responsible for specific recommendations that are part of this bill which I think will help us achieve the goal which we all seek, and that is a reduction in the threat to the safety of those American citizens and others who make use of airlines not only in the United States but throughout the world.

So I extend my deep appreciation to the Senator from Texas. The bill would not be, I believe, as encompassing as it otherwise is without her assistance, and I thank the Senator from Texas.

Mr. President, I yield the floor.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER (Mr. BROWN). The Senator from North Dakota is recognized.

Mr. DORGAN. Mr. President, I wanted to come to the floor to speak about a couple of provisions in this legislation which includes a number of very important provisions that are very important to all parts of America, but especially to rural America. I wanted to make note of a couple of them.

Before I do, I wish to talk generally about what persuaded me to advance an amendment in this legislation dealing with essential air service. This bill contains an amendment I offered in the Commerce Committee dealing with the essential air service program.

I want to go back, as boring as it might be for some, to revisit the decision on deregulating the airlines. We have people here in Congress who still think deregulation was a wonderful thing to do. If they could get pompoms, they would do jumping jacks and wave pompoms, saying airline deregulation was a wonderful thing for our country. Well, it was for some Americans.

If you live in Chicago, I guarantee you grin from ear to ear about deregulation because if you happen to be traveling to Los Angeles, you can go to O'Hare Airport, find many carriers flying to Los Angeles, competing aggressively against each other, providing competitively lower prices. You will find a heck of a bargain if you want to travel from Chicago to Los Angeles. If you want to travel from Chicago to New York, the same deal—a lot of carriers competing aggressively, competing by lowering prices. You get a heck of a deal.

What about people who do not live in the largest cities? What about someone who lives, for example, in a State like North Dakota? Before deregulation, there several major airlines that flew jets in North Dakota: Western Airlines, Frontier Airlines, Republic, formerly North Central Airlines, Delta Airlines, Northwest Airlines, Continental Airlines. Do you know who flies jets in North Dakota today? Northwest Airlines—a good carrier. One jet service carrier servicing our State. It is a good carrier, good company, but our people deserve some competition.

The result of all of this is that in rural parts of the country when you have less service, fewer companies and less competition? Higher prices and less service.

I'll give you an example which I have used before in the Commerce Committee. Let us assume that a Senator from Colorado desired to fly from Washington, DC, to go to Disneyland and see Mickey Mouse and all of the merriment at Disneyland, traveling all the way across the country. And the Senator from Colorado called a travel agent and said, ''I want to go see Disneyland in California. What is it going to cost me?'' And they would give him a price for a ticket, maybe a 2-week advance, to fly all the way across the country. And then I convinced him you ought not go to Disneyland; you ought to go see the world's biggest cow on a hill overlooking New Salem, ND—Salem Sue, a giant plastic dairy cow that sits on a hill. So he decides he will fly from Washington, DC, to Bismarck; he would be going to see Salem Sue instead of Mickey Mouse. So he calls the same travel agent and says, ''Well, you charge $300 for me to fly from Washington, DC, to Disneyland. How much will it cost me to go half as far to see the world's largest cow on a hill outside New Salem, ND?''

Answer, twice as much.

Fly half as far, pay twice as much. Or, said another way, fly twice as far, pay half as much.

What kind of a pricing system is that? Would that be a bureaucratic pricing system? Would that be a function of some bureaucrat in Government who decided let me see if I can mess up our pricing system so we can charge people higher prices to fly fewer miles? No, that is not what this is about. It is about airline deregulation and the lack of competition, which means that rural areas, people who live in smaller States with less population, end up paying higher prices for fewer choices. That is where deregulation has left us.

Some people think that does not mean very much. We still get all this robust competition in the major cities, and that is a good thing for the major cities. Yes, it sure is. It is a good thing for the major cities. But it has been devastating for rural areas of the country.

I could go on at some length but I shall not do that, except to say that, because of our experience, in which deregulation of the airlines has made the rural areas an impoverished area with respect to that part of transportation service we used to expect—some kind of competition with jet service going to some hubs—because of that we have to rely more and more on other kinds of devices. We have become very strong supporters of the Essential Airline Service Program, called EAS. That was a program—when deregulation was enacted—that was advertised as a means to continue to provide some support and help to the smaller areas. That program used to be funded at $80 million a year. Then it went to $40 million a year, then $30 million, then $25 million. Slowly but surely it has been diminishing and many have tried to kill it.

What I did in this bill was offer an amendment that is now part of this legislation that provides a permanence to the Essential Air Service Program by funding it with a fee which this country should attach to foreign carriers overflying America. Every other country assesses this fee. Our country never has. This bill will assess a fee for foreign overflights of our country, just as other countries do, and part of the proceeds of that fee will be used to provide for an Essential Air Service Program that is more robust than the current program is.

Under my amendment, the Essential Air Service will be administered by the FAA; no longer the DOT, as is currently the case. It will be authorized at $50 million a year. This bill passed the Commerce Committee with broad, wide, bipartisan support. I appreciate very much that it is on the floor and likely will pass through the Senate. We expect to keep this in conference and, once and for all, solve this problem. This is a good piece of legislation that addresses a problem that we are stuck with as a result of deregulation in rural areas of the country.

My friend from Arizona is a particularly articulate supporter of deregulation. I understand why, and I do not contest his view of why it has been beneficial to some areas of the country. Nor would I expect he would contest my view that some areas of the country have been hit very, very hard by a theory that says we will create, in our transportation system, networks in which, if you get a decent income stream that supports a service, fine; if not, service is unavailable and unimportant to you.

We have always, in transportation and communications and certain other areas, said let us try to provide broad networks of opportunity. That should be true in air travel. It is true in communications, telephone service, and other areas as well. But deregulation has changed that. We have had an opportunity, now, to sample the bitter fruit of what deregulation does for us in some areas, and do not like it very much. That is why the Essential Air Service Program is increasingly important to us.

I would like to move from that just for a moment to one other item. This piece of legislation is critically important. I commend the Senator from Arizona and the Senator from Kentucky and all others who had a role in bringing it to the floor of the Senate, because this legislation must be enacted by this Congress. We must reauthorize the FAA, provide for some continuity, and we must recognize its new and expanded role in dealing with all of the issues we deal with all throughout the year on air service issues in the Commerce Committee.

But something has happened here that causes me great concern. Let me explain to the Senator from Arizona. I know he is aware of this and he probably feels the same way I do about this, but it causes me great concern. We have funded most of the FAA through the aviation trust fund, financed, in part, with a 10-percent ticket tax on airline tickets in this country. What happened is that this 104th Congress we got into a wrestling match about a whole range of issues and the ticket tax expired. All those many months the ticket tax has expired the $500 million a month that should have been going into the trust fund to help fund the programs in the FAA, depleting the trust fund.

Then the 10-percent ticket tax was reinstated, but it was not reinstated for the purpose of funding the FAA. It was reinstated for the purpose of paying for a small business tax program that was attached to the minimum wage bill.

I know about double entry bookkeeping, and this truly stretches double entry. Either the 10-percent ticket tax is designed to help fund the functions of the FAA, or it is designed to help pay, as a revenue source, for a range of tax breaks—many of which I supported, many of which I thought were meritorious—tax breaks for small business. But it cannot do both. And the more egregious approach here is that, on December 31, the 10-percent ticket tax will expire again and, on January 1 and 2, there will be no 10-percent ticket tax. The Congress will not be in session. The Congress will come back into session the first week for a day, for swearing in. Then its committees will organize. And, as all of us know, there is not going to be a reattachment of a ticket tax in January; unlikely in February; and we are right back into the same problem that all of us should have learned about in recent months.

This is not being critical of one side or the other. It is saying this is an awful way to do business. I have supported the ticket tax because I think it is an appropriate way to raise the revenue to help pay for the functions of the FAA. We lost $500 million a month, have substantially depleted the trust fund, we reattached the 10-percent ticket tax, not for the purpose of refunding the FAA, but for the purpose of allowing another bill to pass that provides tax cuts for small businesses, some tax help for small businesses, and then attached it only until December 31 when it is certain to expire again and all of us know it.

There is something fundamentally wrong with that happening. The responsibility for us to address that is ours, all of ours, on both sides of this political aisle. We ought to run this place the right way, and the 10-percent ticket tax, if that is the choice to largely fund the FAA functions, let us put it in place and keep it in place and not play games with it. One of the reasons I believe it is extended only by the Finance Committee through December 31 is because I think there is a belief by some that they can use it for the small business tax breaks now, which they have done, and then they can come back on January 1 and use it again because it will be new money. It will not be a tax that exists. It will be a new tax and they can use it for other purposes in January. It is a budget game and everyone in this Chamber knows it.

More important, it is playing a game with the wrong entity. The FAA, for all of the controversy that it seems to receive every time there is a major problem, the FAA is an institution that has an enormous responsibility. I, like my colleagues, have flown in various parts of the world. I tell you, at least with respect to the FAA—and I know we are talking vacuum tubes and all kinds of other issues here—with respect to the FAA, I feel more safe flying in this country than I do anywhere else in the world. Is the FAA perfect? Have we had problems? No, it is not perfect. Yes, we have had problems. But is this the kind of organization that deserves to have this kind of plug-in and pull-out circumstance on the 10-percent ticket tax? I do not think so. It is not a good way to do business. I think my colleague from Arizona would agree with that.

I am not standing here lacing criticism at one person or one committee or one party. I am just saying this is not the way for the Senate to do business and we ought to change it. If we are going to be here a week or two more, the Finance Committee ought to report something out that does this in the right way, and that would be to permanently attach that ticket tax so it does not expire on January 1 and attach it as a permanent funding source to the FAA, as it has been previously. That is what I would expect of this Congress. That is what I think most of the American people would expect of this Congress.

So, that is therapy. I got that off my chest. I have been complaining about that for some while to no avail. You talk to some who say, ''this committee has jurisdiction,'' ''this happened,'' ''there are circumstances we cannot always control,'' ''I wish it were different''—the fact is, we can make it different. We run things, all of us together. We in Congress can make our own decisions about what is right or what is wrong and it is fundamentally wrong that we are going to leave here and on January 1 have no ticket tax that is funding the manner the FAA runs, the way you and I and everybody expects it to operate.

Mr. President, I know others may want to speak on this. Having complained now for a bit about this, I do want to come back to say that I appreciate a lot of work that the Senator from Arizona and the Senator from Kentucky have done to bring this to this point. I know there have been a number of fences to climb and a number of fences to get under, even, to get here. I do not expect they will all be recited on the floor of the Senate, but this is the right subject. We need to reauthorize this bill, and the work that these two have done, I think, may allow us to accomplish that in a way that will be helpful to this country. If we will add to it a piece that solves the ticket tax issue in the way that people would expect it to be solved, then I think we will have done something more for this country. I yield the floor.

Mr. MCCAIN. First of all, I associate myself with the remarks of the Senator from North Dakota concerning the ticket tax. If, last year at this time, the Senator from North Dakota and I had been told that the ticket tax would

have been jerked around in this fashion, I would have just said it is not possible. I mean, aviation in America is too important. We have to have these funds. We know what method of transportation more and more Americans take, and the importance of modernization. We all know the problems with the air traffic control system. We all know the issues that face us. Yet the ticket tax was allowed to lapse for what, 10 months, I ask my colleague from North Dakota? It staggers the imagination. For us to only, as the Senator from North Dakota says, extend that ticket tax to December 31 is really unfair. It is unfair to aviation safety, it is unfair to modernization, it is unfair to the towns and communities that the Senator from North Dakota talked about which have lost air service as a result of deregulation.

I just would like to say now, especially since my friend from Kentucky is here, maybe if the three of us and like-minded Senators got together and just said, ''Look, we're not going out of session until we do resolve this ticket tax issue,'' remembering that in this bill, it does call for at some point a commission report to the Commerce Committee, to the Finance Committee, and then to the floor of the Senate, so we can fundamentally restructure the way the financing is done.

But until there is that kind of agreement, we are stuck with a ticket tax. I don't think it is the fairest kind of tax, I will tell my friend from North Dakota, and I don't think he does either. I think people who use the system are the ones who should be paying. Right now, for example, business jets pay about one-tenth into the system that they use. That is wrong. That is not fair. In all due respect to my friends in the corporate world, they can afford it.

There are significant inequities associated with the ticket tax, but for us to allow the aviation trust fund to become depleted to the point where we can't carry out our fundamental obligations, in my view, is—the kind of description I would use is inappropriate.

I wonder if the Senator from Kentucky wants to add a comment on that before I also respond on the issue of essential air service, which I think the Senator from North Dakota and I have been debating going on 7 years, and I have no illusion of changing his views tonight.

I yield the floor.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, let me thank my friend from North Dakota, Senator DORGAN. You never know when you get up on the floor and make a statement about the way you feel—the response from the Senator from Arizona, chairman of the Aviation Subcommittee, is that he agrees with you. I agree with you. So now we have three. So when you start out, maybe you thought you were by yourself, but you are not.

One item I would like to add to what we expect from FAA is that we put responsibility on those who are operating FAA to do all these great things, and then we don't give them the wherewithal to do it. Think about that. We demand the safest airline service in the world, but yet we say we're going to play Mickey Mouse with your money.

We went 10 months at $19 million a day lost, and now on January 1, we will start losing a similar amount until we wake up and try to fund it. Sure, we have in this bill a study on other ways to finance, but we don't have it yet. That study has to be sent to us for review by the Secretary of Transportation.

What do we do between now and then? We are going to hear some folks, ''Where's my money for my airport?'' Well, you didn't pay for it. ''Where is my help on essential air service?'' The Senator from North Dakota made his point.

In the managers' amendment that will be agreed to shortly, the amendment of the Senator from North Dakota, as it relates to small airports, essential air service, all those things will be in this bill. He has made a great contribution.

I say to my friend from Arizona, I know his toughness, I know his ability, and I will be glad to follow his lead in trying to work out something before we leave here to extend the ticket tax until such time as a report comes back under this bill. That would at least give us something to go on.

But I understand the turf around here. I understand we have jurisdictions in our committee. I understand the smoke and mirrors that are being played with the ticket tax. It ought to go to airlines. It ought to go to FAA. It ought to go to safety. It ought to go to small airports. But, no, we play Mickey Mouse, and we then turn around and say, ''Where's all our help?'' You just can't do it.

So I agree with my friend from Arizona, and, in particular, my friend from North Dakota. I thank him for his statement tonight. I believe if those Senators who didn't hear his statement—their staffs hopefully did—they will have an opportunity to read the RECORD in the morning to see what the Senator said, and he makes sense. There wasn't anything partisan about his statement. There is nothing partisan about the statement of the Senator from North Dakota. He was just spelling out the facts, and when you listen to the facts and you don't respond, as eloquently as he laid them out, then I think we have something more than trying to serve our constituency back home permeating this Chamber.

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. MCCAIN. Mr. President, I am about to send to the desk a managers' amendment to the bill. These modifications concern sections concerning maintenance program; maximum percentage of amount made available by grants to certain primary airports; discretionary fund; designating current and former military airports; State block grant program; access to airports by intercity buses; report including proposed legislation on funding for airport security; family advocacy; accident and safety data classification; report on effects of publication and automated surveillance targeting system; weapons and explosive detection study; requirement for criminal history records check; interim deployment of commercially available explosive detection equipment; audit of performance of background checks for certain personnel; sense of the Senate on passenger profiling; authority to use certain funds for airport security programs and activities; development of aviation security liaison agreement; regular joint threat assessments; baggage match report; enhanced security programs; report on air cargo; acquisition of housing units; protection of voluntarily submitted information; application of FAA regulations; sense of the Senate regarding funding the Federal Aviation Administration; authorization for State-specific safety measures; sense of the Senate regarding the air ambulance exemption from certain Federal excise taxes; FAA safety mission; carriage of candidates in State and local elections; train whistle requirements; limitation on authority of States to regulate gambling devices on vessels; commercial space launch and other germane amendments.

AMENDMENT NO. 5360

(Purpose: To amend title 49, United States Code, to reauthorize programs of the Federal Aviation Administration, and for other purposes)

Mr. MCCAIN. Mr. President, I send the managers' amendment to the desk on behalf of Senator PRESSLER, myself, Senator HOLLINGS, Senator FORD, and others.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. MCCAIN], for Mr. PRESSLER, for himself, Mr. MCCAIN, Mr. HOLLINGS, Mr. FORD, and Mr. STEVENS, proposes an amendment numbered 5360.

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

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

(The text of the amendment is printed in today's RECORD under ''Amendments Submitted.'')

Mr. MCCAIN. Mr. President, I ask unanimous consent that the amendment be considered as original text for purpose of further amendment.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. MCCAIN. Can we get this accepted first and then return to the Senator from North Dakota?

The PRESIDING OFFICER. The Senator's request with regard to original

text is approved by the Senate. Without objection, it is so ordered.

Mr. MCCAIN. We seek adoption of the managers' amendment.

The PRESIDING OFFICER. Is there objection to adoption of the managers' amendment under the conditions that have been stated? Without objection, the amendment is agreed to.

The amendment (No. 5360) was agreed to.

Mr. MCCAIN. I thank the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, let me finish with a very brief statement. I do not want people to misunderstand what we are discussing here. This is not myself or others suggesting that we like a 10-percent ticket tax because it has the word ''tax'' in it. Let me explain exactly what this is.

For some many years we have had a 10-percent tax added to the price of airline tickets for the purpose of funding a wide range of activities in the Federal Aviation Administration, the construction of airports, the purchase of equipment dealing with airline safety, a whole range of things dealing with FAA control towers. We have always funded that with this 10-percent tax on tickets.

To decide that there shall not be a 10-percent tax on tickets means that there is no funding, or at least the major funding for the FAA is not going to be available. That is why I say it does not make much sense for us to worry about and talk about the FAA and its functions, the critical functions it performs for passengers in our country, and then to allow the disconnection of the major revenue source to fund the FAA.

Not too long ago I asked to tour the FAA control tower at the Minneapolis-Saint Paul Airport. I have been in towers before, but I have not been in very large towers. I have flown an airplane myself and called the tower on approach, so I know a little about the system. But I went up into the tower at Minneapolis-Saint Paul because I was curious how they work on approach control with airplanes coming in and going out, on the ground, in the air, dealing with thunderstorms, and it was really quite remarkable to watch.

The one thing that was interesting to me is they had a very large scope in the middle of this dark room, a very large round scope. When they pushed a button on that scope, which covered a map of the United States and part of Canada on that scope, it would light up with about 4,500 white dots, each of which represented an airplane at that moment aloft being tracked by our system in the FAA.

You could point to any one of these dots on that giant screen with a computer and you could find out instantly what airplane that was, what its call signal was, what kind of plane it was, what direction it was heading, how fast it was going, what altitude it was—every single plane on that screen.

Then they had men and women up and down the row—and many of you have seen this in a control tower—in the dark room with the flow of incoming traffic and the flow of outgoing traffic dealing with that. Then you had the folks up on top who were dealing with the visual aspects of landings and takeoffs and people on the ground. I will tell you, I watched these people for some while. I was enormously impressed. These are skilled, trained, tough professionals who know what they are doing. I came away from that not thinking that this is a system with a lot of worry about it; I came away enormously impressed by the men and women who were running that system at the Minneapolis-Saint Paul Airport. I do not know about all Senators, but I know what I saw that day enormously impressed me. These are very capable people.

Can the system be improved? Yeah, probably.

Mr. MCCAIN. Would the Senator yield just for one additional comment I would like to make?

Mr. DORGAN. Certainly.

Mr. MCCAIN. Now that the managers' amendment has been accepted, we continue to seek any additional amendments that our colleagues may have. The Senator from Rhode Island has, after the Senator from North Dakota is finished with his remarks, an amendment. We will be awaiting or anticipating any additional amendments, again, reminding my colleagues that we will be seeking a unanimous consent agreement tonight to close out further amendments so that we will be able to have votes on pending amendments and final passage at 11 o'clock tomorrow, which is the direction of the leaders on both sides.

Mr. President, I yield the floor back to the Senator from North Dakota.

Mr. DORGAN. I will finish in 1 minute.

Let me say this. The men and women in that tower in Minneapolis and Saint Paul who tonight are working that air traffic control system, and doing it with great skill, deserve a Congress that does right by them. That means reconnecting the revenue source that is going to fund the FAA functions in this country.

Senator MCCAIN invited that maybe some of us ought to decide this Congress ought not adjourn until it resolves that issue. Well, sign me up, count me in. Count me in for maximum trouble and minimum time. I want to find any way possible to deny us from going home and not doing right by the people who are running that FAA system who are in those control towers tonight.

We have an obligation. We have a job to do. All of us understand what it is. We ought to do it. The American people ought to expect that we do it. I am pleased with the support by the Senator from Arizona and the support from the Senator from Kentucky on these issues. I hope in the coming couple of days the three of us, conspiring in a thoughtful and interesting way, can find a way to solve this problem. Mr. President, I yield the floor.

Ms. SNOWE. Mr. President, I rise in support of the managers' amendment, and to express my appreciation to the chairman of the Commerce Committee, Senator PRESSLER, for working with me to ensure that this bill addresses an important issue facing the Federal Aviation Administration [FAA]—the issue of safety.

My language in the managers' amendment responds to the request made by the Secretary of Transportation on June 18, when he called on Congress to: ''* * * change the FAA charter to give it a single primary mission: safety and only safety.''

In light of the many safety concerns that have become public as a result of the tragic crash of ValuJet flight 592 and TWA flight 800, it is important to restate the commitment of Congress and the FAA to ensuring the safety of air travel in this country. By addressing the issue of the dual and dueling missions of safety and air carrier promotion, as one reporter so accurately put it, there will be no room for doubt in the minds of the traveling public—or the FAA—that safety is its job—first, last and always.

The underlying bill includes the Wyden-Ford amendment, which I supported in committee, that took an important step in the direction requested by the Secretary. That amendment added the word ''safety'' to the statute outlining the FAA's mission on air commerce promotion, and I agree that it is important to reemphasize safety in this area. This still leaves us with a dual mandate, however.

The Snowe language requires the Management Advisory Council [MAC], created under the bill to provide oversight for management and policy matters to the FAA Administrator, and to review the overall condition of aviation safety and the extent to which the dual mission of the FAA undermines the safety mission. The MAC has 180 days to report back to Congress, in conjunction with the FAA, with its recommendations for necessary changes in the mission.

I would have preferred to simply eliminate the mandate, as I did in the Snowe-Pressler freestanding bill on this issue, S. 1960. But I understand the concern that development and safety issues are closely linked in some cases, and a review is necessary in order to determine the most appropriate distribution of functions between the FAA and other agencies within the Department of Transportation. I believe that this language provides for a process that will allow Congress to put to rest concerns that the FAA is not focused on safety.

We cannot expect the FAA to regain the trust of the traveling public while it maintains its dual mission of both ensuring their safety while at the same time continuing to promote the growth

of the carriers. The current mission of the FAA places it in the untenable position of being both the chief enforcer and the best friend of the airlines—no one should be asked to perform both roles, and no one can be expected to do both well.

The dual mandate places the FAA in the position of conflict between the American consumer and the airlines. It has raised questions about the FAA's actions with regard to moving forward in a timely fashion on the safety recommendations made by the National Transportation Safety Board; and most importantly, it has raised questions about whose side the FAA is really on.

As James Burnett, Jr., former Chairman of the National Transportation Safety Board, said ''It's as if the FAA acts to protect the airline rather than the consumer until they just can't maintain that position any longer.''

I believe that a review of FAA functions by the MAC, as required under my language, and subsequent action by Congress on the MAC's specific recommendations for changes necessary to ensure that safety remains the focal point of the FAA's mission, will enable us to reassure the American public that the FAA is looking out for their safety at all times.

Mr. THURMOND. Mr. President, I am pleased that included in the amendment offered by the managers is a provision regarding discretionary Airport Improvement Program [AIP] grants to reliever airports. This language would clarify one of the factors that the Federal Aviation Administration [FAA] considers in determining grants from the discretionary fund.

The AIP provides grants to airports which help insure the safety of air travel in this Country. Seventy-five percent of the money distributed annually from the AIP is allocated to primary and reliever airports from the discretionary grant fund. In determining whether to make a grant to improve an airport, the Secretary of Transportation considers three criteria: First, the capacity of the national air transportation system; second, the costs and benefits of a project; and third, the financial commitment to be made from sources other than the Federal Government.

Mr. President, language included in the amendment offered by the managers clarifies the second criteria, the costs-benefit analysis. Currently, the FAA does not consider the cost savings to the primary airport in its analysis of improvements to the reliever airport even though they might be cheaper than expenditures to upgrade the primary airport. In other words, a small investment could be made to upgrade capacity at a reliever airport that would result in very large cost savings at the primary airport. However, this does not qualify as a positive cost-to-benefit comparison under the FAA interpretation.

Mr. President, the Rock Hill-York County Airport, a small facility that serves the north central part of South Carolina, is experiencing difficulties with their grant application due to this interpretation. The Rock Hill Airport is a designated reliever airport to the growing Charlotte/Douglas International Airport. In 1991, the FAA published a Capacity Enhancement Plan for the Charlotte Airport that recommended upgrading the capabilities at the reliever airports serving Charlotte. It was estimated that if the Rock Hill Airport were equipped to handle general and corporate aviation during bad weather, the Charlotte Airport would save $5.6 million per year.

Mr. President, I ask unanimous consent that a copy of a letter from Mr. T. J. Orr, Aviation Director of the Charlotte Airport, that outlines this situation be inserted in the CONGRESSIONAL RECORD at the conclusion of my remarks.

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

(See Exhibit 1.)

Mr. THURMOND. Pursuant to this report, the Rock Hill-York County Airport applied to the FAA for a $350,000 airport improvement grant to install an instrument landing system [ILS]. However, the FAA will not consider the cost savings to Charlotte in the application submitted by Rock Hill. Further, they base their decision solely on the number of flight operations currently at Rock Hill.

Mr. President, this puts Rock Hill in dilemma. They cannot demonstrate the required number of operations to satisfy the FAA because they do not have an ILS and they cannot get the required number of operations without the ILS. While I believe the FAA is wrong, it appears that legislation is needed to correct this problem. I thank the managers for including language in their amendment that will force the FAA to examine this situation.

EXHIBIT 1

CHARLOTTE/DOUGLAS INTERNATIONAL AIRPORT,
Charlotte, NC, October 10, 1995.

MS. CAROLYN BLUM,
Regional Administrator, Federal Aviation Administration, Southern Region, College Park, GA.

DEAR MS. BLUM: The Federal Aviation Administration, airport operators, and the users of the national air transportation system a few years ago initiated Airport Capacity Design Teams to identify, develop and evaluate means of reducing delays at high activity airports, such as Charlotte. Ancillary benefits based upon implementation of a number of these recommendations have resulted in increased air traffic control system safety and efficiency.

In April of 1991, the Charlotte/Douglas International Airport Capacity Enhancement Plan, completed by the Charlotte Capacity Design Team, was published by the Federal Aviation Administration. This plan was the result of a two year collaborative effort by a design team which included representatives from: the FAA System Capacity and Requirements Office; the FAA Technical Center, Aviation Capacity Branch; the FAA Southern Region Air Traffic Division, Airway Facilities Division, Airport District Office, and the Charlotte Tower; USAir, Air Transport Association; Aircraft Owners and Pilots Association; and the City of Charlotte's Aviation Department.

One of the key recommendations of this plan was the upgrade of capabilities and services offered by the reliever airports serving the Charlotte area. In fact, an estimated savings of $5.6 million per year in 1991 dollars was forecast as a result of reducing demand at the Charlotte/Douglas International Airport generated by general aviation, business and corporate aviation demand. Much of this demand at the Charlotte/Douglas International Airport occurs during critical periods of instrument meteorological conditions when reliever airports are simply not equipped to serve aircraft in these weather conditions. The resultant involuntary movement of general aviation, business and corporate aircraft from a reliever airport to a major commercial service airport hub could not come at a worse time or under worse conditions.

In recognition of these critical capacity, efficiency and safety issues, the Rock Hill-York County Airport, an FAA designated reliever airport to the Charlotte/Douglas International Airport, has applied to the FAA Southern Region for approval and funding of an AIP project to upgrade its Runway 02 Localizer to a full Runway 02 ILS by the addition of a glideslope and related improvements. The benefits of lowering the approach minima to Rock Hill Airport, as a result of these improvements, will accrue a substantial benefit to the Charlotte/Douglas International Airport as promised in the Charlotte/Douglas International Airport Capacity Enhancement Plan.

Because of Rock Hill's willingness to fund a major portion of this project's capital, design and maintenance costs from non-FAA funding sources, it appears this is a project of excellent value if the FAA considers its overall infrastructure benefits. I strongly endorse this initiative by Rock Hill and would appreciate your help in assisting Rock Hill in obtaining the necessary project approval and funding on a priority basis.

Thank you for your kind consideration of this matter.

Best personal regards,

T.J. ORR,
Aviation Director.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

AMENDMENT NO. 5361

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE], for himself and Mr. BAUCUS, proposes an amendment numbered 5361.

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

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

The amendment is as follows:

On page 78, line 12, strike ''and aircraft engine emissions,''.

On page 78, line 19 through 24, strike all of paragraph (C) and insert the following:

(C) The Administrator, as the Administrator deems appropriate, shall provide for the participation of a representative of the Environmental Protection Agency on such advisory committees or associated working

groups that advise the Administrator on matters related to the environmental effects of aircraft and aircraft engines.

Mr. CHAFEE. Mr. President, this amendment is offered on behalf of myself and Senator BAUCUS. Mr. President, what does this amendment do? This amendment would remove a provision in the bill which gives the Federal Aviation Administration, which sometimes is referred to as the FAA, removes the authority given to the FAA under this legislation to regulate air pollution emissions from aircraft engines.

This new authority—this is not authority that they currently have; this is brand new authority to the FAA. It would duplicate authority which is already assigned to the Environmental Protection Agency under the Clean Air Act. The amendment that Senator BAUCUS has joined me on would encourage greater cooperation between EPA and FAA in this area, but it would preclude the confusion and waste that would result from two Federal agencies charged to do the same job. That is what this legislation does; it sets up one more agency to do exactly the same thing that the EPA does now.

Mr. President, we object to giving the FAA this authority for three reasons. First, there is no need to duplicate the authority that the EPA already has. There is no evidence, Mr. President—no evidence—that EPA has abused this authority or that it has overregulated aircraft engines. The last time EPA issued regulations for aircraft engines was in 1982. Mr. President, that was 14 years ago. So that is hardly a case of overregulation.

As a practical matter, Mr. President, the way this system works is that the world's three major aircraft engine manufacturers—there are three in the world, Pratt & Whitney, General Electric, and Rolls Royce—comply with emissions standards that are set by an international body, sometimes referred to as ICAO. That international body's regulations cover more pollutants and are more stringent than EPA regulations.

So, Mr. President, to instruct two separate Federal agencies to issue regulations on the same subject is to set the stage for confusion and conflict and wasted resources, both public and private.

Second, the FAA is in no position to regulate aircraft engine emissions as provided in this legislation. The FAA does not have the expertise to know which air pollutants adversely affect human health or the environment. The FAA does not know how emissions from aircraft engines fit into the bigger picture on air quality problems.

In fact, Mr. President, the Commerce Committee has received a letter, dated just 5 days ago, from Secretary Peña of the Department of Transportation asking that this provision, the provision I am referring to, giving the same powers that the EPA has, giving those to the FAA in this bill—Secretary Peña has written asking that this provision be removed from the bill because the FAA does not have that expertise.

Mr. President, I ask unanimous consent that the letter from Secretary Peña be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. CHAFEE. Mr. President, I will read a portion of this letter addressed to the Honorable LARRY PRESSLER, chairman of the Committee on Commerce, dated September 12, 1996. Page 2 reads:

> In consideration of the very significant budget constraints faced by the FAA, I urge the deletion of the new responsibilities that section 631(a)(1) of S. 1994 entitled, ''Aircraft Engine Standards'' would impose on the agency. If adopted, this section would vest responsibility to set aircraft engine emission standards with the FAA. Such responsibility would not only duplicate the responsibility and authority already vested with the Environmental Protection Agency [EPA] under the Clean Air Act, but would also require the expenditure of substantial resources to develop a level of expertise requisite to environmental rulemaking that already exists at EPA.

What is the third reason that this provision should be stricken? If the provision in the bill has the effect of forestalling any EPA regulation of aircraft engines—which probably is the effort here, to get EPA out of this—the result will not be less regulation or less costly regulation. It will merely mean, and this is important, more regulation for other sources like small businesses and automobile owners and manufacturing facilities.

Airplanes emit hydrocarbons and oxides of nitrogen into the atmosphere where they combine with the air pollutants admitted by thousands of other sources to form what is known as smog. The way the Clean Air Act works, States must adopt regulations reducing pollution from targeted sources until a safety level for smog pollution is attained. In other words, the States have this responsibility. If aircraft engines, the airlines, and air transport companies are not required to reduce their pollution, then somebody else has to do it. It might be the dry cleaner, it might be a small manufacturing company, it might be a bakery. Somebody has to reduce its, his, or her, emissions, and will probably have to do more and do it at a higher cost than if an overall look could be taken and seen where it can be done most economically. That might in certain instances pertain to aircraft engines.

This provision does not reduce regulation. It just shifts the burden to somebody else, somebody else who is not represented by a high-powered lobbyist that can send letters saying, ''Take EPA out of this.''

Mr. President, for these reasons, Senator BAUCUS and I are offering this amendment to remove the provisions creating duplicative regulatory authority and encouraging more cooperation. What our amendment does is say, yes, there should be more cooperation between the FAA and EPA. The EPA should consult with FAA on these matters.

Now, Mr. President, let me just say the following: I am deeply disturbed by the trend that is taking place in connection with what I believe to be ill-advised efforts to cut back on environmental regulation. Here is one industry attempting to be exempted, then another, then another. We have a bill over in the House of Representatives dealing with immigration. What does it say? You can build a fence to keep out immigrants and you do not have to pay any attention to the Endangered Species Act. But that is not enough. They then go on to say pay no attention to the Endangered Species Act and, indeed, pay no attention to what is known as the National Environmental Policy Act. In other words, forgo all environmental regulations while you are building this fence. Build this fence in California between Mexico and the United States—oh, no, to build any fence anywhere in the United States, dealing with immigration, pay no attention to the National Environmental Policy Act.

Mr. President, this Nation was blessed in the early 1970's by a series of great Senators, and we know who they are. They are Ed Muskie, Jennings Randolph, Howard Baker, Bob Stafford, who in a bipartisan fashion brought forward in this Nation tremendous environmental protection laws, and whether you are talking the Clean Air Act or the Clean Water Act, the Endangered Species Act, the creation of the Environmental Protection Agency or the National Environmental Protection Act, whatever it is, those were the bills that were brought forward. They were brought forward because there was a need for them.

When the Cuyahoga River in Cleveland caught fire, it caught the attention of the people in the United States—something is wrong with the waters of this Nation. So we embarked on a $60 billion program over the course of the years to clean up discharges from municipalities, and the industries, likewise, complied, because we had regulations. Now we have clean waters. At that time, one-third of the waters of the United States' lakes, rivers and streams were fishable and swimmable. Now two-thirds of the lakes, rivers and streams in the United States of America are fishable and swimmable, and every year that percentage increases. So we have been blessed by these laws.

I, Mr. President, find it discouraging and disappointing that constantly there is an effort to nibble away at those statutes. Here in this one, to remove the aircraft engine and the Air Transport Association's aircraft from the restrictions that have been applied, wisely, by the EPA over many years, and give it to another agency where they think they will find a much more sympathetic home.

Therefore, Mr. President, I hope we do not turn our backs on those magnificent achievements that were made in the early 1970's and continued since then, whether it is the control of toxic waste and the manner in which we dispose of them, whether it is what we did in the Clean Air Act in 1991, all of these statutes have been for better health and a better America. I, Mr. President, just hope we will not nip, nip, nip away at cutting back on these statutes that have meant so much to our Nation and the health of our people.

EXHIBIT 1

THE SECRETARY OF TRANSPORTATION,
Washington, DC, September 12, 1996.

Hon. LARRY PRESSLER,
Chairman, Committee on Commerce, Science and Technology, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I have appreciated your past support for the important work that the Federal Aviation Administration (FAA) does to provide the American traveling public with safe and efficient air travel. I know you agree that a strong, effective FAA is absolutely essential for aviation safety in this country. The safety and security of our air transportation system have always enjoyed bipartisan support in Congress.

It is because of this shared vision that I urge you to enact—before Congress adjourns—the comprehensive FAA reform and reauthorization legislation contained in S. 1994. Without the timely enactment of this legislation, it will be considerably more difficult for the FAA to meet the safety demands of the traveling public.

This legislation will reauthorize funding for critical FAA safety, security, air traffic modernization, and research programs. It will also reauthorize the airport development grant program. In the absence of an extension of the airport grant program, FAA's ability to fund many important airport projects involving capacity, safety, and security will end October 1.

S. 1994 also contains critical provisions to help ensure a better way to finance the FAA. These provisions will help to ensure FAA has adequate resources in the future, but are also designed to provide appropriate incentives to users of the air traffic control system and ensure that the air traffic control system is used in the most cost-effective manner. A bill that does not contain the foundation for meaningful financial reform for the agency will undermine the FAA's ability to meet the safety and security needs of the traveling public, and lessen public confidence in our air transportation system.

Congress has already taken critical steps in the past year to provide FAA with needed acquisitions and personnel reform. It is imperative that Congress stay the course on these reforms and not tie FAA up once again with unnecessary red tape that will impact the efficiency of the air traffic control system and delay air traffic modernization efforts. The most significant step is to pass meaningful financial reform since these reforms will be limited without sufficient resources and budget flexibility for the agency. The lapse of the Airport and Airway Trust Fund taxes this year underscores the need to find a long-term, new funding solution for the FAA.

In consideration of the very significant budget constraints faced by the FAA, I urge the deletion of the new responsibilities that section 631(a)(1) of S. 1994, entitled ''Aircraft Engine Standards,'' would impose on the agency. If adopted, this section would vest responsibility to set aircraft engine emission standards with the FAA. Such responsibility would not only duplicate the responsibility and authority already vested with the Environmental Protection Agency (EPA) under the Clean Air Act, but would also require the expenditure of substantial resources to develop the level of expertise requisite to environmental rulemaking that already exists at EPA. It is our understanding that the Senate will exempt military aircraft from the overflight user fee proposed in section 673, and we do not object to that change.

I urge you to move the legislation to the floor and through conference expeditiously so that we can assure that FAA has the tools and resources necessary to meet its vital responsibilities to the American public. We look forward to working with you on this important effort, and thank you for your continued support of aviation safety and security programs.

Sincerely,

FEDERICO PEÑA.

Mr. CHAFEE. It is my understanding, Mr. President, that there will be set aside tomorrow before we vote, 15 minutes, of which Senator BAUCUS would have 10 minutes and I would have 5 minutes.

Mr. FORD. If it is all right with the Senator, I think I have it cleared with my colleague. I ask unanimous consent this amendment by the Senator from Rhode Island, Mr. CHAFEE, be set aside until tomorrow, and that before the amendment is voted upon, there be 15 minutes of debate, 5 minutes for the Senator from Rhode Island and 10 minutes for Senator BAUCUS of Montana.

Mr. CHAFEE. Mr. President, that is fine.

The PRESIDING OFFICER. Do I understand the Senator's request that all the time reserved would be for the proponents of the amendment?

Mr. CHAFEE. I am agreeable.

Mr. FORD. What I am trying to do is give them 15 minutes. That does not preclude me or anybody else from taking time because they get a minimum of 15 minutes tomorrow.

If I want to oppose the amendment I will oppose it and take 30.

The PRESIDING OFFICER. Is there objection?

Mr. CHAFEE. Whatever time we get, perhaps it would be best if it were evenly divided.

Mr. FORD. Mr. President, I withdraw my request.

Mr. CHAFEE. I make the request, if I could. I think it is fair that the opponents get some time. I am not trying to cut anybody out of time.

Mr. FORD. Mr. President, we will just set this amendment aside and take our best hope tomorrow and go.

Mr. CHAFEE. And reach a time agreement tomorrow?

Mr. FORD. That would be fine. I do not know how much time in opposition because I have not had much information tonight relating to the opposition to your amendment.

I suspect, since you have offered the amendment to take it out of the bill, that there will be a lot of work going on tonight and there will be a few people who will want to speak against your amendment tomorrow.

Mr. CHAFEE. Could I ask this, Mr. President: Is there a time certain set to vote tomorrow on this measure?

Mr. FORD. No.

The PRESIDING OFFICER. There is not. There is no time certain set for a vote tomorrow on this measure.

Mr. CHAFEE. It is my understanding since we have not agreed on anything that there is no time agreement.

Mr. FORD. That is correct. The only thing I was attempting to do here—if there are other amendments that come up, we will set yours aside. Once that amendment is taken care of, yours will come back as the pending business. That is what I am trying to do, because there will not be a vote tonight.

Mr. CHAFEE. That is fair enough. We will work it out tomorrow.

Mr. FORD. Sure, we will.

Mr. CHAFEE. I am perfectly prepared, and I want to make sure that the opponents get whatever time they want. Thank you.

Mr. KYL. Mr. President, I rise to comment on the FAA authorization bill. Although I recognize the necessity to authorize certain FAA activities, such as the Airport Improvement Program [AIP], I am concerned with two provisions in the bill. I appreciate the hard work that the managers have put in on this legislation, and I thank them for the opportunity to speak on this bill.

I support the reauthorization of FAA activities, believing that the managers have succeeded in funding the AIP program at the appropriate level. It is important to many airports and travelers around the country that Congress finish its work in this area. For example, in my home State of Arizona, officials from the airports in Phoenix, Chandler, Glendale, Yuma, and Tucson have contacted me in support of the AIP program. The FAA has projected that the number of passengers in the domestic aviation system will reach 800 million annually. The American Association of Airport Executives and the Airports Council International-North America recently completed a comprehensive study on the capital needs of U.S. airports. The study concluded that the Nation's airports have capital needs around $10 billion annually. So I urge my colleagues to support the authorization of the AIP program.

While I support parts of the bill, I must comment on two provisions which I believe Congress must be careful in implementing. First, there is a provision that would set up an independent task force to study how FAA activities may be funded for many years. I am concerned that the task force may be used to implement a user-fee system. I ask that the chairman and the ranking member to work with the task force to ensure that all areas of aviation are heard. Many in my State have expressed concern about

funding FAA activities with a user-fee system. I believe it could have a negative effect on such local airlines as America West and Southwest. Arizona is also a State with many citizens who pilot their own planes, and I am advised such a system could harm the general aviation industry. I support the current ticket-tax system and I am glad that Congress approved its temporary extension as part of the small business tax relief bill.

My second concern is that the parts of the bill that address aviation security will not adequately protect us. I know that it is easy to get caught up in the apprehensions created in the wake of the crash of TWA flight 800. We all want to make aviation a safer means of transportation, but we must have the proper priorities. I believe that any changes to aviation security should focus on greater intelligence gathering. If the explosion on TWA flight 800 was a bombing, it was a terrorist attack not on a particular airline but against our whole country. We must take strong and concerted steps as a nation to deal with such heinous attacks. A strong intelligence system is the key here. Recently, the Air Transport Association made several recommendations to the White House Commission on Aviation Safety, chaired by Vice President GORE. I would like to make note of two of ATA's recommendations. First, the association told the Gore Commission that there must be an increase in the amount of funding available to develop the software necessary for automated passenger profiling—that is, profiling of suspects who may be traveling the airways. ATA member airlines, according to the association, are committed to the full implementation of automated passenger profiling through their reservations systems. Second, ATA recommended that the commission should establish strong, new inter-agency coordination requirements to ensure the timely, accurate, and comprehensive communication of detailed intelligence assessment information necessary to permit the informed participation of the aviation industry in responding to identified threats. Mr. President, there will be many antiterrorist initiatives which I believe will help thwart terrorist attacks, such as more advanced detection devices and bomb-sniffing dogs. However, I believe that our priority must be to develop ways to enhance the tracking of those persons already identified as a threat to the general public.

I urge the chairman and ranking member to make note of my concerns, and I thank them for the opportunity to discuss the issues.

Mr. FORD. 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. FORD. 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. FORD. Mr. President, we are nearing the witching hour of the unanimous-consent agreement on the amendments that will be considered tomorrow. I have proposed to my colleague that even those amendments that we have included in the managers' package be listed, in case there might be some wording change that might be needed. If they are not on the list, therefore, it would be difficult, parliamentary wise, for them to be accommodating. I don't want any of my colleagues not to have the ability to change a word or something like that tomorrow. I don't think we ought to get into a unanimous-consent agreement on changing. Then we get unanimous-consent agreements for additional amendments. Of course, I would like to get them cut off tonight if at all possible.

So we will have at least one more amendment that will be offered. Then we are looking at around 8:15, or somewhere in that neighborhood, for a unanimous-consent agreement on the finite list of amendments for S. 1994.

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

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

The legislative clerk proceeded to call the roll.

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

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

UNANIMOUS-CONSENT AGREEMENT

Mr. MCCAIN. Mr. President, I ask unanimous consent that the following amendments be the only first-degree amendments in order to the pending FAA bill, that they be subject to relevant second-degree amendments, and following the disposition of the listed amendment, the bill be advanced to third reading, and the Senate immediately proceed to Calendar No. 588, the House companion bill, all after the enacting clause be stricken, and the text of the Senate bill, as amended, be inserted, and H.R. 3539 be immediately advanced to third reading.

The list is as follows:

Pressler, relevant; Lott, relevant; McCain, relevant; Inhofe, emergency revocation; Warner, PFC; Warner, rapidly growing airports; Santorum, relevant; Brown, bidding; Brown, relevant; Roth, aviation trust fund spending; Roth, task force; Roth, user fees; Roth, committee consultation; Thurmond, reliever airport criteria; D'Amato, relevant; Gorton, relevant; Burns, medical certificates; Domenici, three relevant amendments; Helms, airports; Simpson, airport safety; Jeffords, pension audits; Nickles/Lott, pensions; Baucus, FAA aircraft emissions standards, with Chafee; Breaux, relevant; Boxer, cruise ships; Bryan, two relevant amendments; Byrd, one relevant amendment; Conrad, two relevant amendments; Daschle, two relevant amendments; Dorgan, transportation; Exon, relevant; Ford, two relevant amendments; Graham, relevant; Harkin, slots; Heflin, Alabama Airport; Hollings, relevant; Inouye, relevant; Kerry, relevant; Moseley-Braun, train whistle, with Wyden; Reid, state-supported terrorism; Simon, pensions; Wyden, train whistle, with Moseley-Braun; Wyden, three relevant amendments.

That completes the list.

The PRESIDING OFFICER. Is there objection?

Mr. FORD. Mr. President, reserving the right to object, and I will not object. I would like to make a point here. Many of these amendments are included in the managers' amendment to the bill. This is so that there will be no problem tomorrow with our colleagues coming in and saying we did not get the right language or the right words, they are covered under this situation. If the managers' amendments are all right, we will strike them off. I think you will find that about two-thirds of these will be gone; at least two-thirds of the relevants will be gone. So when you get right down to how many amendments we will have tomorrow, it will be very few.

I hope we can expedite the passage of this legislation. I wanted my colleagues to be sure that we are trying to protect them, so that they won't come in here tomorrow and say we have done something wrong and words were left out.

I wanted to be sure that everybody understood that. And that is one reason that the list is so long because we have basically taken care of most of them.

So I thank my friend for what he is attempting to do here. I think it is the right thing to do.

Mr. President, I do not object.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. MCCAIN. 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. LAUTENBERG. 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. LAUTENBERG. Mr. President, I rise because I want to support this legislation to reauthorize many of the FAA programs and to do what we can to improve our Nation's system of aviation security, a subject I have had a longtime interest in. I did serve on the Pan Am 103 Commission that reviewed what took place there and was one of the authors of the recommendations that were submitted in 1990.

First, I commend my colleague, my friend from Kentucky, Senator FORD, and my colleague, the Senator from Arizona, Mr. MCCAIN, for their work on this issue. It is not only a critical

issue, but the timing certainly is critical in terms of some response that we have to have to what has been taking place. Terrorist threats to our aviation system as well as our general living in this country certainly call for a response from this body and from our colleagues across the Capitol to try to do something to improve a system that is fundamentally pretty good. As a matter of fact, it is very good.

I could not have faced, as I have in the State of New Jersey, people who lost loved ones on Pan Am 103 in 1988 nor those who lost family members, friends, loved ones on TWA 800—I was in Long Island shortly after that plane went down. I was out there a couple of weeks ago with the Secretary of Transportation, met with the FBI, people from the NTSB, people from the Bureau of Alcohol, Tobacco and Firearms. I could not have faced any of the surviving families and said to them, be assured; the system is safe. The fact that they lost a son, a daughter, a mother, a father, a brother, a sister, a child is enough to say the system is not safe enough, that regardless of how efficient the system is, it is not efficient or sufficient as we see it in our family's grief and our family's emptiness.

And so, Mr. President, it is not simply, although a critical part of the issue, aviation security, safety overall, a necessity to bring the system up to the capacity the public currently demands. The projected figures of growth in aviation travel are almost exponential in terms of the size of the base; over 500 million people a year enplane to go different places from within the States and from the United States to other airports—but to make sure that not only can they travel safely but efficiently, with airplanes leaving on time, with the investments in the system being made in a timely and business-like fashion to make certain that the taxpayers' money, the travelers' taxes or fees are invested in a way that reflects serious interest in getting this system up to the capacity that is presently there and ultimately will be demanded.

Mr. President, this legislation is essential to our Nation's aviation system. Importantly, the bill would extend the authorization for the Airport Improvement Program, what we affectionately refer to as the AIP. We will make some reference to that. Without that authorization, critical infrastructure funding for airports will just not be available. At the same time, it is important to emphasize that this authorization is not sufficient, as I said earlier, to keep up with our Nation's airport needs.

In addition to enacting an authorization bill, the aviation trust fund needs to be adequately financed and the expenditures to be replenished, and that is going to require either an extension of the existing ticket tax, as we heard from our colleague from North Dakota some moments ago, and we heard from the two managers of the bill, or some other financing mechanism. Otherwise, even if the bill before us is enacted, the trust fund will run out of money next year.

To some who may be listening, that would sound like an abstraction—the trust fund runs out of money. But if it does run out of money, and if we are unable to make the improvements that are required, the public can look forward to further delays, to further inconvenience, and to increased costs substantially for the improvements we ultimately must make. We cannot let that happen. I strongly urge my colleagues, especially those who serve on the Finance Committee, to act before December 31, when the existing tax will expire, to address this problem.

I would like to turn for a moment to the provisions in this legislation that are of particular interest to me and on which I have worked fairly extensively, and that is aviation security.

This legislation does not represent a comprehensive aviation security plan. However, in conjunction with the ongoing efforts of the Gore Commission and the Aviation Security Advisory Committee, it will help to tighten aviation security at our airports and on our airways.

When I say it is not a comprehensive aviation security plan, I do not want any misinterpretation to occur. I do not want to suggest that my colleagues who brought this bill to the floor have been less than diligent. They have been. They have surmounted enormous obstacles to get the bill to this point on this night. The provisions in this bill are needed to enhance the aviation security system, but by themselves they are not sufficient. They are a significant beginning.

Two months ago today for us here, an eternity for those who lost family members on TWA flight 800, it hardly seems that enough has happened since that airliner was destroyed and fell into the waters just south of the Long Island seashore. Still, at this time, with the most diligent effort, painstaking work, having created a record number of dives into the sea of any Navy mission ever undertaken—over 2,000 dives were taken to try to pick up the remnants of TWA 800 off the sea floor—we still have no conclusive evidence.

But, regardless of what the cause was, we know that we have to do something to improve the safety of the traveling public, even though, as I said earlier, the system is fundamentally very safe. When my children or my grandchildren, the members of my family, fly, I send them off with full confidence that the system is working well. And, Lord grant us, I hope that always proves to be the case. But we can always make it a notch safer.

Unfortunately, the definitive proofs may lie yet on the ocean floor. It still appears that terrorism is the likely cause of the disaster, but we dare not draw conclusions until the evidence is clearly at hand.

The crash of TWA flight 800 reminded me of a similar tragedy almost 8 years ago. I have exceptionally vivid memories of the downing of Pan Am flight 103 over Lockerbie, Scotland. After that crash, I helped to create, with President Bush's encouragement and that of others here, the President's Commission on Aviation Security and Terrorism. I sponsored the Aviation Improvement Act of 1990, with others, which was enacted into law. There is no question that, as a result of the work done at that time, that security was improved. But the world has changed. This latest tragedy has focused renewed national attention on the terrorist threat to American aviation and to the American traveler. It is a threat that will continue to increase in scope and sophistication. No one here believes that we are doing all we can to fight the ongoing expanding threat of terrorism. It has become, for us, one of the most difficult situations that we as a free society and other free democratic countries face.

The growth of terrorism is an enormous threat because, not only is it the work of madmen who, at times, are willing to give their lives or to recommend that their sons give their lives to be martyred in some fashion, but the sophistication of the weapons, bombs in containers the size of a watch with the impact of TNT—it is an enormous threat and it is a threat that we have to work ever harder to contain. No aviation security system is foolproof, we know that. But we also know that we can do much more to deter the terrorist threat.

TWA 800, like Pan Am 103, was a wake-up call, and we need to respond as quickly as we can. Shortly after the TWA crash, I introduced the Aviation Security Act. My bill, S. 2037, would enhance security at domestic airports by instituting a truly comprehensive security system. The legislation calls for tightened security to check baggage, cargo and mail, and increase screening, training and job performance measures for security personnel at our airports. My bill also requires that passenger profiles be undertaken on a routine basis and that state-of-the-art explosive detection devices be installed in those airports that have the greatest security risk.

To address the needs of families of victims and survivors, the bill establishes an Office of Family Advocate, an office that would be responsible for developing standards for informing, supporting, and counseling the families of victims of airline disasters.

Finally, I suggested the increased security measures be funded by a fee of not more than $4 per round trip ticket, a figure that was recommended by those responsible for aviation security working in the Department of Transportation. It was believed that, with that investment and other sources of revenue, we could do a lot more to preserve the safety of our airplanes and to deter the threat of a terrorist attack. I am pleased that many of the ideas contained in my legislation have already

been adopted by the administration and are included in recommended rules and regulations. Shortly after the TWA crash, President Clinton established the White House Commission on Aviation Safety and Security. That commission, now known as the Gore Commission, worked with the already-established Aviation Security Advisory Committee to develop a plan to meet the challenges posed by the proliferation of terrorist groups.

The Gore Commission issued its recommendations last week, and the President moved immediately to implement them. They are a good first step toward strengthening aviation security. The bill before us includes many of the commission's recommendations. I am pleased that the legislation was worked out in a cooperative, positive, bipartisan manner, and that is as it should be when it comes to something as important as keeping our airlines and our people safe.

This bill directs the FAA to begin deploying state-of-the-art explosive detection devices, ensuring that the flying public is protected by the most technologically advanced system. It also requires that personnel who operate security screeners be subjected to background checks, as are most other airport security employees. It requires that the NTSB and the FAA begin developing a ''right to know'' program which would let consumers know about the airlines' accident and safety records. The bill also directs the FAA to continue working with the airlines in developing programs identifying high-risk passengers and high-risk destinations.

In addition, this legislation recognizes that aviation security needs are constantly evolving. The best laid plans are worthless if they are not implemented in a timely fashion and monitored regularly. The bill requires that each airport and each air carrier conduct vulnerability assessments on their own, or comprehensive self-audits of their entire security systems. These assessments will enable both the airport and the air carriers to know their own systems and their weaknesses and will encourage them to make the needed changes over time.

Because terrorists look for cracks in the security systems, the bill would require the FAA to stay one step ahead by finding those breaches first. Under the bill, the FAA could conduct periodic, unannounced, and sometimes anonymous tests of airport and air carriers' security systems. This would keep the airports and air carriers on their toes and provide the oversight needed.

Both of these provisions were addressed in the bill I introduced in August. Other provisions of the bill require the administration to issue reports to Congress on their implementation of a number of the Gore Commission's recommendations. For example, the President ordered heightened security measures for air cargo, and the Gore Commission recommended a pilot program to ensure that checked baggage is matched with passengers who actually board the plane. We will need to know the results of these initiatives so Congress can evaluate the need to do more.

One thing we do know. The Nation's aviation system is in need of change, in need of improvement. We have waited too long to implement the reforms. This legislation makes an important contribution to that effort.

Mr. President, our work cannot stop there. We need to ensure that all promised reforms are appropriately implemented and in the spirit in which they were intended.

So I express my appreciation, once again, to Senator HOLLINGS, Senator FORD, Senator PRESSLER, Senator MCCAIN, and Senator HUTCHISON for their cooperation on this legislation.

I also thank the many aviation security advocates, the families of the victims of airline disasters, airports, air carriers and many others to implement sound and secure reforms.

It is obvious, Mr. President, this legislation will not solve all of our problems. However, as I earlier mentioned, this is an important step that will make our skies safer for the public, make a meaningful contribution in our battle against terrorism, and will indicate to the public that the U.S. Government is interested in what I will call their plight, their concerns, their anxiety. We have to put those to rest, and the best way to do it is to do something about it, as we are with the bill before us.

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, I thank the Senator from New Jersey, Senator LAUTENBERG, for his work on this bill, along with Senator HUTCHISON. He is one who is very knowledgeable on aviation issues and has been involved for many years.

I express the appreciation of all of us who have been involved in this legislation for Senator LAUTENBERG and the efforts he made which dramatically improved this legislation.

Mr. President, I ask unanimous consent that all relevant amendments be filed by 11 o'clock tomorrow morning.

The PRESIDING OFFICER. Is there objection?

Mr. SIMON. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, just so I understand the procedure, does that mean we will not go through the amendments this evening necessarily?

Mr. McCAIN. We will try to dispense of as many amendments as we can this evening. What I was going to say, after gaining a unanimous-consent agreement, is that the majority leader and the Democratic leader have said that they won't spend more than an hour or so additional time after 11 o'clock tomorrow. If we cannot get these amendments resolved and taken care of within an hour or so, the bill will be pulled. I think that would be a terrible thing to happen, given the absolute urgency of this legislation, not only funding the aviation system but many of the issues that the Senator from New Jersey propounded.

So we are trying to get the amendments disposed of as quickly as possible, and after 11 tomorrow, when all amendments are going to need to be filed, if the unanimous consent request is agreed to, we do not anticipate being on the bill more than an hour or so.

Mr. SIMON. I would like to accommodate the Senator from Arizona. So your preference would be that I go ahead with this amendment this evening?

Mr. McCAIN. That would be my preference.

Mr. SIMON. I have no objection.

Mr. McCAIN. If the Senator from Illinois would show his usual courtesy which he is known for throughout this body, I would very much appreciate it.

The PRESIDING OFFICER. Is there objection?

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, would it be in order for the managers to receive the amendment of the Senator from Virginia?

Mr. McCAIN. All amendments listed must be filed.

Mr. WARNER. That is correct. I am prepared briefly to handle two amendments, I say to my distinguished colleague.

Mr. McCAIN. I say to the Senator from Virginia, I appreciate that, but that would not affect this unanimous-consent agreement.

Mr. WARNER. I did not mean to interrupt. I did not realize we had not achieved it.

Mr. FORD. Reserving the right to object, Mr. President, I regret I have to do this. We have a call in, in fact two of them. I will have to object to the unanimous-consent request at this time, and I will have to get on the phone to see if I can straighten this out.

Mr. McCAIN. Very briefly, I ask my colleagues, especially the objections that just came in, I do not believe that it is unreasonable to ask the amendments be filed by 11 o'clock tomorrow. I hope that we can resolve those objections. It is agreed to on both sides that we need to get this legislation passed. I hope that the Senator from Kentucky can use his usual powers of persuasion and get this resolved so that I can propound, again, this unanimous-consent request, and we can get it accomplished tonight. Until such time as that, I yield the floor.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I thank the distinguished Senator from Arizona

and the Senator from Kentucky. I will proceed with two amendments. I have discussed this with the managers, and we are prepared to handle both. Before doing so, I noted that our distinguished colleague from Arizona recognized the Senator from Illinois and made specific mention of his reputation in the Senate for courtesy. We shall dearly miss him when he departs because, indeed, he is an example of senatorial courtesy.

AMENDMENT NO. 5362

(Purpose: To provide for the use of passenger facility fees for a debt financing project)

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER] proposes an amendment numbered 5362.

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

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

The amendment is as follows:

On page 8, strike lines 14 through 17 and insert the following:

paragraph (D); and

''(B) by striking subparagraph (F) and inserting the following:

'' '(F) for debt financing of a terminal development project that, on an annual basis, has a total number of enplanements that is less than or equal to 0.05 percent of the total enplanements in the United States if—

'' '(i) construction for the project commenced during the period beginning on November 6, 1988, and ending on November 4, 1990; and

'' '(ii) the eligible agency certifies that no other eligible airport project that affects airport safety, security, or capacity will be deferred as a result of the debt financing.' ''.

Mr. WARNER. Mr. President, I rise today in support of a provision contained in the House-passed Federal Aviation Administration Reauthorization Act which would make a very narrow change, referred to as a PFC; that is passenger facility charge. This is a measure put in the House legislation by my distinguished colleague and personal friend, Congressman BLILEY. Congressman BLILEY, as we know, is chairman of the House Committee on Commerce. I join him in this effort.

This provision would allow a nonhub airport in my State, Charlottesville—that is Albemarle—to be eligible to use its own PFC passenger facility charge authority for debt service associated with its passenger terminal project. They just completed a very fine modernization program.

The FAA's PFC regulations have always allowed eligible projects to be refinanced with PFC dollars after—after, Mr. President—they have been completed, provided only that the notice to proceed with construction was given after November 5, 1990. These are highly technical provisions.

The House bill has the Bliley provision which relates only to the date—and I urge my colleagues to take note of that—the date when construction of an otherwise eligible PFC project was begun and should not adversely affect any other airport in the United States.

I have discussed this with the managers, and I rely on the judgment of both managers that this matter will be addressed with fairness and objectivity in the conference. And at the specific request of the managers, and to accommodate this with the understanding this will be addressed in conference, Mr. President, I ask at this time that the amendment be withdrawn.

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

The amendment (No. 5362) was withdrawn.

AMENDMENT NO. 5363

(Purpose: To provide for additional considerations for the selection of projects for grants from the discretionary fund)

Mr. WARNER. Mr. President, I send a second amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER] proposes an amendment numbered 5363.

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

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

The amendment is as follows:

On page 10, line 23, strike ''(4)'' and insert ''(5)''.

On page 11, line 4, strike ''and';''.

On page 11, between lines 4 and 5, insert the following:

''(4) any increase in the number of passenger boardings in the preceding 12-month period at the airport at which the project will be carried out, with priority consideration to be given to projects at airports at which, during that period, the number of passenger boardings was 20 percent or greater than the number of such boardings during the 12-month period preceding that period; and;''

Mr. WARNER. Mr. President, I further thank my colleagues for the inclusion of this amendment for high-growth airports. These are the commercial airports which logically would be experiencing infrastructure and facilities problems as a result of their rapid growth, making the adoption of this amendment, I think, in the interest of all parties.

At this time, I urge the adoption.

Mr. McCAIN. Mr. President, the managers of the bill—and I have discussed this with Senator FORD—have no objection and we appreciate, by the way, Senator WARNER's agreement to withdraw his previous amendment, given the fact that it would have been somewhat controversial. I do assure him that proposal of his will be treated with utmost concern and scrutiny in the conference.

We have no objection to the amendment, Mr. President, and I yield the floor.

Mr. WARNER. Mr. President, if I might ask my colleague, I thank him very much for the first amendment. There is a second amendment pending. I urge its adoption. I presume it is acceptable to the managers.

The PRESIDING OFFICER. Is there further debate? If not, without objection, the amendment is agreed to.

The amendment (No. 5363) was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

Mr. WARNER. Mr. President, I would like to engage the Senate for just a few more minutes with regard to a second matter.

Mr. President, I have been involved for many years in seeking to devise a legislative solution to the constitutional issues that exist due to the decisions of the Congressional Board of Review, as that board has jurisdiction over Dulles and National airports.

Mr. President, the Senate may recall that many years ago I introduced a bill, together with my then-colleague from Virginia, Senator Trible, by which these airports became subject to this particular board of review. It enabled these airports then to begin to proceed to get the needed dollars and financing to modernize both Dulles International and Washington National Airports.

This amendment, S. 1994, the Federal Aviation Reauthorization Act of 1996, which is almost identical to S. 288, as reported out of the Senate Committee on Commerce, Science, and Transportation, provides a necessary cure to a constitutional deficiency, as defined by the Federal courts, in the structure of the Airports Authority. The Airports Authority is involved in the operations and improvements of our two airports that serve the Nation's Capital and the Washington region, again, Washington National and Washington Dulles International.

In April 1994, the Court of Appeals for the District of Columbia Circuit found that the Board of Review, made up of current and former Senators and Members of Congress, violated constitutional separation of powers principles. This was the second time the Federal courts struck down the Board of Review, which was designed to represent users of the airports and to preserve some Federal control over them.

The Court of Appeals stayed its decision until the Supreme Court had time to consider the issue. The Supreme Court decided not to hear the case in January, and the stay expired March 31, 1995.

At this juncture, all Congress is required to do to keep the airports in operation is to pass this legislation. Such continued uninterrupted operations are essential to the travel requirements of Members of Congress as well as all people in the greater metropolitan Washington area. It is essential to the economy of this area, Mr. President; and, therefore, I am pleased to submit this.

We are at a point in the current and projected operations of Washington National Airport and Washington Dulles International Airport whereby if we do not act promptly, the Airports Authority board of directors will lose its power to take basic critical actions, including, most importantly, Mr. President, the ability to award contracts, issue more bonds—that is the financing structure—amend its regulations, change its master plans or adopt an annual budget. In other words, it really is brought to an end in its operations. And this is not the intention of the Congress.

For this reason, I find it necessary to offer this amendment today, despite my own personal objections—I must say on behalf of myself and my distinguished Governor, George Allen—to the addition of two new Federal appointees to the Metropolitan Washington Airports Authority to keep our Washington National and Dulles International operational and functional.

Mr. President, I thank my colleagues for the inclusion, and acceptance by the managers, of this amendment in S. 1994, the pending measure. Mr. President, I thank again the managers, and yield the floor.

Mr. PRESSLER addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. PRESSLER. Mr. President, I would like to make a few comments on this piece of legislation, the Federal Aviation Administration Reauthorization Act of 1996, which I introduced. I believe it represents a solid legislative accomplishment for this Congress and for air service to small cities, such as those located in my home State of South Dakota.

This bill, which I commend the leadership on both sides of the aisle for who have worked on it, must pass the Congress before the end of this session. Otherwise, we will not be able to provide Airport Improvement Program [AIP] grants to our airports across the country.

The bill will more than double the size of the Essential Air Service [EAS] program to $50 million per year. That will directly help cities, such as Yankton, Mitchell, and Brookings in my State. The EAS program was the result of an agreement when we deregulated the airline industry and Congress wanted to ensure our smaller cities did not lose air service altogether.

It also will protect small airports and the way AIP funds are allocated. Let us remember that we depend heavily on our major airport hubs, but we also depend on a lot of smaller cities to feed passengers into those hubs to make our national air system work. And it is not just in South Dakota, it is also in California—Fresno or Sacramento—or upstate New York.

We must remember that small cities such as Aberdeen, South Dakota, which recently received a grant to repair its main runway, and others depend heavily on AIP funds. This bill has a fairer formula to protect small airports if AIP funds decline.

Mr. President, this bill also requires a study be prepared on air fares to rural and small communities. The price of flying to and from some of these small airports are just astronomically high. For example, if you travel from Rapid City to Denver, and then go on to your destination, your flight from Rapid City to Denver may be the most expensive part of your trip.

Throughout my State I hear complaints about the cost of airline travel. In some cases, it can cost as much to get to the hub airport as it does to fly from the hub to London. I believe this study will be very helpful in assisting Congress in its understanding of what is going on with the cost of air travel to and from small communities.

This bill will also improve aviation security in our small cities without unfairly imposing burdens and expensive requirements on small airports and small airlines.

Let me briefly address each of these benefits for small community air service.

In 1978, Congress recognized that all cities would not participate equally in the benefits of airline deregulation. In fact, Congress realized some of our smallest cities might lose air service altogether. To address this threat, Congress wisely put in place the EAS program to ensure our smallest cities would continue to have air service. Without such service, communities such as Brookings, Mitchell, and Yankton in my home State, would be virtually cut off from the national air service network.

It is very important to these smaller towns that they be a part of the national air service network. With air service as well as telecommunications capability, small communities can grow and be dynamic contributors to our national economy. In fact, with the advances in telecommunications, smaller cities are now on an equal footing with bigger cities in terms of attracting industry. Small hospitals can do as sophisticated procedures as big hospitals by using telecommunications; and smaller universities can share in research projects with larger universities. Telecommunications capability alone, however, is not enough. It is critical that small cities also have reliable and affordable air service. And that is what this is all about. Make no mistake about it, the EAS program—since it ensures air service to our smallest and most underserved cities—is absolutely critical to the economic vitality of many small communities.

Mr. President, I am delighted that this bill, S. 1994, will more than double the size of the EAS program. The $50 million EAS program this bill would create will safeguard air service in some small communities and permit an expansion of flights in others. It is a solid legislative accomplishment for economic development in numerous small communities.

S. 1994 also will help promote and maintain some of our smallest airports which are critical to adequate air service in small cities. The AIP program has been under significant budget pressure. The amount of AIP appropriations have fallen significantly since 1992, and our small airports have shouldered the unfair, disproportionate burden of these budget cuts. Since AIP funds are often the only source of funding for repairs and safety improvements at small airports, our small airports have suffered significantly as a result.

I am pleased that this bill will correct this problem. We worked long and hard on this formula. The bill ensures that if AIP funding declines, our small airports will be protected and will continue to receive their historic share of AIP funds. This is good policy. It is fair policy. And it is very important to small city air service.

In addition to expanding the EAS program, and protecting the AIP funding of our small airports, S. 1994 will require a study of air fares to small communities. This is very welcome news for South Dakotans and other small city passengers who unfairly pay exorbitant air fares. We need more air service competition in small city air markets. Hopefully, in addition to highlighting the extent of the high air fare problems in small communities, this study will offer new insights on how air service competition in small communities can be enhanced.

Finally, S. 1994 resisted the temptation to impose expensive security measures on our small airports and small communities. In contrast, the House recently passed a provision based on the erroneous premise that one size fits all in aviation security. The Senate, however, correctly recognized there are thoughtful ways to ensure travelers to and from small cities have the same level of safety and security without imposing the identical, expensive security measures required for international airlines and major hub airports.

A one size fits all approach to aviation security undoubtedly would lead to a further deterioration of small city air service. I am pleased S. 1994 will improve aviation security for small city travelers without having the unintended consequence of driving air service out of some of our smaller cities.

Mr. President, let me make some additional general observations about air service. Somehow all this gets tied together.

We have on the international front this past year had great struggles in helping our major airlines fly beyond Tokyo by ensuring the Government of Japan recognizes their beyond rights. Similarly, our major carriers continue to be blocked out of serving London's Heathrow Airport and points beyond the United Kingdom. We did, however, secure a truly historic open skies agreement with Germany which is great news for the United States economy and our carriers. The United

States/German open skies agreement will put competitive pressure on the United Kingdom and France and ultimately should help to force both countries to agree to open skies accords in the future. We must continue to put competitive pressure on the British and the French by fully utilizing our liberalized aviation agreement with Germany.

Let me underscore my great concern with the current impasse in our aviation relations with Japan. The Japanese continue to wrongly block our carriers from serving the United States/Asia air service market via Japan. This continues to be a significant problem for Jerry Greenwald of United Airlines and Fred Smith of Federal Express. It also is a major problem for Northwest Airlines, the largest carrier in South Dakota. I have led efforts by the Commerce Committee to help correct this totally unacceptable situation. Along with my colleagues, we have sent letters to the President urging that the Administration stand firm in our aviation dispute with the Japanese and accept nothing less than fair treatment for our carriers in the area of aviation trade.

I intend to continue pressing for fair aviation trade with the Japanese. The United States/Asia air service market, as well as the intra-Asian air service market, is far too valuable to concede to Japanese carriers. It is vitally important to our balance of trade that our airlines can use Japanese airports to serve countries throughout Asia such as China, Indonesia and Malaysia. Make no mistake about it, international aviation is an important component of U.S. trade. Our negotiators must continue to treat it as nothing less. It is completely unacceptable that our carriers, both passenger and cargo, continue to be blocked out of lucrative air service markets beyond Japan and the United Kingdom by unfair trade practices.

Even when our large airlines are operating thousands of miles away from the United States, their ability to successfully compete abroad has an indirect impact on their financial ability to serve some domestic markets. In fact, large and small airlines work synergistically to provide air service through code-sharing agreements. For instance, I have had an excellent experience with Doug Voss of Great Lakes Aviation which is a key regional carrier in my home state of South Dakota. Great Lakes operates as United Express in South Dakota and the success of United abroad has a bearing on the service United Express can provide in small city air service markets such as the route between Sioux Falls and Rapid City in my state.

I have had discussions with airline executives where they say, ''Senator PRESSLER, as chairman of the Commerce Committee, can you help us gain access to Heathrow or assist us with our beyond Tokyo problem?'' And I say, ''Yes, I will try to help but I have problems between Sioux Falls and Rapid City where I would like help, and I have problems between Huron and Denver and problems between Yankton and Minneapolis,'' and so forth. The more successful our carriers are in lucrative international markets, the better able they are to serve less profitable small city air service markets. The international picture is tied into the local picture in our country.

As far as the national air service picture in this country is concerned, we have only built one new airport since 1974—Denver International Airport. Even that airport is struggling to complete all of its planned runways. Capacity in many airports is nearly full. Regrettably, a lack of airport capacity is a barrier to entry for new airlines. There are only so many slots and so many gates at our airports. Chicago has tried to build a new airport but because of environmental concerns, neighborhood concerns, and noise concerns it has almost given up. Minneapolis-St. Paul thought about building a new airport but got so much local resistance that they have given up.

The point is our airports are crowded. They are pressing up against their capacity. It is true advanced air traffic control technology will help move commercial airliners more efficiently from point to point. However, airplanes need adequate runway capacity. Also, airplanes need adequate access to gates. Without either, the benefit of air traffic control improvements will be lessened. The point is we have to make some decisions in our country about building infrastructure or we will have our airlines in a stalemate and not being able to expand. Significantly, newer competitive entrants will be blocked out of markets and consumers will be deprived of the benefits vigorous air service competition brings.

Our airport capacity challenges are not going to go away. In fact, they clearly will escalate as more and more people fly. Currently, more than 1.5 million people board commercial airplanes in the United States each and every day. Within the next four years, the number of daily boardings is forecast to climb to almost 2 million. We cannot ignore our airport infrastructure challenges. We should meet our long-term transportation infrastructure challenges head-on.

Airport capacity is but one of many challenges. Aviation is another critically important challenge. Our people expect the finest aviation safety system in the world. I am committed to working to ensure our travelling public receives nothing less than that. Currently, I serve as a representative to the Gore Commission on Aviation Safety and Security. As Chairman of the Commerce Committee, I have held numerous safety oversight hearings this Congress. In fact, we held a closed hearing on aviation security just this morning which included FAA Administrator David Hinson. In the past, on numerous occasions we have heard testimony from the National Transportation Safety Board, and its Chairman Jim Hall, who is doing an outstanding job.

The point I am making is that all these problems of aviation —international, national, and local—tie together. We have a very challenging situation to meet the aviation needs of our country both locally, nationally and internationally. This bill before the Senate which reauthorizes the FAA is a step forward. It is a good bill. It has been worked out carefully and in a bipartisan manner. It is a key part of that big picture that I covered so briefly here. I am proud to have worked with Senators MCCAIN, FORD, STEVENS and many others. I am glad to enthusiastically support this bill and urge my colleagues to do so as well.

I yield the floor.

AMENDMENT NO. 5364

(Purpose: To amend the Employee Retirement Income Security Act of 1974 with respect to the auditing of employee benefit plans)

Mr. SIMON. Mr. President, I offer an amendment on behalf of Senator JEFFORDS and myself.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Illinois [Mr. SIMON] for himself and Mr. JEFFORDS proposes an amendment numbered 5364.

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

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

The amendment is as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . PROVISIONS RELATING TO LIMITED SCOPE AUDIT.

(a) IN GENERAL.—Subparagraph (C) of section 103(a)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1023(a)(3)(C)) is amended by adding at the end the following new clause:

''(ii) If an accountant is offering his opinion under this section in the case of an employee pension benefit plan, the accountant shall, to the extent consistent with generally accepted auditing standards, rely on the work of any independent public accountant of any bank or similar institution or insurance carrier regulated and supervised and subject to periodic investigation by a State or Federal agency that holds assets or processes transactions of the employee pension benefit plan.''

(b) CONFORMING AMENDMENTS.—

(1) Section 103(a)(3)(A) of such Act (29 U.S.C. 1023(a)(3)(A)) is amended by striking ''subparagraph (C)'' and inserting ''subparagraph (C)(i)''.

(2) Section 103(a)(3)(C) of such Act (29 U.S.C. 1023(a)(3)(C)) is amended by striking ''(C) The'' and inserting ''(C)(i) In the case of an employee benefit plan other than an employee pension benefit plan, the''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to opinions required under section 103(a)(3)(A) of the Employee Retirement Income Security Act of 1974 for plan years beginning on or after January 1 of the calendar year following the date of the enactment of this Act.

Mr. SIMON. It will be a great disappointment but I will only speak

about 5 minutes on this amendment. I offer this amendment on behalf of Senator JEFFORDS and myself, an amendment that does not have anything to do with aviation, but we need a vehicle on a bill that is eminently sound and is really needed.

Mr. President, we have right now $3 trillion worth of pension funds that are backed by ERISA. Of those $3 trillion, better than $2 billion, almost $2.1 billion, are adequately audited.

The GAO and the inspector general of the Department of Labor say that we should do away with what is called the limited scope audit. Now, what is a limited scope audit? A limited scope audit permits a bank or an insurance company simply to sign a statement to a pension fund, saying we have $300 million in assets, period. This bill does away with that because we have $950 billion worth of taxpayer funds at risk if we do not modify this. That is what GAO tells us and this bill is what GAO has recommended.

Let me just add, this does not require the pension fund to go in an audit. I assume a bank or an insurance company will have their own auditor. This simply says we need an audit report, not simply a one-line statement saying that they have so many million dollars in assets.

Let me just read one section here: ''If an accountant is offering his opinion under this section in the case of an employee pension benefit plan, the accountant shall, to the extent consistent with generally accepted auditing standards, rely on the work of any independent public accountant of any bank or similar institution or insurance carrier regulated and supervised and subject to periodic''—and so forth.

So we permit those institutions to use their own audits.

I was stunned, frankly, when I heard that we do not have adequate auditing on $950 billion worth of employee pension funds. That is what this takes care of. The accounting profession is for it. People who have examined this are astounded that we have not done it before. I understand the reluctance on the part of the Senator from Arizona to take an amendment that has nothing to do with aviation. But if we are going to protect the taxpayers on this—and I know my friend from South Dakota, the Presiding Officer, wants to protect the taxpayers, the Senator from Kentucky does, and all of us do—this is a chance to do it.

I hope that this will be accepted when we vote tomorrow.

Mr. President, unless anyone has any questions or anyone seeks the floor, 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. McCAIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. McCAIN. Mr. President, at this time, I ask unanimous consent that all amendments that are on the list submitted earlier under a unanimous-consent agreement be filed by 11 o'clock tomorrow.

Mr. President, before you rule on that, I want to point out that that does not preclude extended debate. There are no time limits involved in that. It simply requires that the amendments on the list be filed by the hour of 11 a.m. tomorrow morning.

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

Mr. McCAIN. Mr. President, again, I remind my colleagues that there are still a number of these amendments on the list. I believe that a large number of them have been taken care of in the managers' amendment. But both the majority leader and the Democratic leader have stated that we won't stay on this bill more than an hour or so in order to dispense with it and get final passage.

I want to also thank, again, my dear friend from Kentucky for all of his help tonight, and, hopefully, he and I will be able to conclude this legislation tomorrow at a very early time.

Mr. FORD. Mr. President, I am glad to cooperate with my friend in getting any kind of objections to his unanimous-consent agreement worked out. I think we are at a position where, if we just sit down and be reasonable tomorrow, we can move very quickly. I hope that the majority leader will not entertain the notion to pull this bill down if we can't finish it in an hour or so tomorrow. I think there is too much in this bill, and we have worked too hard and come too far for that even to be considered.

I hope that we can go ahead and move this bill and move it expeditiously, and that we are not in a position where we have to do it in an hour or hour and a half or 2 hours. On the other hand, I think as amendments are offered we should attempt to try to limit each of those amendments by some time agreement as it relates to the amendment being considered at the time. Or we might work our list. We could work our list tomorrow and see how much time would be needed by each presenter, and maybe we could have a time agreement or a UC early tomorrow.

I will attempt to look at these amendments and see if there is a time agreement. I am going to call some of the Senators and say, ''Your amendment is in the managers' amendment. There was nothing wrong with it, so your name gets scratched.'' So I am going to proceed on that basis and attempt to help my friend and see if we can't secure some time agreements prior to 11 o'clock tomorrow.

Mr. McCAIN. I thank my friend. Mr. President, just to clarify, there is also permitted under this UC—because it is not precluded—second-degree amendments that are relevant. So my colleagues, I hope, will not make use of that.

MORNING BUSINESS

Mr. McCAIN. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business with Senators permitted to speak therein for up to 5 minutes each.

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

HONORING THE EKENS ON THEIR 50TH WEDDING ANNIVERSARY

Mr. ASHCROFT. Madam President, families are the cornerstone of America. The data are undeniable: Individuals from strong families contribute to the society. In an era when nearly half of all couples married today will see their union dissolve into divorce, I believe it is both instructive and important to honor those who have taken the commitment of till death do us part seriously, demonstrating successfully the timeless principles of love, honor, and fidelity. These characteristics make our country strong.

For these important reasons, I rise today to honor Truman and Dorothy Eken of Sedalia, MO, who on August 25, 1996 celebrated their 50th wedding anniversary. My wife, Janet, and I look forward to the day we can celebrate a similar milestone. Truman and Dorothy's commitment to the principles and values of their marriage deserves to be saluted and recognized.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Monday, September 16, the Federal debt stood at $5,217,327,143,659.08.

Five years ago, September 16, 1991, the Federal debt stood at $3,624,324,000,000.

Ten years ago, September 16, 1986, the Federal debt stood at $2,106,332,000,000.

Fifteen years ago, September 16, 1981, the Federal debt stood at $981,709,000,000.

Twenty-five years ago, September 16, 1971, the Federal debt stood at $415,132,000,000. This reflects an increase of more than $4 trillion ($4,802,195,143,659.08) during the 25 years from 1971 to 1996.

TRIBUTE TO SENATOR HANK BROWN

Mr. HEFLIN. Mr. President, our friend and colleague from Colorado, Senator HANK BROWN, will be leaving at the end of the 104th Congress after only one term in the Senate. But, he will nevertheless leave a lasting legacy of accomplishment that matches that of others who have served here for far longer periods. I have had the pleasure of serving with HANK on the Judiciary Committee during the last few years. His leadership on that committee and his contributions to our sometimes controversial debates were always thoughtful, analytical, fair, and respectful. He has been firm in his beliefs

and opinions, but never failed to listen and consider those of the other members of the committee.

Senator BROWN has also been an outstanding leader on military, foreign policy, trade, budgetary, and a host of other issues. I was especially impressed with his efforts to resolve the dispute with Pakistan over certain weapons transfers. He was able to forge a compromise between the administration and Congress which serves our national interests as well as those of India and Pakistan. He has covered a great deal of public policy territory during his relatively short tenure in the Senate.

HANK BROWN was born in Denver, CO, on February 12, 1940. He received his bachelor's degree from the University of Colorado in 1961 and his law degree from there in 1969. He began his career as an accountant. He received a master of tax law degree from the George Washington University here in Washington in 1986, while serving in the House of Representatives.

The future Senator from Colorado served as a lieutenant in the U.S. Navy from 1962 to 1966, including service as a forward air controller in Vietnam. He was awarded the Air Medal with two gold stars, the Vietnam Service Medal, Naval Unit Citation, and National Defense Medal. He served in the Colorado State Senate from 1972 to 1976, where he was the assistant majority leader for 2 years. In 1973, he was named ''Outstanding Young Man of Colorado.''

In 1980, he was elected to the House of Representatives, serving there until his election to the Senate in 1990. While he was in the House, he sponsored the first wild and scenic river designation for the Cache La Poudre River, and worked to expand the Rocky Mountain National Park. He also sought tougher child support enforcement mechanisms and specialized in ethics issues as a member of the House Ethics Committee. Likewise, he has been an outspoken leader in urging Congress to be covered by the civil rights and labor laws it imposed on others. The Congressional Accountability Act, which passed the Congress and was signed into law in early 1995, was due in large measure to his efforts on this issue.

Senator HANK BROWN has been a true friend to the people of Colorado and an outstanding legislator who consistently strived to do what was best for the Nation. His presence will be sorely missed when the next Congress convenes early next year, but I join my colleagues in congratulating and commending him for his public service and in wishing him and his family well as he moves on to the next phase of his life.

TRIBUTE TO SENATOR WILLIAM S. COHEN

Mr. HEFLIN. Mr. President, our distinguished colleague from Maine, Senator WILLIAM COHEN, will be leaving the Senate at the end of the 104th Congress. His departure will leave a void for his State of Maine and for the Nation that will be extremely difficult to fill. We were both first elected to the Senate in 1978 and will now be leaving together. He has been a true friend and a wonderful colleague to serve with over these last 18 years.

In addition to being an outstanding Senator and leader on a wide range of issues, Senator COHEN is an accomplished poet and spy novelist in his own right. Among his books are: ''Of Sons and Seasons,'' ''Roll Call,'' ''Getting the Most Out of Washington,'' ''The Double Man,'' which he wrote with former Senator Gary Hart, ''A Baker's Nickel,'' ''Men of Zeal,'' which he wrote with former Maine Senator and Majority Leader George Mitchell, ''One-Eyed Kings,'' and ''Murder in the Senate.''

Altogether, Senator COHEN will have served for 25 years in Congress when he retires. Born in 1940, his father was a baker in Bangor, ME. He received his bachelor of arts degree from Bowdoin College in 1962 and his law degree from Boston University 3 years later. He later became the assistant county attorney for Maine's Penobscot County and was elected vice president of the Maine Trial Lawyers Association in the early 1970's. He was the mayor of Bangor, ME and a fellow at the John F. Kennedy Institute of Politics. He was elected to the 93d Congress on November 7, 1972, and served in the House until his election to the Senate 6 years later.

As a Member of Congress, WILLIAM COHEN has not been afraid to break with his party when his conscience dictated it. Overall, he has been a leading advocate of a more assertive American defense posture. This was his view long before the defense build-up of the 1980's. As a Senate candidate in 1978, his platform was military preparedness and when he arrived here, he immediately got a seat on the Armed Services Committee. He opposed the SALT II Treaty, strongly supported President Reagan's defense build-up, and spoke out against the nuclear freeze. He condemned Saddam Hussein's regime in Iraq for using chemical weapons long before the invasion of Kuwait in August 1990 and in July of that year was instrumental in the debate over sanctions against Iraq. He served as vice chairman of the Senate Intelligence Committee during the late 1980's, working closely with its chairman, Senator David Boren. He also served on the Iran-contra committee, on which I served as well.

On trade issues, he has been for free but fair trade. He has worked to ban the import of underweight lobsters and opposed the American-Canadian Free Trade Agreement.

Senator COHEN is known as somewhat of a maverick, but there is no question that he put the concerns of his country and State at the top of his agenda. There is a great need for mavericks—really, I should call them independents. There is also no question that his sincere interest and leadership in public policy issues at the national level has led to many benefits for the American people in general. He will be sorely missed after he leaves the Senate early next year, but I join my colleagues in wishing him and his lovely wife, Janet Langhart-Cohen, well as he embarks on a new phase of his life. I also look forward to reading more of his novels in the years to come.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 7:53 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, without amendment.

S. 677. An act to repeal a redundant venue provision, and for other purposes.

The message also announced that the House agrees to the amendments of the Senate to the bill (H.R. 2679) to revise the boundary of the North Platte National Wildlife Refuge.

REPORTS OF COMMITTEE

The following report of committee was submitted:

By Mr. HATFIELD, from the Committee on Appropriations:

Special Report entitled ''Revised Allocation to Subcommittees of Budget Totals from the Concurrent Resolution for Fiscal Year 1997'' (Rept. No. 104–370).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. THURMOND, from the Committee on Armed Services:

The following named officers for promotion in the line in the Navy of the United States to the grade indicated under title 10, U.S.C., section 624:

UNRESTRICTED LINE OFFICER

To be rear admiral (lower half)

Capt. Daniel R. Bowler, 000–00–0000, U.S. Navy.

Capt. John E. Boyington, Jr., 000–00–0000, U.S. Navy.

Capt. John T. Byrd, 000–00–0000, U.S. Navy.

Capt. John V. Chenevey, 000–00–0000, U.S. Navy.

Capt. Ronald L. Christenson, 000–00–0000, U.S. Navy.
Capt. Albert T. Church, III, 000–00–0000, U.S. Navy.
Capt. John P. Davis, 000–00–0000, U.S. Navy.
Capt. Thomas J. Elliott, Jr., 000–00–0000, U.S. Navy.
Capt. John B. Foley, III, 000–00–0000, U.S. Navy.
Capt. Kevin P. Green, 000–00–0000, U.S. Navy.
Capt. Alfred G. Harms, Jr., 000–00–0000, U.S. Navy.
Capt. John M. Johnson, 000–00–0000, U.S. Navy.
Capt. Herbert C. Kaler, 000–00–0000, U.S. Navy.
Capt. Timothy J. Keating, 000–00–0000, U.S. Navy.
Capt. Gene R. Kendall, 000–00–0000.
Capt. Timothy W. LaFleur, 000–00–0000.
Capt. Arthur N. Langston, III, 000–00–0000.
Capt. James W. Metzger, 000–00–0000.
Capt. David P. Polatty, III, 000–00–0000.
Capt. Ronald A. Route, 000–00–0000.
Capt. Steven G. Smith, 000–00–0000.
Capt. Thomas W. Steffens, 000–00–0000.
Capt. Ralph E. Suggs, 000–00–0000.
Capt. Paul F. Sullivan, 000–00–0000.

ENGINEERING DUTY OFFICER

To be rear admiral (lower half)

Capt. Roland B. Knapp, 000–00–0000, U.S. Navy.
Capt. Kathleen K. Paige, 000–00–0000, U.S. Navy.

SPECIAL DUTY OFFICER (INTELLIGENCE)

To be rear admiral (lower half)

Capt. Perry M. Ratliff, 000–00–0000, U.S. Navy.

The following named officer for reappointment to the grade of lieutenant general in the United States Army while assigned to a position of importance and responsibility under title 10, U.S.C., section 601(a) and 3036:

To be chief of engineers

To be lieutenant general

Maj. Gen. Joe N. Ballard, 000–00–0000.

The following named officer for appointment to the grade of lieutenant general in the United States Army while assigned to a position of importance and responsibility under title 10, U.S.C., section 601(a):

To be lieutenant general

Maj. Gen. Edward G. Anderson, III, 000–00–0000, United States Army.

The following named officer for appointment in the Reserve of the Air Force, to the grade indicated, under the provisions of title 10, U.S.C., sections 8374, 12201, 12204, and 12212:

To be brigadier general

Brig. Gen. Dwight M. Kealoha, USAF (Retired), 000–00–0000, Air National Guard.

The following named officer for appointment to the grade of lieutenant general in the United States Air Force while assigned to a position of importance and responsibility under title 10, U.S.C., section 601(a);

To be lieutenant general

Maj. Gen. Normand G. Lezy, 000–00–0000.

The following named officer for appointment to the grade of lieutenant general in the United States Air Force while assigned to a position of importance and responsibility under title 10, U.S.C., section 601;

To be lieutenant general

Maj. Gen. William P. Hallin, 000–00–0000.

The following named officer for appointment to the grade of lieutenant general in the United States Air Force while assigned to a position of importance and responsibility under title 10, U.S.C., section 601;

To be lieutenant general

Lt. Gen. George T. Babbitt, Jr., 000–00–0000.

The following named officer for promotion in the Navy of the United States to the grade indicated under title 10, U.S.C., section 624:

MEDICAL CORPS

To be rear admiral (lower half)

Capt. Bonnie B. Potter, 000–00–0000, U.S. Navy

The following named Judge Advocate General's Corps Competitive Category officers for promotion in the Regular Army of the United States to the grade of brigadier general under the provisions of title 10, U.S.C., section 611(a) and 624(c):

To be brigadier general

Col. Joseph R. Barnes, 000–00–0000
Col. Michael J. Marchand, 000–00–0000.

The following named officer for appointment to the grade of lieutenant general while assigned to a position of importance and responsibility under Title 10, United States Code, Section 601:

To be lieutenant general

Maj. Gen. John A. Gordon, 000–00–0000, United States Air Force.

The following named officer for promotion in the Naval Reserve of the United States to the grade indicated under title 10, U.S.C., section 5912:

CIVIL ENGINEER CORPS OFFICER

To be rear admiral

Read Adm. (1h) Thomas Joseph Gross, 9924, U.S. Naval Reserve.

The following named officer for appointment to the grade of lieutenant general in the United States Air Force while assigned to a position of importance and responsibility under title 10, U.S.C., section 601(a):

To be lieutenant general

Maj. Gen. William J. Donahue, 000–00–0000.

The following named officer for appointment in the Reserve of the Air Force to the grade indicated under title 10, U.S.C., sections 8374, 12201 and 12212:

To be brigadier general

Col. Gerald W. Wright, 000–00–0000, Air National Guard of the United States.

The following named officer for appointment to the grade of lieutenant general in the United States Air Force while assigned to a position of importance and responsibility under title 10, U.S.C. section 8036:

SURGEON GENERAL OF THE AIR FORCE

To be lieutenant general

Maj. Gen. Charles H. Roadman, II, 000–00–0000.

The following United States Army National Guard officers for promotion in the Reserve of the Army to the grades indicated under title 10, U.S.C. sections 3385, 3392 and 12203(a):

To be major general

Brig. Gen. Carroll D. Childers, 000–00–0000.
Brig. Gen. Cecil L. Dorton, 000–00–0000.
Brig. Gen. Clyde A. Hennies, 000–00–0000.
Brig. Gen. Warren L. Freeman, 000–00–0000.

To be brigadier general

Col. John E. Barnette, 000–00–0000.
Col. Roberto Benavides, Jr., 000–00–0000.
Col. Ernest D. Brockman, Jr., 000–00–0000.
Col. Danny B. Callahan, 000–00–0000.
Col. Reginald A. Centracchio, 000–00–0000.
Col. Terry J. Dorenbush, 000–00–0000.
Col. Thomas W. Eres, 000–00–0000.
Col. Edward A. Ferguson, Jr., 000–00–0000.
Col. Gary L. Franch, 000–00–0000.
Col. Peter J. Gravett, 000–00–0000.
Col. Robert L. Halverson, 000–00–0000.
Col. Joseph G. Labrie, 000–00–0000.
Col. Bennett C. Landreneau, 000–00–0000.
Col. John W. Libby, 000–00–0000.
Col. Marianne Mathewson-Chapman, 000–00–0000.
Col. Edmond B. Nolley, Jr., 000–00–0000.
Col. James F. Reed, III, 000–00–0000.
Col. Darwin H. Simpson, 000–00–0000.
Col. Allen E. Tackett, 000–00–0000.
Col. Michael R. Van Patten, 000–00–0000.

The following United States Army National Guard officers for promotion in the Reserve of the Army to the grades indicated under title 10, U.S.C. sections 3385, 3392 and 12203(e):

To be major general

Brig. Gen. Frank A. Catalano, Jr., 000–00–0000

To be brigadier general

Col. Clarence E. Bayless, Jr. 000–00–0000.
Col. John D. Bradberry, 000–00–0000.
Col. Roger B. Burrows, 000–00–0000.
Col. William G. Butts, Jr., 000–00–0000.
Col. Dalton E. Diamond, 000–00–0000.
Col. George T. Garrett, 000–00–0000.
Col. Larry E. Gilman, 000–00–0000.
Col. John R. Groves, Jr., 000–00–0000.
Col. Hugh J. Hall, 000–00–0000.
Col. Elmo C. Head, Jr.
Col. Willie R. Johnson, 000–00–0000.
Col. Stephen D. Korenek, 000–00–0000.
Col. Bruce N. Lawlor, 000–00–0000.
Col. Paul M. Majerick, 000–00–0000.
Col. Timothy E. Neel, 000–00–0000.
Col. Jeff L. Neff, 000–00–0000.
Col. Anthony L. Oien, 000–00–0000.
Col. Terry L. Reed, 000–00–0000.
Col. Michael H. Taylor, 000–00–0000.
Col. Edwin H. Wright, 000–00–0000.

The following named officer for appointment to the grade of lieutenant general in the United States Army while assigned to a position of importance and responsibility under title 10, U.S.C., section 601(a):

To be lieutenant general

Maj. Gen. Frederick E. Vollrath, 000–00–0000.

The following named officer for appointment to the grade of lieutenant general in the United States Army while assigned to a position of importance and responsibility under title 10, U.S.C., section 3036:

TO BE SURGEON GENERAL, UNITED STATES ARMY

To be lieutenant general

Maj. Gen. Ronald R. Blanck, 000–00–0000.

The following named officers for promotion in the line in the Navy of the United States to the grade indicated under title 10, U.S.C., section 624:

UNRESTRICTED LINE OFFICER

To be rear admiral (lower half)

Capt. Harry M. Highfill, 000–00–0000, U.S. Navy.
Capt. Richard J. Naughton, 000–00–0000, U.S. Navy.
Capt. William G. Sutton, 000–00–0000, U.S. Navy.

The following named officer for reappointment to the grade of lieutenant general in the United States Marine Corps while assigned to a position of importance and responsibility under the provisions of Section 601, Title 10, United States Code:

To be lieutenant general

Lt. Gen. Anthony C. Zinni, 000–00–0000.

The following named officer for appointment to the grade of vice admiral in the United States Navy while assigned to a position of importance and responsibility under title 10 U.S.C., section 601:

To be vice admiral

Rear Adm. William J. Hancock, 000–00–0000.

The following named officer for appointment to the grade of vice admiral in the United States Navy while assigned to a position of importance and responsibility under title 10 U.S.C., section 601:

To be vice admiral

Rear Adm. William J. Fallon, 000–00–0000.

The following named officer for reappointment to the grade of vice admiral in the United States Navy while assigned to a position of importance and responsibility under title 10 U.S.C., section 601:

To be vice admiral

Vice Adm. Conrad C. Lautenbacher, Jr., 000–00–0000.

The following named officer for appointment to the grade of lieutenant general in the United States Army while assigned to a position of importance and responsibility under title 10, U.S.C., section 601(a):

To be lieutenant general

Maj. Gen. George A. Crocker, 000–00–0000.

(The above nominations were reported with the recommendation that they be confirmed.)

Mr. THURMOND. Mr. President, for the Committee on Armed Services, I report favorably 29 nomination lists in the Air Force, Army, Marine Corps and Navy which were printed in full in the CONGRESSIONAL RECORDS of December 11, 1995, May 22, 1996, July 11, 17, 19, and 29, 1996, September 3, and 9, 1996, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar, that these nominations lie at the Secretary's desk for the information of Senators.

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

(The nominations ordered to lie on the Secretary's desk were printed in the RECORDS of December 11, 1995, May 22, 1996, July 11, 17, 19, 29, September 3, and 9, 1996, at the end of the Senate proceedings.)

In the Air Force there is one promotion to the grade of lieutenant colonel (Edgar W. Hatcher) (Reference No. 1267).

In the Air Force and Air Force Reserve there are 11 appointments to the grade of colonel and below (list begins with Malcolm N. Joseph III) (Reference No. 1268).

In the Army there is one appointment as permanent professor at the United States Military Academy (Colonel George B. Forsythe) (Reference No. 1269).

In the Marine Corps there are four promotions to the grade of major (list begins with Gary J. Couch) (Reference No. 1270).

In the Marine Corps there are two promotions to the grade of major (list begins with Ralph P. Dorn) (Reference No. 1271).

In the Marine Corps there is one promotion to the grade of lieutenant colonel (George W. Simmons) (Reference No. 1111).

In the Army there are 1,576 promotions to the grade of major (list begins with Anthony J. Abati) (Reference No. 1198).

In the Air Force and Air Force Reserve there are 22 appointments to the grade of colonel and below (list begins with Jeffrey I. Roller) (Reference No. 1202).

In the Army Reserve there is one appointment to the grade of lieutenant colonel (Donald G. Higgins) (Reference No. 1203).

In the Army Reserve there are 13 promotions to the grade of colonel and below (list begins with Robert M. Carrothers) (Reference No. 1206).

In the Army Reserve there are 37 promotions to the grade of colonel and below (list begins with James R. Barr) (Reference No. 1207).

In the Air Force there are 12 appointments to the grade of second lieutenant (list begins with Michael P. Allison) (Reference No. 1220).

In the Marine Corps there are five promotions to the grade of lieutenant colonel and below (list begins with Robert E. Carney) (Reference No. 1221).

In the Marine Corps Reserve there are 34 promotions to the grade of colonel (list begins with Craig T. Boddington) (Reference No. 1222).

In the Air Force there are 66 promotions to the grade of major (list begins with John W. Baker) (Reference No. 1223).

In the Navy there are two promotions to the grade of lieutenant commander (list begins with Aaron C. Flannery) (Reference No. 768).

In the Marine Corps there is one promotion to the grade of lieutenant colonel (John C. Sumner) (Reference No. 1272).

In the Navy there is one promotion to the grade of captain (John L. Willson) (Reference No. 1273).

In the Navy there is one promotion to the grade of lieutenant commander (Eric L. Pagenkopf) (Reference No. 1274).

In the Marine Corps there are 58 appointments to the grade of captain (list begins with Michael G. Alexander) (Reference No. 1275).

In the Marine Corps Reserve there are 150 promotions to the grade of lieutenant colonel (list begins with James R. Adams) (Reference No. 1276).

In the Navy there are 427 promotions to the grade of commander (list begins with Daniel C. Alder) (Reference No. 1277).

In the Naval Reserve there are 768 promotions to the grade of commander (list begins with James C. Ackley) (Reference No. 1278).

In the Navy there are 774 promotions to the grade of lieutenant commander (list begins with Gregorio A. Abad) (Reference No. 1279).

In the Air Force Reserve there are 26 promotions to the grade of lieutenant colonel (list begins with John W. Amshoff, Jr.) (Reference No. 1282).

In the Marine Corps there are three appointments to the grade of lieutenant colonel and below (list begins with Timothy Foley) (Reference No. 1283).

In the Naval Reserve there are 153 promotions to the grade of captain (list begins with Robert E. Aquirre) (Reference No. 1284).

In the Naval Reserve there are 382 promotions to the grade of commander (list begins with David W. Anderson) (Reference No. 1285).

In the Air Force there are 1,609 promotions to the grade of colonel and below (list begins with Johnny R. Almond) (Reference No. 1296).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Mr. HARKIN:

S. 2080. A bill to save taxpayer money by reducing the unnecessary increase in Pentagon spending in fiscal year 1997; to the Committee on Armed Services.

S. 2081. A bill to limit Department of Defense payments to contractors for restructuring costs associated with business combinations; to the Committee on Armed Services.

By Mr. DORGAN (for himself and Mr. ROBB):

S. 2082. A bill to amend title 18, United States Code, to eliminate good time credits for prisoners serving a sentence for a crime of violence, and for other purposes; to the Committee on the Judiciary.

By Mr. DEWINE:

S. 2083. A bill to amend title 18, United States Code, to set forth the civil jurisdiction of the United States for crimes committed by persons accompanying the Armed Forces outside of the United States, and for other purposes; to the Committee on Armed Services.

S. 2084. A bill to expedite State reviews of criminal records of applicants for private security officer employment, and for other purposes; to the Committee on the Judiciary.

By Mr. WARNER (for himself and Mr. FORD):

S. 2085. A bill to authorize the Capitol Guide Service to accept voluntary services; considered and passed.

By Mr. PRESSLER (for himself, Mr. LOTT, Mr. BAUCUS, Mr. HATCH, Mr. D'AMATO, Mr. NICKLES, Mr. GORTON, Mr. HATFIELD, Mr. BURNS, and Mrs. MURRAY):

S. 2086. A bill to amend the Internal Revenue Code of 1986 to simplify certain rules relating to the taxation of United States business operating abroad, and for other purposes; to the Committee on Finance.

By Mr. KERRY:

S. 2087. A bill to direct the Secretary of the department in which the Coast Guard is operating to provide rescue diver training under the Coast Guard helicopter rescue swimming training program; to the Committee on Commerce, Science, and Transportation.

By Mr. LOTT:

S.J. Res. 60. A joint resolution to disapprove the rule submitted by the Health Care Financing Administration on August 30, 1996, relating to hospital reimbursement under the medicare program; read twice.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. LOTT (for himself, Mr. DASCHLE, Mr. STEVENS, Mr. BYRD, Mr. WARNER, Mr. SIMPSON, Mrs. KASSEBAUM, Mr. FORD, Mr. ROCKEFELLER, Mr. LEVIN, Mr. GRASSLEY, Mr. COVERDELL, and Mr. FRIST):

S. Res. 293. A resolution saluting the service of Howard O. Greene, Jr. to the United States Senate; considered and agreed to.

By Mr. STEVENS:

S. Res. 294. A resolution to provide for severance pay; considered and agreed to.

By Mr. NICKLES (for himself, Mr. NUNN, Mr. COATS, Mr. ASHCROFT, and Mr. HELMS):

S. Con. Res. 71. A concurrent resolution expressing the sense of the Senate with respect to the persecution of Christians worldwide; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HARKIN:

S. 2080. A bill to save taxpayer money by reducing the unnecessary increase in Pentagon spending in fiscal year 1997; to the Committee on Armed Services.

PENTAGON BUDGET REQUEST LEGISLATION

• Mr. HARKIN. Mr. President, we must maintain a strong national defense. There can be no question about that. I believe part of that strength comes from wise use of taxpayer dollars. The $265.6 billion authorized by this Congress is $11.3 billion more than the Pentagon requested. I am offering this bill today to roll back this addon and restore the Pentagon's requested level. It directs the Secretary of Defense to

achieve this goal by making adjustments that do not jeopardize our military readiness or the quality of life of our military personnel.

The Secretary of Defense should not have trouble finding areas to trim. This budget adds less than $1 billion for readiness and quality-of-life issues. Too much of the rest is for gold-plated hardware and questionable weapons development.

Some star wars items, like the space-based laser system at an additional $70 million, or the kinetic energy antisatellite program at an additional $75 million, are expensive, destabilizing, and probably won't work. Other items, like the Kiowa helicopter, at an additional $190 million have missions that can be filled by other weapons at less cost. In this era of tight budgets, when we are slashing other programs, I don't see how we can justify these unwise, unwanted, unnecessary and untimely expenditures.

Mr. President, this simply defies common sense. The cold war is over.

The proposed increase, by itself, is only slightly smaller than the combined defense budgets of North Korea, Iraq, Syria, Iran, and Cuba. I think the American taxpayers are owed an explanation of this excessive spending.

I would like to know how my colleagues plan to pay for such extravagance in this time of constrained spending. This bill will either steal from parts of government that are already doing their part to reduce the deficit, or it will add billions of dollars to the deficit. We simply can't avoid one of these consequences.

Mr. President, let me put the magnitude of this fiscal irresponsibility into perspective. The $11.3 billion bonus is almost equal to the budgets of the National Institutes of Health and the Transportation Department. It's about twice the budget of the Interior Department and the Environmental Protection Agency, and it's almost four times larger than the budget of the National Science Foundation. Furthermore, for this amount of money we could fund the Pell Grant Program for 2 years or we could fund the Head Start Program for over 2½ years.

To look at it in terms of my State of Iowa, this addon of $11.3 billion is almost three times the budget for the entire State of Iowa. Iowans could fund their K–12 education system, some 500,000 pupils in about 380 school districts, for 5 years. At the current spending and enrollment levels, the $11.3 billion could fund Iowa State University for 94 years, the University of Iowa for 99 years, the University of Northern Iowa for 166 years, or all three together for 38 years.

We simply can't justify this excessive spending, we shouldn't ask our constituents to fork over $11.3 billion for programs the Pentagon does not need or could safely delay.

It's time for some fairness. It's time for some common sense. And fairness tells us that the Pentagon shouldn't be exempt from our efforts to balance the budget. Common sense dictates that we can't afford $11.3 billion in addons over what the Pentagon and the Joint Chiefs of Staff say we need to maintain a strong national defense. I urge my colleagues to join me in support of this commonsense bill to cut the deficit and put our priorities back in order.●

By Mr. HARKIN:

S. 2081. A bill to limit Department of Defense payments to contractors for restructuring costs associated with business combinations; to the Committee on Armed Services.

CORPORATE MERGERS LEGISLATION

● Mr. HARKIN Mr. President, I introduce a bill that will put a moratorium on taxpayer subsidies for mergers between defense contractors, and give the Government the tools to monitor these deals and recoup any overpayments.

To quote Lawrence Korb, Assistant Secretary of Defense under President Reagan in a recent article in the Brookings Review, ''Remember the $600 toilet seats and the $500 hammers that had taxpayers up in arms during the mid-1980s? Today's subsidized mergers are going to make them look like bargains.''

Here is what some public interest groups say about the policy:

The CATO Institute—''The costs associated with mergers should not be absorbed by federal taxpayers. This is a egregious example of unwarranted corporate welfare in our budget.''

Taxpayers for Common Sense—''It's time for the Pentagon to drop this ridiculous 'money for nothing' policy.''

Project on Government Oversight—''The new policy is unneeded, establishes inappropriate government intervention in the economy, promotes layoffs of high-wage jobs, pays for excessive CEO salaries, and is likely to cost the government billions of dollars.''

In 1993 then Undersecretary of Defense John Deutch made a major policy change with regard to Defense Department acquisition practices. His decision allowed the DOD to start subsidizing defense contractor mergers.

The taxpayers have already paid $300 million to wealthy defense contractors and the GAO estimates that they will pay another $2 billion or more in the next few years.

If Deutch's decision was a policy change, as I believe, then the proper procedures were not followed. The new policy was never printed in the Federal Register and there was no opportunity for public comment on it, so the contracts written under this policy may be invalid.

If it was a clarification of policy, as the proponents claim, then the taxpayers may be liable for paying restructuring costs on mergers all the way back to the 1950's. The cost to American taxpayers could be staggering.

In either case, the decision involves an interpretation of the Federal Acquisition Regulations [FAR] and may allow contractors for all Federal agencies and departments to collect such costs. Imagine Medicare paying restructuring costs for all Federal agencies and departments to collect such costs. Imagine Medicare paying restructuring costs for all major hospital mergers. This could add billions of taxpayers dollars to the total cost of this policy.

Proponents claim the subsidies save taxpayers money, but the record on these savings is spotty at best. According GAO studies of two business combinations the measured savings are far less than the amount promised. In one case the GAO found that ''the net cost reduction certified by DOD represents less than 15 percent of the savings . . . projected to the DOD 2 years earlier when they sought support for the proposed partnership.''

Moreover, the cost accounting is incomplete and there is no way for taxpayers to recoup the costs when the amount paid to contractors exceeds the actual benefit received. The current practice is to measure only costs to the Department of Defense when contractors merge and give thousands of hard-working Americans the boot. The costs associated with Government subsidized social services like worker retraining are not tallied. Neither are the costs associated with lost payroll tax revenue. My bill would fix these deficiencies.

Although I believe this practice must stop, I realize that is too new for most to make an informed decision about. That is why I am offering this very moderate bill. It will merely put a 1-year moratorium on these payments so that the Comptroller General can give us the tools we need to take a close look at the policy and ensure that the taxpayers recoup any payments in excess of realized benefits. It will also allow us to have hearings on this far-reaching policy change.

So, again Mr. President, this modest bill will give us the time and tools we need to thoroughly examine this policy. I urge my colleagues to support this common sense bill so that we can study this issue with all the care that it deserves.●

By Mr. DORGAN (for himself and Mr. ROBB):

S. 2082. A bill to amend title 18, United States Code, to eliminate good-time credits for prisoners serving a sentence for a crime of violence, and for other purposes; to the committee on the Judiciary.

THE 100 PERCENT TRUTH IN SENTENCING ACT

● Mr. DORGAN. Mr. President, last Friday I spoke on the Senate floor about legislation that I am proposing to make Americans safer in their homes and communities. Today I am formally introducing that legislation, and I wanted to take a few moments to describe in further detail what my bill would do and why it is needed.

All of us who are concerned about violent crime in this country know

that the causes of crime are complex and difficult. I certainly do not pretend to have all the answers. But there are some basic, commonsense steps we can take to reduce the amount of violent crime in this country—the first of which is to keep those people that we know are violent criminals off the streets.

My bill, the 100 Percent Truth in Sentencing Act, will eliminate the award of good-time credits for violent offenders in the Federal prisons and require violent offenders to serve 100 percent of their sentences. This is not a punitive action against criminals; it is a preventive action against violent crime.

Let me tell you why my bill will save lives and prevent violent crime. It does not take a genius to know who will commit the next crime—likely, it will be someone who already committed a crime. One-third of all violent crime is committed by someone who is already know to the criminal justice system and is ''under supervision''—that is, out on the streets because of parole, probation, or pretrial release.

This frightening statistic is not the result of actions by just a few hardened criminals. Rather, the majority of violent offenders will be rearrested for another crime within 3 years of their release. Fully one-third of all violent criminals released from prison will be rearrested for another violent crime within that timeframe.

These statistics are well known and undisputed, yet more than 90 percent of violent criminals are released early from prison. Back in 1984, we acknowledged that early release leads to more violent crime and, as a result, we abolished parole in the Federal system. But our system continues to award ''good-time'' credits—essentially, time off for good behavior—to the most violent felons in the system. The reason is that good time credits are awarded automatically to almost every inmate. In the Federal prison system, every prisoner—regardless of how brutal their crime—receives 54 days of good time per year unless they violate significant prison rules.

I could spend hours telling you about violent offenders who were released early from Federal prisons, but let me tell you about just one of them. Martin Link has a long history of brutal, violent crime. In 1982, he grabbed a 15-year-old girl in an alley in south St. Louis, sodomized her, and tried to rape her. In 1983, he forced another young girl into his car, took her to East St. Louis, and raped her. Although he was sentenced to 20 years in Federal prison, he was released in 6 years because of combined good time credits and parole. Soon afterward, he got a year's probation for soliciting sex from an undercover agent.

The next year, in 1990, he stole a car, but was still on the streets in 1991 when he murdered 11-year-old Elissa Self-Braun while she was walking home from her schoolbus. The same month that he murdered Elissa, according to the St. Louis Post-Dispatch, Link robbed, sodomized, and tried to rape a woman he grabbed at a self-service laundry, snatched another woman's purse, tried to rape another woman at knifepoint, almost abducted an 8-year-old girl, and held up an ice cream shop. If Link had served his full sentence for an earlier abduction and rape, none of these crimes would have been committed and Elissa would be alive today.

Link is now serving a sentence of life in prison without parole. But in my view, the death of little Elissa was completely preventable and inexcusable. We know that violent criminals often repeat their crimes. At a minimum, we must take steps to keep violent offenders behind bars for the full terms of their sentences.

This bill is not my first attempt to end good time for violent offenders. In 1994, I offered an amendment to the Violent Crime Control and Law Enforcement Act of 1994 designed to eliminate good time for all violent offenders unless they exhibited ''exemplary'' behavior while in prison. My intent was that only those violent offenders who demonstrated that they were rehabilitated would be released from Federal prison before the end of their sentences.

That amendment was accepted and is now law. Unfortunately, the Justice Department has interpreted that provision to mean that violent offenders will continue to receive automatic good time credits unless they break significant prison rules. This was not the intent of my amendment in 1994, and the bill I am now offering clarifies my position: violent offenders should remain in jail until they have completed their court-imposed sentences.

Prison officials tell me that they rely on good time credits as a disciplinary tool. On a recent visit to a Federal prison, officials told my staff that Federal inmates are increasingly young, undisciplined, violent, and unpredictable. ''Without good time to use as an incentive to control inmates,'' one official confided, ''we would fear for the lives of our prison guards!''

I am very sympathetic to the arguments they raise. It is the job of prison administrators to control inmate populations and ensure a safe, orderly prison atmosphere. I would not take unnecessary risks with that important goal. However, it is our job, as United States senators, to secure the safety of those who live outside the prison walls—law-abiding citizens taking an evening stroll, or stopping at the ATM machine, or, like Elissa Self-Braun, walking to a school bus from our home. To argue that inmates are too dangerous to keep in jail is outrageous and unacceptable.

I am also skeptical that good time is a necessary or effective disciplinary tool in most cases. Prison officials have a broad range of disciplinary tools at their disposal, including visitation and telephone privileges, recreation time, commissary privileges, and work opportunities. Most of these incentives provide an immediate reward, while the reward of good time credits is not realized for many months, and often years, after the desired behavior. I am not a psychologist, but it seems to me that young, impetuous criminals are more likely to appreciate an immediate, rather than a long delayed, reward.

In fact, statistics compiled by the Office of Justice Statistics seem to support this theory. Over the last few years, the incidence of violent misconduct in federal prisons has declined by more than 30 percent, even though prison officials no longer have parole as an incentive and the amount of allowable good time has decreased from as much as 120 days per year (prior to 1984) to 54 days.

The bottom line is this: early release for violent offenders costs lives. Today, there are more than 100,000 inmates in nearly 90 federal prisons and in contract facilities across the country. About 20,000 of these inmates are serving time for a violent offense. If they are released early from prison, 7,200 will be re-arrested for a violent crime within 3 years of their release.

My bill, the 100 Percent Truth In Sentencing Act, is the most straightforward, common sense approach that I have seen for putting violent criminals behind bars and keeping them there. Senator ROBB already has agreed to join me in co-sponsoring this legislation, and I hope all my colleagues will do the same.

Mr. President, I ask unanimous consent that the full text of the bill be printed in the RECORD.

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

S. 2082

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 ''100 Percent Truth in Sentencing Act''.

SEC. 2. ELIMINATION OF CREDIT TOWARD SERVICE OF SENTENCE FOR SATISFACTORY BEHAVIOR.

Section 3624(b) of title 18, United States Code, is amended—

(1) by striking ''(1) A prisoner'' and inserting ''(1)(A) Subject to subparagraph (B), a prisoner'';

(2) by striking the second sentence; and

(3) by adding at the end the following:

''(B) A prisoner who is serving a term of imprisonment of more than 1 year for a crime of violence shall not be eligible for credit toward the service of the prisoner's sentence under subparagraph (A).''.●

By Mr. DEWINE:

S. 2083. A bill to amend title 18, United States Code, to set forth the civil jurisdiction of the United States for crimes committed by persons accompanying the Armed Forces outside of the United States, and for other purposes; to the Committee on Armed Services.

THE MILITARY AND CIVILIAN LAW COORDINATION ACT

• Mr. DEWINE. Mr. President, I believe certain elements of the U.S. military justice system need to be reformed. For example, current conditions contain loopholes that allow military criminals to receive pay—even after conviction. They allow nonmilitary personnel residing on military bases who commit crimes to escape criminal prosecution. And they allow military personnel who have committed crimes to be discharged without their criminal records being included in the FBI's National Crime Information Center system.

I believe we must close these loopholes.

Mr. President, under current law, a soldier sentenced to and awaiting dishonorable discharge, remains on the taxpayer's payroll, unless otherwise ordered by the military court. While in military custody, that lawbreaker continues to collect a paycheck from the rest of tax-paying America.

Mr. President, this simply should not be the case, in the streets of Cleveland, Seattle, or Denver, when a criminal breaks the law, he is removed from those streets. When he is allowed to return to those streets, his time in jail will have cost him a few things. Of course, chief among these things is his loss of freedom for the period of confinement. But he will also not collect a paycheck while incarcerated. We do not pay and should not pay our prisoners for serving their time in jail.

A Cincinnati man, convicted of rape, burglary, and assault by a military tribunal, later collected something on the order of $40,000, after taxes, for serving out his sentence. A Wright-Patterson Air Force Base airman, convicted of molesting a 4-year-old girl, has collected an average of $4,700 per month while serving out his sentence. Three years after his confession, he had received $148,616 from the U.S. taxpayers. He even received raises while behind bars.

There are many such stories, Mr. President.

This bill addresses that injustice to the taxpayer. This bill makes that lawbreaker serve out the sentence he has earned—at his own expense. It is already enough of a burden that the taxpayer has to pay for the room and board of that prisoner during the sentence, after he or she already paid more than enough to train and keep that soldier.

The loss of opportunity and earnings should be something the criminal pays for himself, the taxpayer should not pay for it. When that soldier breaks the law—and in doing so, breaks his agreement with the taxpayer—that should be the end of the taxpayer's responsibilities.

Once that soldier decides he no longer wants to be a law-abiding citizen, he is on his own, financially and otherwise. Mr. President, again, we should not pay our criminals for serving out their sentences.

My bill addresses another important gap in the law. Under current law, many illegal acts committed abroad by U.S. soldiers or accompanying civilians go unaddressed by the military courts. The prosecution of these crimes is left to the discretion of a military court, which often decides to do no more than hand down a dishonorable discharge, unleashing that criminal on civilian society. This should not be the case. Mr. President, there should be no geographical limits to the law.

This bill guarantees that a soldier or accompanying civilian abroad, committing an illegal act punishable under the United States Code by more than a year's imprisonment, will be handed over to civilian authorities for prosecution under the United States Code. The military should not be able to rid itself of its criminals at the expense of law abiding civilians. These criminals belong behind bars, not just out of the service and back in our streets. This bill will keep them out of our streets.

There is a final aspect of this bill intended to protect civilian Americans from the actions of enlisted criminals. This bill also mandates that when an enlisted criminal is discharged from the service, the military Secretary will turn over to the FBI all the criminal records of that soldier for inclusion in the FBI criminal records system. It also requires sex offenders who are discharged from the military to submit a DNA sample before discharge so that that sample can be included in the FBI's CODIS system.

Again, Mr. President, this is another way to protect the tax-paying, law-abiding American from dishonorably discharged criminals. Under current law, the criminal histories of these military personnel do not become part of the National Crime Information Center database and the FBI's CODIS system. This bill will ensure that they do.•

By Mr. PRESSLER (for himself, Mr. LOTT, Mr. BAUCUS, Mr. HATCH, Mr. D'AMATO, Mr. NICKLES, Mr. GORTON, Mr. HATFIELD, Mr. BURNS and Mrs. MURRAY):

S. 2086. A bill to amend the Internal Revenue Code of 1986 to simplify certain rules relating to the taxation of U.S. business operating abroad, and for other purposes; to the Committee on Finance.

THE INTERNATIONAL TAX SIMPLIFICATION FOR AMERICAN COMPETITIVENESS ACT

• Mr. PRESSLER. Mr. President, I am pleased to introduce a bill today that would provide much-needed relief to American-owned companies that are struggling to compete in the world marketplace. This bill is an attempt to simplify the overly complex international tax rules. I wish to thank my fellow cosponsors for their support—Senators LOTT, BAUCUS, BURNS, D'AMATO, HATCH, HATFIELD, GORTON, MURRAY, and NICKLES.

America's economy is more and more linked to the success of our businesses in the international economy. That's not a surprise to any of us. As the economies of previously less-developed countries around the world begin to expand, and the economic boundaries between our countries become more blurred, it is increasingly important for our businesses to be able to operate abroad from their most competitive position. Restraining our own companies through redundant and unnecessary complexities in our own Tax Code dampens their ability to compete for foreign business. In the end, it only hurts our own economy.

There are many factors that affect U.S. world competitiveness—factors over which we have little control. I know our international trade negotiators labor hard to change those factors we can control, such as barriers to foreign markets and existing agreements designed to keep trade free and fair. This is an issue of importance to me. I have sought to open markets for many South Dakota products—wheat in Africa, beef in Asia, and pork products in the former Soviet Union.

While we have had some successes in opening markets, barriers remain. And I intend to push for open and fair trade among all of our trading partners. However, we can do more than just open barriers. We can reform our tax code in a way that will ensure continued U.S. success in the world economy. If we miss this opportunity, we risk the erosion of U.S. international competitiveness as countries with simple, favorable tax treatment of businesses lure away American businesses.

This is a risk that is very real. A recent report by the Financial Executives Research Foundation found some rather shocking declines in U.S. competitiveness. This report found that over the last three decades, the global economy has grown more rapidly than our own economy. This is due, in part, to the recovery of Japan and Europe from the aftermath of World War II, and as a consequence, the United States presence in global markets has become less prominent. Their findings comparing the first half of the 1990's with the 1960's found the U.S. share of world GDP has declined to 26 percent—from 40 percent; the U.S. share of cross-border investment has fallen to 25 percent—from 50 percent; and the U.S. share of world exports has dropped to 12 percent—from 17 percent. In 1960, 18 of the world's 20 largest corporations were headquartered in the U.S. Today, that number is a mere eight.

There is a strong correlation between American corporate competitiveness overseas and the ability of those companies to continue to provide jobs at home. A 1991 Council of Economic Advisors Economic Report to the President explained:

> In most cases, if U.S. multinational corporations did not establish affiliates abroad to produce for the local market, they would be too distant to have an effective presence in that market. In addition, companies from other countries would either establish such

facilities or increase exports to that market. In effect, it is not really possible to sustain exports to such markets in the long run. On a net basis, it is highly doubtful that U.S. direct investment abroad reduces U.S. exports or displaces U.S. jobs. Indeed, U.S. direct investment abroad stimulates U.S. companies to be more competitive internationally, which can generate U.S. exports and jobs. Equally important, U.S. direct investment abroad allows U.S. firms to allocate their resources more efficiently, thus creating healthier domestic operations, which, in turn tend to create jobs.

Overseas operations are frequently necessary to reduce costs of production and transportation, and locating facilities abroad increases brand familiarity. Within the United States, export related jobs pay on average a significantly higher wage than non-export related jobs. All of these factors combine to strengthen the U.S. parent company and bolster our economy here at home.

The compliance costs associated with filing a tax return for overseas business operations of a U.S.-based company are staggering. My state of South Dakota is home to the credit card headquarters of Citibank. In its printed form, the Federal income tax return form for Citibank stands over 9 feet high—taking tens of thousands of hours to complete. The compliance cost burden associated with the foreign source income taxation rules is disproportionate to the amount of tax raised by these sections. For example, a 1989 study by the University of Michigan Office of Tax Policy Research, quoted in recent Financial Executives Research Foundation report, states that 39.2 percent of Federal income tax costs are attributable to foreign source income, while foreign operations represent only 21 percent of assets, 24 percent of sales, and 18 percent of employment. And a 1993 survey of 17 large multinationals indicates an even higher percentage of Federal income tax compliance costs are attributable to foreign source income (51 percent)—indicating that compliance costs associated with foreign source income amount to 8.5 percent of the Federal income tax collected from this source. In comparison, a European Commission report found that among European multinational corporations, there is no evidence that compliance costs are higher for foreign than domestic source income.

The bill I am introducing today seeks to simplify and correct various areas in the Code that are unnecessarily restraining U.S. businesses. Some changes are areas in need of repair, and some changes are to take into consideration international business operations that exist today, but which were domestic-only or nonexistent businesses when the 1986 tax reform laws were implemented.

One of the most substantive and important changes included in the bill would repeal the so-called 10/50 foreign tax credit basket rules that force U.S. corporations to calculate separate foreign tax credit limitations for each of its foreign joint venture businesses—foreign business operations in which it holds at least 10 percent but no more than 50 percent of the stock. Along with creating administrative nightmares for U.S. companies that may have hundreds of such foreign joint venture operations, these rules impede the ability of U.S. companies to compete in foreign markets.

Today, United States businesses find it necessary to operate in joint ventures overseas, particularly in emerging markets such as the People's Republic of China and the former Soviet Union. Such joint ventures are necessary often times because U.S. investors face significant local country legal and political obstacles to taking a controlling interest in foreign companies. This is particularly the case for telecommunications companies and other regulated businesses. While such joint ventures are thus necessary for U.S. companies to enter and compete in foreign markets, our current tax law acts to discourage such operations.

Our bill would eliminate the needless administrative hassles of current law and put U.S.-backed joint ventures on equal footing with competitors from other countries by replacing the 10–50 separate foreign tax credit limitation. The proposal would provide for so-called look-through treatment. That is, income from such entities would be computed for purposes of the foreign tax credit limitation based on the underlying character of the income earned by such corporations, as is the case for income earned through controlled foreign corporations.

Another important correction to current rules relates to Foreign Sales Corporation [FSC] treatment for software. Ten years ago we did not have the level of software exports that we do today, and because the tax laws have not kept up with the changes in the high-technology business world, software exports are currently discriminated against by our own Tax Code. This bill would provide a legislative modification to the FSC statute to provide the same tax benefits for licenses of computer software as are currently available for films, records, and tapes. The United States is currently the world leader in software development, employing approximately 400,000 people in high-paying software development and servicing jobs. Much of the growth experienced by this industry is due to increased exports. The denial of the benefits of the FSC rules to software sold overseas ultimately harms the U.S. economy by constructing an impediment to the competitiveness of U.S. manufactured software. If theses exports are not given FSC benefits, many of these jobs could eventually move to other countries. The potential loss of these jobs would hurt our economy. My bill corrects this inequity.

The goal of the international tax simplification for American competitiveness bill is to give fair tax treatment to American companies who operate abroad. This bill is truly a technical correction and simplification bill designed to correct inequities in our Code and to help place U.S. companies on a level playing field with their foreign competitors. Without these corrections, American companies will lose ground vis-a-vis their foreign counterparts, which will weaken their ability to operate successfully at home and harm our Nation's economic potential. Americans are the most creative and competitive workers in the world, and releasing them from unnecessary constraints at home will help us maintain our economic lead in the world marketplace—guaranteeing quality, high-paying jobs at home and a stronger national economy.●

● Mr. D'AMATO. Mr. President, today I am pleased to join my friend and colleague, Senator PRESSLER, as an original cosponsor of the International Tax Simplification for American Competitiveness Act. This important bill will begin the process of dismantling tax barriers that hinder American businesses who find themselves in an increasingly competitive global marketplace. Although American firms have succeeded to date in spite of the current complexity and unfairness of our international tax regime, the added costs imposed by our tax rules take their toll. We must move to identify and eliminate those harmful and unnecessary provisions that stand in the way of a continuing leadership role for American business in world markets.

New York is home to many industries that are driven by global competition. Industries like the securities and banking industries, computer and other high technology firms, and countless other businesses in my State must have fair treatment at home in order to compete effectively abroad. For example, during the last decade the securities industry has been transformed from a largely domestic-oriented industry to an industry in which U.S. and international financial institutions compete against each other in the principal capital markets around the world. U.S.-based securities firms are recognized leaders in their industry worldwide. Maintaining this position is important not only for these firms, but also for their U.S. employees and for their U.S. customers who benefit from the innovative products and services offered by U.S.-based securities firms.

Unfortunately, Mr. President, U.S. tax law has failed to keep pace with the rapid changes in the world economy. The international provisions of the Internal Revenue Code were last substantially debated and revised in 1986. And in many cases, our foreign competitors operate under simpler, fairer, and more logical tax regimes. This mismatch between commercial reality and the U.S. Tax Code creates a structural bias against the international activities of U.S. companies. This cannot and should not be allowed to continue.

The International Tax Simplification for American Competitiveness Act acknowledges and addresses a number of problems our tax laws create for American businesses facing increasing global competition. This bill represents an important step toward correcting complexities of the antideferral rules under subpart F, including their inappropriate application to active financing income of bona fide financial institutions and the current definition of investment in U.S. property, and excessive limitations on the use of foreign tax credits.

Mr. President, the U.S. business community has had significant input in the development of this bill. This proposed legislation now will be evaluated and studied, and I welcome suggestions for its further improvement. It is my intention, as our analysis progresses, that we include other important issues not currently addressed in the bill, such as the appropriate allocation of interest expenses for foreign tax credit purposes, particularly for highly leveraged entities such as securities firms.

I look forward to working with Senator PRESSLER on this important bill, and urge my colleagues on both sides to become cosponsors.●

● Mr. BAUCUS. Mr. President, I am pleased to be a co-sponsor of the bipartisan ''International Tax Simplification for American Competitiveness Act.''

In 1997, Congress will take up tax reform. Discussions will range from replacing the current system to fixing what we have. Many Montanans ask me: How should we make taxes fairer for parents who are raising and educating their children, encourage our entrepreneurs to create and expand their businesses, and encourage all citizens to save?

Our international tax provisions also need reform. The bill we introduce today is a placeholder to keep international tax reform on the legislative radar screen.

As you can tell from the list of cosponsors, Mr. President, a number of Members have made contributions to the bill before us. Am I comfortable with every provision in the bill as written? No, I'm not. But I am comfortable every provision in the bill merits our consideration.

The Finance Committee will take up tax reform next year. We will consider simplification of the international tax provisions in that context. I hope that the bill we introduce today will establish the parameters from which the Finance Committee addresses the need to simplify our international tax provisions. We will hear from a number of witnesses ranging from the business community to the Department of Treasury and, no doubt, the language before us will undergo change.

We live in a global economy, Mr. President. Many businesses in Montana sell products directly or indirectly into that global economy. The international tax provisions should be simplified to make American companies competitive in the global economy while fairly taxing their profits.

I look forward to working with the cosponsors of this bill and with the members of the Finance Committee and ultimately with all of my colleagues in restructuring and simplifying the Tax Code to benefit all of our citizens.●

By Mr. KERRY:

S. 2087. A bill to direct the Secretary of the department in which the Coast Guard is operating to provide rescue diver training under the Coast Guard helicopter rescue swimming training program; to the Committee on Commerce, Science, and Transportation.

THE RESCUE DIVER TRAINING ACT OF 1996

Mr. KERRY. Mr. President, today I am introducing the Rescue Diver Training Act of 1996. This bill would provide required Congressional authorization for the Coast Guard to expand its current use of Coast Guard divers to form a broader search and rescue mission application.

I want to acknowledge my distinguished colleague from Massachusetts, Congressman GERRY STUDDS, who is the author of the Coast Guard Rescue Swimmer Training Program which this legislation amends and with whom I have worked in developing this legislation which he will introduce in the House.

The Coast Guard has used its divers, trained at the Naval Diving School in Panama City, FL, only for salvage operations associated with Coast Guard aids to navigation and ice-breaking missions. This bill would authorize the Coast Guard to develop and implement a program to extend the use of these highly trained divers to search and rescue efforts.

Under current search and rescue procedures, the Coast Guard will dispatch a helicopter when a ship is reported to be in distress or a marine accident is reported. When it is anticipated that a diver may be needed to assist in a rescue, the Coast Guard uses contract personnel who usually are volunteer policemen, firemen, or local State marine policemen who have had specialized diver training. A call will be made to secure the services of a diver, and the helicopter will wait to depart until the diver reaches its station, or it will fly to another location to pick up the diver—all before it flies to the rescue scene. This often results in the helicopter being delayed—even if only a few minutes—in reaching the rescue scene. Sometimes no diver is available within a reasonable period of time, in which case the helicopter proceeds to the scene with no diver on board.

The program that this legislation will establish is designed both to speed this process in the realization that, in rescue situations, minutes and even seconds can mean life or death—especially in the waters off our northern coasts, and to provide a pool of divers within the Coast Guard. Where a qualified diver is available at a Coast Guard station, a rescue helicopter can load that diver and immediately depart for the rescue situation without any delay.

A recent episode in the North Atlantic off Massachusetts amply illustrates how the program this legislation would establish could make a vital contribution. In the early hours of September 5, the fishing vessel *Heather Lynne II* carrying a crew of three capsized. The rescue helicopter was unable to bring a diver with it because none was available when the emergency call was received. After reaching the site of the capsized vessel, and determining that a diver was needed, the helicopter had to return to the mainland to pick up a diver. A considerable amount of time was lost in this process.

The Coast Guard is charged with maintaining constant vigilance—to protect lives and property on our waterways and to enforce our maritime, immigration, antidrug, and other laws. In my judgment, it has performed capably and honorably throughout its history, and Americans should take both considerable pride and comfort in that knowledge.

It is the Congress' responsibility to provide the Coast Guard with the resources it needs to perform its missions. This legislation will enhance the service's resources for its search and rescue mission, and increase its ability to save lives and property. All who use our waterways and oceans will be safer as a result.

Mr. President, this legislation should be approved by the Congress as soon as possible—I hope it will be this year.

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

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

S. 2087

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 ''Rescue Diver Training Act of 1996.''.

SEC. 2. RESCUE DIVER TRAINING FOR SELECTED COAST GUARD PERSONNEL.

The Secretary of the department in which the Coast Guard is operating may provide rescue diver training to selected Coast Guard personnel, under the helicopter rescue swimming program conducted under section 9 of the Coast Guard Authorization Act of 1984 (14 U.S.C. 88 note).

ADDITIONAL COSPONSORS

S. 45

At the request of Mr. FEINGOLD, the name of the Senator from Oregon [Mr. WYDEN] was added as a cosponsor of S. 45, a bill to amend the Helium Act to require the Secretary of the Interior to sell Federal real and personal property held in connection with activities carried out under the Helium Act, and for other purposes.

S. 877

At the request of Mrs. HUTCHISON, the name of the Senator from North Carolina [Mr. FAIRCLOTH] was added as a cosponsor of S. 877, a bill to amend section 353 of the Public Health Service Act to exempt physician office laboratories from the clinical laboratories requirements of that section.

S. 953

At the request of Mr. CHAFEE, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of S. 953, a bill to require the Secretary of the Treasury to mint coins in commemoration of black revolutionary war patriots.

S. 1220

At the request of Mrs. BOXER, the name of the Senator from Oregon [Mr. WYDEN] was added as a cosponsor of S. 1220, a bill to provide that Members of Congress shall not be paid during Federal Government shutdowns.

S. 1675

At the request of Mr. BIDEN, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 1675, a bill to provide for the nationwide tracking of convicted sexual predators, and for other purposes.

S. 1963

At the request of Mr. ROCKEFELLER, the names of the Senator from Idaho [Mr. CRAIG] and the Senator from Nebraska [Mr. EXON] were added as cosponsors of S. 1963, a bill to establish a demonstration project to study and provide coverage of routine patient care costs for Medicare beneficiaries with cancer who are enrolled in an approved clinical trial program.

S. 1978

At the request of Mr. DORGAN, the name of the Senator from Alabama [Mr. HEFLIN] was added as a cosponsor of S. 1978, a bill to establish an Emergency Commission To End the Trade Deficit.

S. 2034

At the request of Mr. BREAUX, the name of the Senator from North Dakota [Mr. DORGAN] was added as a cosponsor of S. 2034, a bill to amend title XVIII of the Social Security Act to make certain changes to hospice care under the Medicare Program.

S. 2040

At the request of Mr. HATCH, the names of the Senator from Illinois [Ms. MOSELEY-BRAUN] and the Senator from Pennsylvania [Mr. SPECTER] were added as cosponsors of S. 2040, a bill to amend the Controlled Substances Act to provide a penalty for the use of a controlled substance with the intent to rape, and for other purposes.

S. 2053

At the request of Mr. GRASSLEY, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of S. 2053, a bill to strengthen narcotics reporting requirements and to require the imposition of certain sanctions on countries that fail to take effective action against the production of and trafficking in illicit narcotics and psychotropic drugs and other controlled substances, and for other purposes.

SENATE RESOLUTION 274

At the request of Mrs. FEINSTEIN, the names of the Senator from Washington [Mrs. MURRAY], the Senator from North Dakota [Mr. DORGAN], the Senator from Connecticut [Mr. DODD], the Senator from Kentucky [Mr. FORD], the Senator from Montana [Mr. BURNS], and the Senator from Massachusetts [Mr. KENNEDY] were added as cosponsors of Senate Resolution 274, a resolution to express the sense of the Senate regarding the outstanding achievements of NetDay96.

SENATE CONCURRENT RESOLUTION 71—RELATIVE TO THE PERSECUTION OF CHRISTIANS WORLDWIDE

Mr. NICKLES (for himself, Mr. NUNN, Mr. COATS, Mr. ASHCROFT, and Mr. HELMS) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 71

Whereas oppression and persecution of religious minorities around the world has emerged as one of the most compelling human rights issues of the day. In particular, the worldwide persecution and martyrdom of Christians persists at alarming levels. This is an affront to the international moral community and to all people of conscience.

Whereas in many places throughout the world, Christians are restricted in or forbidden from practicing their faith, victimized by a ''religious apartheid'' that subjects them to inhumane, humiliating treatment, and in certain cases are imprisoned, tortured, enslaved, or killed;

Whereas severe persecution of Christians is also occurring in such countries as Sudan, Cuba, Morocco, Saudi Arabia, China, Pakistan, North Korea, Egypt, Laos, Vietnam, and certain countries in the former Soviet Union, to name merely a few;

Whereas religious liberty is a universal right explicitly recognized in numerous international agreements, including the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights;

Whereas Pope John Paul II recently sounded a call against regimes that ''practice discrimination against Jews, Christians, and other religious groups, going even so far as to refuse them the right to meet in private for prayer,'' declaring that ''this is an intolerable and unjustifiable violation not only of all the norms of current international law, but of the most fundamental human freedom, that of practicing one's faith openly,'' stating that this is for human beings ''their reason for living'';

Whereas the National Association of Evangelicals in January 1996 issued a ''Statement of Conscience and Call to Action,'' subsequently commended or endorsed by the Southern Baptist Convention, the Executive Council of the Episcopal Church, and the General Assembly of the Presbyterian Church, U.S.A. They pledged to end their ''silence in the face of the suffering of all those persecuted for their religious faith'' and ''to do what is in our power to the end that the government of the United States will take appropriate action to combat the intolerable religious persecution now victimizing fellow believers and those of other faiths'';

Whereas the World Evangelical Fellowship has declared September 29, 1996, and each annual last Sunday in September, as an international day of prayer on behalf of persecuted Christians. That day will be observed by numerous churches and human rights groups around the world;

Whereas the United States of America since its founding has been a harbor of refuge and freedom to worship for believers from John Winthrop to Roger Williams to William Penn, and a haven for the oppressed. To this day, the United States continues to guarantee freedom of worship in this country for people of all faiths;

Whereas as a part of its commitment to human rights around the world, in the past the United States has used its international leadership to vigorously take up the cause of other persecuted religious minorities. Unfortunately, the United States has in many instances failed to raise forcefully the issue of anti-Christian persecution at international conventions and in bilateral relations with offering countries; now, therefore, be it

Resolved, That the Senate, the House of Representatives concurring—

(1) unequivocally condemns the egregious human rights abuses and denials of religious liberty to Christians around the world, and calls upon the responsible regimes to cease such abuses; and

(2) strongly recommends that the President expand and invigorate the United States' international advocacy on behalf of persecuted Christians, and initiate a thorough examination of all United States' policies that affect persecuted Christians; and

(3) encourages the President to proceed forward as expeditiously as possible in appointing a White House Special Advisor on religious persecution; and

(4) recognizes and applauds a day of prayer on Sunday, September 29, 1996, recognizing the plight of persecuted Christians worldwide.

SENATE RESOLUTION 293—SALUTING THE SERVICE OF HOWARD O. GREENE, JR. TO THE U.S. SENATE

Mr. LOTT (for himself, Mr. DASCHLE, Mr. STEVENS, Mr. BYRD, Mr. WARNER, Mr. SIMPSON, Mrs. KASSEBAUM, Mr. FORD, Mr. ROCKEFELLER, Mr. LEVIN, Mr. GRASSLEY, Mr. COVERDELL, and Mr. FRIST) submitted the following resolution; which was considered and agreed to:

S. RES. 293

Whereas Howard O. Green, Jr. has served the United States Senate since January 1968.

Whereas Mr. Greene has during his Senate career served in the capacities of Doorkeeper, Republican Cloakroom Assistant, Assistant Secretary for the Minority, Secretary for the Minority, Secretary for the Majority, culminating in his election as Senate Sergeant-at-Arms during the 104th Congress.

Whereas throughout his Senate career Mr. Greene has been a reliable source of advice and counsel to Senators and Senate staff alike.

Whereas Mr. Greene's institutional knowledge and legislative skills are well known and respected.

Whereas Mr. Greene's more than 28 years of service have been characterized by a deep and abiding respect for the institution and

customs of the United States Senate: Therefore, be it

Resolved, That the Senate salutes Howard O. Greene, Jr. for his career of public service to the United States Senate and its members.

Section 2. The Secretary of the Senate shall transmit a copy of this resolution to Howard O. Greene, Jr.

SENATE RESOLUTION 294—TO PROVIDE FOR SEVERANCE PAY

Mr. STEVENS submitted the following resolution; which was considered and agreed to:

S. RES. 294

Resolved, (a) That the individual who was the Sergeant at Arms and Doorkeeper of the Senate on September 1, 1996, and whose service as the Sergeant at Arms and Doorkeeper of the Senate terminated on or after September 1, 1996 but prior to September 6, 1996, shall be entitled to one lump sum payment consisting of severance pay in an amount equal to two months of the individual's basic pay at the rate such individual was paid on September 1, 1996.

(b) The Secretary of the Senate shall make payments under this resolution from funds appropriated for fiscal year 1996 from the appropriation account ''Miscellaneous Items'' within the contingent fund of the Senate.

(c) A payment under this resolution shall not be treated as compensation for purposes of any provision of title 5, United States Code, or of any other law relating to benefits accruing from employment by the United States, and the period of entitlement to such pay shall not be treated as a period of employment for purposes of any such provision of law.

AMENDMENTS SUBMITTED

THE INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1997

SPECTER (AND KERREY) AMENDMENT NO. 5355

Mr. SPECTER (for himself and Mr. KERREY) proposed an amendment to the bill (S. 1718) to authorize appropriations for fiscal year 1997 for intelligence and intelligence-related activities of the U.S. Government, the community management account, and for the Central Intelligence Agency Retirement and Disability System, and for other purposes; as follows:

On page 72 strike out line 14 and all that follows through page 73, line 9.

THURMOND (AND NUNN) AMENDMENT NO. 5356

Mr. SPECTER (for Mr. THURMOND, for himself and Mr. NUNN) proposed an amendment to the bill, S. 1718, supra; as follows:

On page 52, beginning on line 18, strike out ''shall manage'' and all that follows through page 52, line 23, and insert in lieu thereof ''shall assist the Director of Central Intelligence in carrying out the Director's collection responsibilities in order to ensure the efficient and effective collection of national intelligence.' ''.

THE DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1997

BAUCUS AMENDMENT NO. 5357

(Ordered to lie on the table.)

Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill (H.R. 3662) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1997, and for other purposes; as follows:

At the appropriate place in title I, insert the following:

SEC. 1. KERR HYDROELECTRIC PROJECT.

For fiscal year 1997 and each fiscal year thereafter, the Secretary of the Interior shall not recommend that the Federal Energy Regulatory Commission impose, and the Commission shall not impose, as a condition to the modification of the Kerr Hydroelectric Project (FERC Project No. 5–021), a requirement to construct offshore revetment structures in Flathead Lake, Montana.

• Mr. BAUCUS. Mr. President; I submit an amendment to H.R. 3662, the fiscal year 1997 Interior appropriations bill.

From 1961 to his retirement from the Senate in 1977, Montana's Mike Mansfield served as Senate majority leader. It was the longest term as majority leader in American history.

During these years, the Senate passed the Voting Rights Act, created Medicare, passed the Clean Air and Clean Water Acts, debated the Cuban missile crisis and the war in Vietnam. On all these issues and more, Mike was a respected national leader.

Yet when Mike was asked to reflect back on his years in the Senate and identify his single proudest accomplishment, he responded, ''saving Flathead Lake from the Army Corps of Engineers.''

If you don't know Montana; and you don't know Flathead Lake; and you don't know Mike Mansfield, this answer may come as a surprise. But for those of us who know all three, this is perfectly easy to understand.

Located in western Montana, between Missoula and Kalispell, Flathead Lake is the largest fresh water lake in the United States, outside of the Great Lakes. Surrounded by the Mission Mountains and the Swan Range to the west, it is a place of spectacular beauty.

And it is also a place that is very much a part of so many Montanans—including this Senator. From boating, water skiing, fishing, or just sitting around a bonfire along the Lake's shore, Flathead Lake is a very special Montana place.

The corps had a plan to radically raise the level of this lake, transforming it forever and drowning many of the coves, shorelines, and fishing spots Montanans know so well. Montanans liked it just the way it was—and we still do today.

Yet some folks outside Montana just don't get it. They think they can improve Flathead Lake. And that brings me to the amendment now before us.

The U.S. Fish and Wildlife Service has asked the Federal Energy Regulatory Commission for approval to construct an 8,700-foot-long retaining wall, at the cost of $10 to $14 million, near the north shore of the lake.

In theory, this great wall would prevent shore erosion and restore waterfowl habitat. These are commendable goals. But the cost of this proposal outweighs any possible benefits.

The view of the lake from the town of Bigfork, for example, would be ruined. Boaters would see a neo-industrial monstrosity instead of a peaceful shore. It is a bad idea, and my amendment would nip this weed in the bud by prohibiting construction of this wall.

Frankly, the Fish and Wildlife Service doesn't need to mandate lowering the level of Flathead Lake. And it doesn't need to mandate a big concrete slab in the lake to stem shoreline erosion. If erosion is proven to be an ongoing and significant problem, the Fish and Wildlife Service needs to find unobtrusive remedial measures that respect Flathead Lake and the people who enjoy it.

I believe this is just simple common sense. One Great Wall of China is plenty. None of us will ever improve on what the Good Lord did when he created Flathead Lake. Let us admit that right now and pass this amendment.•

THE FEDERAL AVIATION REAUTHORIZATION ACT OF 1996

HEFLIN AMENDMENT NO. 5358

(Ordered to lie on the table.)

Mr. HEFLIN submitted an amendment intended to be proposed by him to the bill (S. 1994) to amend title 49, United States Code, to reauthorize programs of the Federal Aviation Administration, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. 409. GADSDEN AIR DEPOT, ALABAMA.

(a) AUTHORITY TO GRANT WAIVERS.—Notwithstanding section 16 of the Federal Airport Act (as in effect on May 4, 1949), the Secretary is authorized, subject to the provisions of section 47153 of title 49, United States Code, and the provisions of subsection (b) of this section, to waive any of the terms contained in the deed of conveyances dated May 4, 1949, under which the United States conveyed certain property to the city of Gadsden, Alabama, for airport purposes.

(b) CONDITIONS.—Any waiver granted under subsection (a) shall be subject to the following conditions:

(1) The city of Gadsden, Alabama, shall agree that, in conveying any interest in the property which the United States conveyed to the city by a deed described in subsection (a), the city will receive an amount for such interest which is equal to the fair market value (as determined pursuant to regulations issued by the Secretary).

(2) Any such amount so received by the city shall be used by the city for the development, improvement, operation, or maintenance of (A) a public airport, or (B) lands (including any improvements thereto) which

produce revenues that are used for airport development purposes.

Conform the table of contents of the bill accordingly.

REID AMENDMENT NO. 5359

(Ordered to lie on the table.)

Mr. REID submitted an amendment intended to be proposed by him to the bill, S. 1994, supra; as follows:

At the appropriate place, insert the following new section:

SEC. . SENSE OF THE SENATE.

(a) FINDINGS.—The Senate finds that—

(1) there has been an intensification in the oppression and disregard for human life among nations that are willing to export terrorism:

(2) there has been an increase in attempts by criminal terrorists to murder airline passengers through the destruction of civilian airliners and the deliberate fear and death inflicted through bombings of buildings and the kidnapping of tourists and Americans residing abroad; and

(3) information widely available demonstrates that a significant portion of international terrorist activity is state-sponsored, -organized, -condoned, or -directed.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that if evidence establishes beyond a clear and reasonable doubt that any act of hostility towards any United States citizen was an act of international terrorism sponsored, organized, condoned, or directed by any nation, a state of war should be considered to exist or to have existed between the United States of America and that nation, beginning as of the moment that the act of aggression occurs.

PRESSLER (AND OTHERS) AMENDMENT NO. 5360

Mr. MCCAIN (for Mr. PRESSLER, for himself, Mr. MCCAIN, Mr. HOLLINGS, Mr. FORD, and Mr. STEVENS) proposed an amendment to the bill, S. 1994, supra; 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 ''Federal Aviation Reauthorization Act of 1996''.

(b) TABLE OF CONTENTS.

Sec. 1. Short title; Table of contents.
Sec. 2. Amendments to title 49, United States Code.

TITLE I—REAUTHORIZATION OF FAA PROGRAMS

Sec. 101. Federal Aviation Administration operations.
Sec. 102. Air navigation facilities.
Sec. 103. Research and development.
Sec. 104. Airport improvement program.
Sec. 105. Interaccount flexibility.

TITLE II—AIRPORT IMPROVEMENT PROGRAM MODIFICATIONS

Sec. 201. Pavement maintenance program.
Sec. 202. Maximum percentages of amount made available for grants to certain primary airports.
Sec. 203. Discretionary fund.
Sec. 204. Designating current and former military airports.
Sec. 205. State block grant program.
Sec. 206. Access to airports by intercity buses.

TITLE III—AIRPORT SAFETY AND SECURITY

Sec. 301. Report including proposed legislation on funding for airport security.
Sec. 302. Family advocacy.
Sec. 303. Accident and safety data classification; report on effects of publication and automated surveillance targeting systems.
Sec. 304. Weapons and explosive detection study.
Sec. 305. Requirement for criminal history records checks.
Sec. 306. Interim deployment of commercially available explosive detection equipment.
Sec. 307. Audit of performance of background checks for certain personnel.
Sec. 308. Sense of the Senate on passenger profiling.
Sec. 309. Authority to use certain funds for airport security programs and activities.
Sec. 310. Development of aviation security liaison agreement.
Sec. 311. Regular joint threat assessments.
Sec. 312. Baggage match report.
Sec. 313. Enhanced security programs.
Sec. 314. Report on air cargo.

TITLE IV—MISCELLANEOUS POVISIONS

Sec. 401. Acquisition of housing units.
Sec. 402. Protection of voluntarily submitted information.
Sec. 403. Application of FAA regulations.
Sec. 404. Sense of the Senate regarding the funding of the Federal Aviation Administration.
Sec. 405. Authorization for State-specific safety measures.
Sec. 406. Sense of the Senate regarding the air ambulance exemption from certain Federal excise taxes.
Sec. 407. FAA safety mission.
Sec. 408. Carriage of candidates in State and local elections.
Sec. 409. Train whistle requirements.
Sec. 410. Limitation on authority of States to regulate gambling devices on vessels.

TITLE V—COMMERCIAL SPACE LAUNCH ACT AMENDMENTS

Sec. 501. Commercial space launch amendments.

TITLE VI—AIR TRAFFIC MANAGEMENT SYSTEM PERFORMANCE IMPROVEMENT ACT

Sec. 601. Short title.
Sec. 602. Definitions.
Sec. 603. Effective date.

Subtitle A—General Provisions

Sec. 621. Findings.
Sec. 622. Purposes.
Sec. 623. Regulation of civilian air transportation and related services by the Federal Aviation Administration and Department of Transportation.
Sec. 624. Regulations.
Sec. 625. Personnel and services.
Sec. 626. Contracts.
Sec. 627. Facilities.
Sec. 628. Property.
Sec. 629. Transfers of funds from other Federal agencies.
Sec. 630. Management Advisory Council.
Sec. 631. Aircraft engine standards.
Sec. 632. Rural air fare study.

Subtitle B—Federal Aviation Administration Streamlining Programs

Sec. 651. Review of acquisition management system.
Sec. 652. Air traffic control modernization reviews.
Sec. 653. Federal Aviation Administration personnel management system.
Sec. 654. Conforming amendment.

Subtitle C—System To Fund Certain Federal Aviation Administration Functions

Sec. 671. Findings.
Sec. 672. Purposes.
Sec. 673. User fees for various Federal Aviation Administration services.
Sec. 674. Independent assessment and task force to review existing and innovative funding mechanisms.
Sec. 675. Procedure for consideration of certain funding proposals.
Sec. 676. Administrative provisions.
Sec. 677. Advance appropriations for Airport and Airway Trust Fund activities.
Sec. 678. Rural Air Service Survival Act.

TITLE VII—PILOT RECORDS

Sec. 701. Short title.
Sec. 702. Employment investigations of pilot applicants.
Sec. 703. Study of minimum standards for pilot qualifications.

TITLE VIII—ABOLITION OF BOARD OF REVIEW

Sec. 801. Abolition of Board of Review and related authority.
Sec. 802. Sense of the Senate.
Sec. 803. Conforming amendments in other law.
Sec. 804. Definitions.
Sec. 805. Increase in number of Presidentially appointed members of Board.
Sec. 806. Reconstituted Board to function without interruption.
Sec. 807. Operational slots at National Airport.
Sec. 808. Airports authority support of Board.

TITLE IX—AIRPORT REVENUE PROTECTION

Sec. 901. Short title.
Sec. 902. Findings; purpose.
Sec. 903. Definitions.
Sec. 904. Restriction on use of airport revenues.
Sec. 905. Regulations; audits and accountability.
Sec. 906. Conforming amendments to the Internal Revenue Code of 1986.

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

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

TITLE I—REAUTHORIZATION OF FAA PROGRAMS

SEC. 101. FEDERAL AVIATION ADMINISTRATION OPERATIONS.

(a) AUTHORIZATION OF APPROPRIATIONS FROM GENERAL FUND.—Section 106(k) is amended—

(1) by striking ''and'' after ''1995,''; and

(2) by inserting before the period at the end the following: '', and $5,000,000,000 for fiscal year 1997.''.

(b) AUTHORIZATION OF APPROPRIATIONS FROM TRUST FUND.—Section 48104(b) is amended—

(1) in the subsection heading by striking ''FOR FISCAL YEARS 1993''; and

(2) by striking the phrase ''for fiscal year 1993''.

(c) CLERICAL AMENDMENT.—Section 48108 is amended by striking subsection (c).

SEC. 102. AIR NAVIGATION FACILITIES.

Section 48101(a) is amended by adding at the end the following:

''(5) For the fiscal years ending September 30, 1991–1997, $17,929,000,000.''.

SEC. 103. RESEARCH AND DEVELOPMENT.

Section 48102(a) is amended by striking ''title:'' and all that follows through the end of the subsection, and inserting the following: ''title, $206,000,000 for fiscal year 1997.''.

SEC. 104. AIRPORT IMPROVEMENT PROGRAM.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 48103 is amended—

(1) by striking ''and $21,958,500,000'' and inserting ''$19,200,500,000''; and

(2) by inserting before the period at the end the following: '', $21,480,500,000 for fiscal years ending before October 1, 1997.''

(b) OBLIGATIONAL AUTHORITY.—Section 47104(c) is amended by striking ''1996'' and inserting ''1997''.

SEC. 105. INTERACCOUNT FLEXIBILITY.

Section 106 is amended by adding at the end the following new subsection:

''(l) INTERACCOUNT FLEXIBILITY.—

''(1) Except as provided in paragraph (2), the Administrator may transfer budget authority derived from trust funds among appropriations authorized by subsection (k) and sections 48101 and 48102, if the aggregate estimated outlays in such accounts in the fiscal year in which the transfers are made will not be increased as a result of such transfer.

''(2) The transfer of budget authority under paragraph (1) may be made only to the extent that outlays do not exceed the aggregate estimated outlays.

''(3) A transfer of budget authority under paragraph (1) may not result in a net decrease of more than 5 percent, or a net increase of more than 10 percent, in the budget authority available under any appropriation involved in that transfer.

''(4) Any action taken pursuant to this section shall be treated as a reprogramming of funds that is subject to review by the appropriate committees of the Congress.

''(5) The Administrator may transfer budget authority pursuant to this section only after—

''(A) submitting a written explanation of the proposed transfer to the Committees on Transportation and Infrastructure and Appropriations of the House of Representatives and the Committees on Commerce, Science, and Transportation and Appropriations of the Senate; and

''(B) 30 days have passed after the explanation is submitted and none of the committees notifies the Administrator in writing that it objects to the proposed transfer within the 30 day period.''.

TITLE II—AIRPORT IMPROVEMENT PROGRAM MODIFICATIONS

SEC. 201. PAVEMENT MAINTENANCE PROGRAM.

(a) PAVEMENT MAINTENANCE.—Chapter 471 is amended by adding the following section at the end of subchapter I:

''§ 47132. Pavement maintenance

''(a) IN GENERAL.—The Administrator of the Federal Aviation Administration shall issue guidelines to carry out a pavement maintenance pilot project to preserve and extend the useful life of runways, taxiways, and aprons at airports for which apportionments are made under section 47114(d). The regulations shall provide that the Administrator may designate not more than 10 projects. The regulations shall provide criteria for the Administrator to use in choosing the projects. At least 2 such projects must be in States without a primary airport that had 0.25 percent or more of the total boardings in the United States in the preceding calendar year. In designating a project, the Administrator shall take into consideration geographical, climatological, and soil diversity.

''(b) EFFECTIVE DATE.—This section shall be effective beginning on the date of enactment of the Federal Aviation Reauthorization Act of 1996 and ending on September 30, 1999.''.

(b) COMPLIANCE WITH FEDERAL MANDATES.—

(1) USE OF AIP GRANTS.—Section 47102(3) is amended—

(A) in subparagraph (E) by inserting ''or under section 40117'' before the period at the end; and

(B) in subparagraph (F) by striking ''paid for by a grant under this subchapter and''.

(2) USE OF PASSENGER FACILITY CHARGES.—Section 40117(a)(3) is amended—

(A) by inserting ''and'' at the end of subparagraph (D);

(B) by striking ''; and'' at the end of subparagraph (E) and inserting a period; and

(C) by striking subparagraph (F).

(c) CONFORMING AMENDMENT.—The chapter analysis for subchapter I of chapter 471 is amended by inserting after the item relating to section 47131 the following new item:

''47132. Pavement maintenance.''.

SEC. 202. MAXIMUM PERCENTAGES OF AMOUNT MADE AVAILABLE FOR GRANTS TO CERTAIN PRIMARY AIRPORTS.

Section 47114 is amended by adding at the end thereof the following:

''(g) SLIDING SCALE.—

''(1) Notwithstanding any other provision of this title, of the amount newly made available under section 48103 of this title for fiscal year 1997 to make grants, not more than the percentage of such amount newly made available that is specified in paragraph (2) shall be distributed in total in such fiscal year for grants described in paragraph (3).

''(2) If the amount newly made available is—

''(A) not more than $1,150,000,000, then the percentage is 47.0;

''(B) more than $1,150,000,000 but not more than $1,250,000,000, then the percentage is 46.0;

''(C) more than $1,250,000,000 but not more than $1,350,000,000, then the percentage is 45.4;

''(D) more than $1,350,000,000 but not more than $1,450,000,000, then the percentage is 44.8; or

''(E) more than $1,450,000,000 but not more than $1,550,000,000, then the percentage is 44.3.

''(3) This subsection applies to the aggregate amount of grants in a fiscal year for projects at those primary airports that each have not less than 0.25 per centum of the total passenger boardings in the United States in the preceding calendar year.''.

SEC. 203. DISCRETIONARY FUND.

Section 47115 is amended—

(1) by striking ''and'' at the end of subsection (d)(2); and inserting a comma and the following: '', including, in the case of a project at a reliever airport, the number of operations projected to be diverted from a primary airport to that reliever airport as a result of the project, as well as the cost savings projected to be realized by users of the local airport system; and''.

(2) by redesignating paragraph (3) of subsection (d) as paragraph (4), and by inserting after paragraph (2) of that subsection the following:

''(3) the airport improvement priorities of the States, and regional offices of the Administration, to the extent such priorities are not in conflict with paragraphs (1) and (2) of this subsection; and'';

(3) by redesignating the second subsection (f) as subsection (g); and

(4) by adding at the end the following:

''(h) PRIORITY FOR LETTERS OF INTENT.—In making grants in a fiscal year with funds made available under this section, the Secretary shall fulfill intentions to obligate under section 47110(e).''

SEC. 204. DESIGNATING CURRENT AND FORMER MILITARY AIRPORTS.

(a) GENERAL REQUIREMENTS.—Section 47118(a) is amended to read as follows:

''(a) GENERAL REQUIREMENTS.—The Secretary of Transportation shall designate current or former military airports for which grants may be made under section 47117(e)(1)(E) of this title. The maximum number of airports bearing such designation at any time is 12. The Secretary may only so designate an airport (other than an airport so designated before August 24, 1994) if—

''(1) the airport is a former military installation closed or realigned under—

''(A) section 2687 of title 10;

''(B) section 201 of the Defense Authorization Amendments and Base Closure and Realignment Act (10 U.S.C. 2687 note); or

''(C) section 2905 of the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note); or

''(2) the Secretary finds that such grants would—

''(A) reduce delays at an airport with more than 20,000 hours of annual delays in commercial passenger aircraft takeoffs and landings; or

''(B) enhance airport and air traffic control system capacity in a metropolitan area or reduce current and projected flight delays.''.

(b) ADDITIONAL DESIGNATION PERIODS.—Section 47118(d) is amended by striking ''designation.'' and inserting ''designation, and for subsequent 5-fiscal-year periods if the Secretary determine that the airport satisfies the designation criteria under subsection (a) at the beginning of each such subsequent 5-fiscal-year period.''.

(c) PARKING LOTS, FUEL FARMS, AND UTILITIES.—Subsection (f) of section 47118 is amended by striking ''the fiscal years ending September 30, 1993–1996,'' and inserting ''for fiscal years beginning after September 30, 1992,''.

(d) ONE-YEAR EXTENSION.—Section 47117(e)(1)(E) is amended by striking ''and 1996,'' and inserting ''1996, and 1997,''.

SEC. 205. STATE BLOCK GRANT PROGRAM.

(a) PARTICIPATING STATES.—Section 47128(b) is amended—

(1) by striking paragraph (2);

(2) by redesignating subparagraphs (A) through (E) of paragraph (1) as paragraphs (1) through (5), respectively; and

(3) by striking ''(1) A State'' and inserting ''A State''.

(b) USE OF STATE PRIORITY SYSTEM.—Section 47128(c) is amended by adding at the end the following: ''In carrying out this subsection, the Secretary shall permit a State to use the priority system of the State if such system is not inconsistent with the national priority system.''.

(c) CHANGE OF EXPIRATION DATE.—Section 47128(d) is amended by striking ''1996'' and inserting ''1997''.

SEC. 206. ACCESS TO AIRPORTS BY INTERCITY BUSES.

Section 47107(a) is amended—

(1) by striking ''and'' at the end of paragraph (18);

(2) by striking the period at the end of paragraph (19) and inserting ''; and''; and

(3) by adding at the end the following:

''(20) the airport owner or operator will permit, to the maximum extent practicable, intercity buses or other modes of transportation to have access to the airport, but the sponsor does not have any obligation under this paragraph, or because of it, to fund special facilities for intercity bus service or for other modes of transportation.''.

TITLE III—AIRPORT SAFETY AND SECURITY

SEC. 301. REPORT INCLUDING PROPOSED LEGISLATION ON FUNDING FOR AIRPORT SECURITY.

(a) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, the Administrator shall conduct a study and

submit to the Congress a report on whether, and if so, how to transfer certain responsibilities of air carriers under Federal law for security activities conducted onsite at airports to airport operators who are subject to section 44903 of title 49, United States Code, or to the Federal Government or providing for shared responsibilities between air carriers and airport operators or the Federal Government.

(b) CONTENTS OF REPORT.—The report submitted under this section shall—

(1) examine potential sources of Federal and non-Federal revenue that may be used to fund security activities including but not limited to providing grants from funds received as fees collected under a fee system established under subpart C of this title and the amendments made by that subpart; and

(2) provide legislative proposals, if necessary, for accomplishing the transfer of responsibilities referred to in subsection (a).

(c) CERTIFICATION OF SCREENING COMPANIES.—The Federal Aviation Administration is directed to certify companies providing security screening and to improve the training and testing of security screeners through development of uniform performance standards for providing security screening services.

SEC. 302. FAMILY ADVOCACY.

(a) IN GENERAL.—Subchapter III of chapter 11 of title 49, United States Code, is amended by adding at the end the following new section:

"§ 1136. Family advocacy

''(a) IN GENERAL.—The National Transportation Safety Board shall establish a program consistent with its existing authority to provide family advocacy services for aircraft accidents described in subsection (b)(1) and serve as the lead agency in coordinating the provision of the services described in subsection (b). The National Transportation Safety Board shall, as necessary, in carrying out the program, cooperate with the Secretary of Transportation, the Administrator of the Federal Aviation Administration, and such other public and private organizations as may be appropriate.

''(b) FAMILY ADVOCACY SERVICES.—

''(1) IN GENERAL.—The National Transportation Safety Board shall work with an air carrier involved in an accident in air commerce and facilitate the procurement by that air carrier of the services of family advocates who are not otherwise employed by an air carrier and who are not employed by the Federal Aviation Administration to, in the event of an accident in air commerce—

''(A) apply standards of conduct specified by the National Transportation Safety Board;

''(B) to the extent practicable, direct and facilitate all communication among air carriers, surviving passengers, families of passengers, news reporters, the Federal Government, and the governments of States and political subdivisions thereof;

''(C) coordinate with a representative of the air carrier to jointly direct the notification of the next of kin of victims of the accident; and

''(D) carry out such other related duties as the National Transportation Safety Board determines to be appropriate.

''(2) DEFINITIONS.—For purposes of this subsection, the following definitions shall apply:

''(A) AIR CARRIER.—The term 'air carrier' has the meaning provided that term in section 40102(a)(2).

''(B) FAMILY ADVOCATE.—The term 'family advocate' shall have the meaning provided that term by the National Transportation Safety Board by regulation.''.

(b) GUIDELINES.—Not later than 90 days after the date of enactment of this Act, the National Transportation Safety Board shall issue guidelines for the implementation of the program established by the Board under section 1136 of title 49, United States Code, as added by subsection (a).

(c) CONFORMING AMENDMENT.—The chapter analysis for subchapter III of chapter 11 of title 49, United States Code, is amended by adding at the end the following:

''1136. Family advocacy.''.

SEC. 303. ACCIDENT AND SAFETY DATA CLASSIFICATION; REPORT ON EFFECTS OF PUBLICATION AND AUTOMATED SURVEILLANCE TARGETING SYSTEMS.

(a) ACCIDENT AND SAFETY DATA CLASSIFICATION.—

(1) IN GENERAL.—Subchapter II of chapter 11 of title 49, United States Code, is amended by adding at the end the following new section:

"§ 1119. Accident and safety data classification and publication

''(a) IN GENERAL.—Not later then 90 days after the date of enactment of this section, the National Transportation Safety Board (hereafter in this section referred to as the 'Board') shall, in consultation and coordination with the Administrator of the Federal Aviation Administration (hereafter in this section referred to as the 'Administrator'), develop a system for classifying air carrier accident and pertinent safety data maintained by the Board.

''(b) REQUIREMENTS FOR CLASSIFICATION SYSTEM.—

''(1) IN GENERAL.—The system developed under this section shall provide for the classification of accident and safety data in a manner that, in comparison to the system in effect on the date of enactment of this section, provides for—

''(A) safety-related categories that provide clearer descriptions of the passenger safety effects associated with air transportation;

''(B) clearer descriptions of passenger safety concerns associated with air transportation accidents; and

''(C) a report to the Congress by the Board that describes methods for accurately informing the public of the concerns referred to in subparagraph (B) through regular reporting of accident and safety data obtained through the system developed under this section.

''(2) PUBLIC COMMENT.—Upon developing a system of classification under paragraph (1), the Board shall provide adequate opportunity for public review and comment.

''(3) FINAL CLASSIFICATION.—After providing for public review and comment, and after consulting with the Administrator, the Board shall issue final classifications. The Board shall ensure that air travel accident and safety data covered under this section is classified in accordance with the final classifications issued under this section for data for calendar year 1997, and for each subsequent calendar year.

''(4) REPORT ON THE EFFECTS ASSOCIATED WITH PUBLICATION OF AIR TRANSPORTATION ACCIDENT AND SAFETY INFORMATION.—

''(A) IN GENERAL.—Not later than the date specified in subsection (a), the Board shall prepare and submit to the Congress a report on the effects and potential of the publication of air transportation accident safety information.

''(B) CONTENT AND FORM OF REPORT.—The report prepared under this paragraph shall include recommendations concerning the adoption or revision of requirements for reporting accident and safety data.

''(5) RECOMMENDATIONS OF THE ADMINISTRATOR.—The Administrator may, from time to time, request the Board to consider revisions (including additions to the classification system developed under this section). The Board shall respond to any request made by the Administrator under this section not later than 90 days after receiving that request.

''(c) PRESENTATION OF FINAL CLASSIFICATIONS TO THE INTERNATIONAL CIVIL AVIATION ORGANIZATION.—Not later than 90 days after final classifications are issued under subsection (b)(3), the Administrator shall—

''(1) present to the International Civil Aviation Organization the final classification system developed under this section; and

''(2) seek the adoption of that system by the International Civil Aviation Organization.''.

(2) CONFORMING AMENDMENT.—The chapter analysis for subchapter II of chapter 11 of title 49, United States Code, is amended by adding at the end the following new item:

''1119. Accident and safety data classification and publication.''.

(b) AUTOMATED SURVEILLANCE TARGETING SYSTEMS.—Section 44713 is amended by adding at the end the following new subsection:

''(e) AUTOMATED SURVEILLANCE TARGETING SYSTEMS.—

''(1) IN GENERAL.—The Administrator shall give high priority to developing and deploying a fully enhanced safety performance analysis system that includes automated surveillance to assist the Administrator in prioritizing and targeting surveillance and inspection activities of the Federal Aviation Administration.

''(2) DEADLINES FOR DEPLOYMENT.—

''(A) INITIAL PHASE.—The initial phase of the operational deployment of the system developed under this subsection shall begin not later than December 31, 1997.

''(B) FINAL PHASE.—The final phase of field deployment of the system developed under this subsection shall begin not later than December 31, 1999. By that date, all principal operations and maintenance inspectors of the Administration, and appropriate supervisors and analysts of the Administration shall have been provided access to the necessary information and resources to carry out the system.

''(3) INTEGRATION OF INFORMATION.—In developing the system under this section, the Administration shall consider the near-term integration of accident and incident data into the safety performance analysis system under this subsection.''.

SEC. 304. WEAPONS AND EXPLOSIVE DETECTION STUDY.

(a) IN GENERAL.—The Administrator of the Federal Aviation Administration (hereafter in this section referred to as the ''Administrator'') shall enter into an arrangement with the Director of the National Academy of Sciences (or if the National Academy of Sciences is not available, the head of another equivalent entity) to conduct a study in accordance to this section.

(b) PANEL OF EXPERTS.—

(1) IN GENERAL.—In carrying out a study under this section, the Director of the National Academy of Sciences (or the head of another equivalent entity) shall establish a panel (hereinafter in this section as the ''panel'').

(2) EXPERTISE.—Each member of the panel established under this subsection shall have expertise in weapons and explosive detection technology, security, air carrier and airport operations, or another appropriate area. The Director of the National Academy of Sciences (or the head of another equivalent entity) shall ensure that the panel has an appropriate number of representatives of the areas specified in the preceding sentence.

(c) STUDY.—The panel established under subsection (b), in consultation with the National Science and Technology Council, representatives of appropriate Federal agencies,

and appropriate members of the private sector, shall—

(1) assess the weapons and explosive detection technologies that are available at the time of the study that are capable of being effectively deployed in commercial aviation;

(2) determine how the technologies referred to in paragraph (1) may more effectively be used for promotion and improvement of security at airport and aviation facilities and other secured areas; and

(3) on the basis of the assessments and determinations made under paragraphs (1) and (2), identify the most promising technologies for the improvement of the efficiency and cost-effectiveness of weapons and explosive detection.

(d) COOPERATION.—The National Science and Technology Council shall take such action as may be necessary to facilitate, to the maximum extent practicable and upon request of the Director of the National Academy of Sciences (or the head of another equivalent entity), the cooperation of representatives of appropriate Federal agencies, as provided for in subsection (c), in providing the panel, for the study under this section—

(1) expertise; and

(2) to the extent allowable by law, resources and facilities.

(e) REPORTS.—The Director of the National Academy of Sciences (or the head of another equivalent entity) shall, pursuant to an arrangement entered into under subsection (a), submit to the Administrator such reports as the Administrator considers to be appropriate. Upon receipt of a report under this subsection, the Administrator shall submit a copy of the report to the appropriate committees of the Congress.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated, for each of fiscal years 1997 through 2001, such sums as may be necessary to carry out this section.

SEC. 305. REQUIREMENT FOR CRIMINAL HISTORY RECORDS CHECKS.

(a) IN GENERAL.—Section 44936(a)(1) is amended—

(1) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(2) by striking ''(1)'' and inserting ''(1)(A)''; and

(3) by adding at the end the following:

''(B) The Administrator shall require by regulation that an employment investigation (including a criminal history record check in any case described in subparagraph (C) be conducted for—

''(i) individuals who will be responsible for screening passengers or property under section 44901 of this title;

''(ii) supervisors of the individuals described in clause (i); and

''(iii) such other individuals who exercise security functions associated with baggage or cargo, as the Administrator determines is necessary to ensure air transportation security.

''(C) Under the regulations issued under subparagraph (B), a criminal history record check shall, as a minimum, be conducted in any case in which—

''(i) an employment investigation reveals a gap in employment of 12 months or more that the individual who is the subject of the investigation does not satisfactorily account for;

''(ii) that individual is unable to support statements made on the application of that individual;

''(iii) there are significant inconsistencies in the information provided on the application of that individual; or

''(iv) information becomes available during the employment investigation indicating a possible conviction for one of the crimes listed in subsection (b)(1)(B).''.

(b) APPLICABILITY.—The amendment made by subsection (a)(3) shall apply to individuals hired to perform functions described in section 44936(a)(1)(B) of title 49, United States Code, after the date of the enactment of this Act, except that the Administrator may, as the Administrator determines to be appropriate, require such employment investigations or criminal history records checks for individuals performing those functions on the date of enactment of this Act. Nothing in section 44936 of title 49, United States Code, as amended by subsection (a) precludes the Administration from permitting the employment of an individual on an interim basis while employment or criminal history record checks required by that section are being conducted.

SEC. 306. INTERIM DEPLOYMENT OF COMMERCIALLY AVAILABLE EXPLOSIVE DETECTION EQUIPMENT.

Section 44913(a) is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2) the following:

''(3) Until such time as the Administrator determines that equipment certified under paragraph (1) is commercially available and has successfully completed operational testing as provided in paragraph (1), the Administrator shall facilitate the deployment of such approved commercially available explosive detection devices as the Administrator determines will enhance aviation security significantly. The Administrator shall require that equipment deployed under this paragraph be replaced by equipment certified under paragraph (1) when equipment certified under paragraph (1) becomes commercially available. The Administrator is authorized, based on operational considerations at individual airports, to waive the required installation of commercially available equipment under paragraph (1) in the interests of aviation security.''.

SEC. 307. AUDIT OF PERFORMANCE OF BACKGROUND CHECKS FOR CERTAIN PERSONNEL.

Section 44936(a) is amended by adding at the end the following:

''(3) The Administrator shall provide for the periodic audit of the effectiveness of criminal history record checks conducted under paragraph (1) of this subsection.''.

SEC. 308. SENSE OF THE SENATE ON PASSENGER PROFILING.

It is the sense of the Senate that the Administrator of the Federal Aviation Administration, in consultation with the intelligence and law enforcement communities, should continue to assist air carriers in developing computer-assisted and other appropriate passenger profiling programs which should be used in conjunction with other security measures and technologies.

SEC. 309. AUTHORITY TO USE CERTAIN FUNDS FOR AIRPORT SECURITY PROGRAMS AND ACTIVITIES.

(a) IN GENERAL.—Notwithstanding any other provision of law, funds referred to in subsection (b) may be used to expand and enhance air transportation security programs and other activities (including the improvement of facilities and the purchase and deployment of equipment) to ensure the safety and security of passengers and other persons involved in air travel.

(b) COVERED FUNDS.—The following funds may be used under subsection (a):

(1) Project grants made under subchapter 1 of chapter 471 of title 49, United States Code.

(2) Passenger facility fees collected under section 40117 of title 49, United States Code.

SEC. 310. DEVELOPMENT OF AVIATION SECURITY LIAISON AGREEMENT.

The Secretary of Transportation and the Attorney General, acting through the Administrator of the Federal Aviation Administration and the Director of the Federal Bureau of Investigation, shall enter into an interagency agreement providing for the establishment of an aviation security liaison at existing appropriate Federal agencies' field offices in or near cities served by a designated high-risk airport.

SEC. 311. REGULAR JOINT THREAT ASSESSMENTS.

The Administrator of the Federal Aviation Administration and the Director of the Federal Bureau of Investigation shall carry out joint threat and vulnerability assessments on security every 3 years, or more frequently, as necessary, at airports determined to be high risk.

SEC. 312. BAGGAGE MATCH REPORT.

Within 30 days after the completion of the passenger bag match pilot program recommended by the Vice President's Commission on Aviation Security, the Administrator shall submit a report to Congress on the safety effectiveness and operational effectiveness of the pilot program. The report shall also assess the extent to which implementation of baggage match requirements, coupled with the best available technologies and methodologies, such as passenger profiling, enhance domestic aviation security.

SEC. 313. ENHANCED SECURITY PROGRAMS.

(a) IN GENERAL.—Chapter 449 is amended by adding at the end of subchapter I the following:

''§ 44916. Assessments and evaluations

''(a) IN GENERAL.—

''(1) PERIODIC ASSESSMENTS.—The Administrator shall require each air carrier and airport (including the airport owner or operator in cooperation with the air carriers and vendors serving each airport) that provides for intrastate, interstate, or foreign air transportation to conduct periodic vulnerability assessments of the security systems of that air carrier or airport, respectively. The Administration shall perform periodic audits of the assessments referred to in paragraph (1).

''(2) INVESTIGATIONS.—The Administrator shall conduct periodic and unannounced inspections of security systems of airports and air carriers to determine the effectiveness and vulnerabilities of such systems. To the extent allowable by law, the Administrator may provide for anonymous tests of those security systems.''.

(b) CLERICAL AMENDMENT.—The table of sections for such chapter is amended by inserting after the item relating to section 44915 the following:

''44916. Assessments and evaluations.''.

SEC. 314. REPORT ON AIR CARGO.

Within——days after the date of enactment of this Act, the Secretary of Transportation shall prepare a report for the Congress on any changes recommended and implemented as a result of the Vice President's Commission on Aviation Security to enhance and supplement screening and inspection of cargo, mail, and company-shipped materials transported in air commerce. The report shall include an assessment of the effectiveness of such changes, any additional recommendations, and, if necessary, any legislative proposals necessary to carry out additional changes.

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. ACQUISITION OF HOUSING UNITS.

Section 40110 is amended—

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

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

''(b) ACQUISITION OF HOUSING UNITS.—

''(1) AUTHORITY.—In carrying out this part, the Administrator may acquire interests in

housing units outside the contiguous United States.

''(2) CONTINUING OBLIGATIONS.—Notwithstanding section 1341 of title 31, United States Code, the Administrator may acquire an interest in a housing unit under paragraph (1) even if there is an obligation thereafter to pay necessary and reasonable fees duly assessed upon such unit, including fees related to operation, maintenance, taxes, and insurance.

''(3) CERTIFICATION TO CONGRESS.—The Administrator may acquire an interest in a housing unit under paragraph (1) only if the Administrator transmits to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate at least 30 days before completing the acquisition a report containing—

''(A) a description of the housing unit and its price; and

''(B) a certification that acquiring the housing unit is the most cost-beneficial means of providing necessary accommodations in carrying out this part.

''(4) PAYMENT OF FEES.—The Administrator may pay, when due, fees resulting from the acquisition of an interest in a housing unit under this subsection from any amounts made available to the Administrator.''.

SEC. 402. PROTECTION OF VOLUNTARILY SUBMITTED INFORMATION.

(a) IN GENERAL.—Chapter 401 is amended by redesignating section 40120 as section 40121 and by inserting after section 40119 the following:

''§ 40120. Protection of voluntarily submitted information

''(a) IN GENERAL.—Notwithstanding any other provision of law, neither the Administrator of the Federal Aviation Administration, nor any agency receiving information from the Administrator, shall disclose voluntarily-provided safety or security related information if the Administrator finds that—

''(1) the disclosure of the information would inhibit the voluntary provision of that type of information and that the receipt of that type of information aids in fulfilling the Administrator's safety and security responsibilities; and

''(2) withholding such information from disclosure would be consistent with the Administrator's safety and security responsibilities.

''(b) REGULATIONS.—The Administrator shall issue regulations to carry out this section.''.

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 401 is amended by striking the item relating to section 40120 and inserting the following:

''40120. Protection of voluntarily submitted information.

''40121. Relationship of other laws.''.

SEC. 403. APPLICATION OF FAA REGULATIONS.

In revising title 14, Code of Federal Regulations, in a manner affecting intrastate aviation in Alaska, the Administrator of the Federal Aviation Administration shall consider the extent to which Alaska is not served by transportation modes other than aviation, and shall establish such regulatory distinctions as the Administrator deems appropriate.

SEC. 404. SENSE OF THE SENATE REGARDING THE FUNDING OF THE FEDERAL AVIATION ADMINISTRATION.

(a) FINDINGS.—The Senate finds that—

(1) the Congress is responsible for ensuring that the financial needs of the Federal Aviation Administration, the agency that performs the critical function of overseeing the Nation's air traffic control system and ensuring the safety of air travelers in the United States, are met;

(2) the number of air traffic control equipment and power failures is increasing, which could place at risk the reliability of our Nation's air traffic control system;

(3) aviation excise taxes that constitute the Airport and Airway Trust Fund, which provides most of the funding for the Federal Aviation Administration

(4) the surplus in the Airport and Airway Trust Fund will be spent by the Federal Aviation Administration by December 1996;

(5) the existing system of funding the Federal Aviation Administration will not provide the agency with sufficient short-term or long-term funding;

(6) this Act creates a sound process to review Federal Aviation Administration funding and develop a funding system to meet the Federal Aviation Administration's long-term funding needs; and

(7) without immediate action by the Congress to ensure that the Federal Aviation Administration's financial needs are met, air travelers' confidence in the system could be undermined.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that there should be an immediate enactment of an 18-month reinstatement of the aviation excise taxes to provide short-term funding for the Federal Aviation Administration.

SEC. 405. AUTHORIZATION FOR STATE-SPECIFIC SAFETY MEASURES.

There are authorized to be appropriated to the Federal Aviation Administration not more than $10,000,000 for fiscal year 1997 for the purpose of addressing State-specific aviation safety problems identified by the National Transportation Safety Board.

SEC. 406. SENSE OF THE SENATE REGARDING THE AIR AMBULANCE EXEMPTION FROM CERTAIN FEDERAL EXCISE TAXES.

It is the sense of the Senate that, if the excise taxes imposed by section 4261 or 4271 of the Internal Revenue Code of 1986 are reinstated, the exemption from those taxes provided by section 4261(f) of such Code for air transportation by helicopter for the purpose of providing emergency medical services should be broadened to include air transportation by fixed-wing aircraft for that purpose.

SEC. 407. FAA SAFETY MISSION.

(a) IN GENERAL.—Section 40104 is amended—

(1) by inserting ''safety of'' before ''air commerce'' in the section caption;

(2) by inserting ''SAFETY OF'' before ''AIR COMMERCE'' in the caption of subsection (a); and

(3) by inserting ''safety of'' before ''air commerce'' in subsection (a).

(b) CLERICAL AMENDMENT.—The table of sections for chapter 401 is amended by striking the item relating to section 40104 and inserting:

''40104. Promotion of civil aeronautics and air commerce safety.''.

SEC. 408. CARRIAGE OF CANDIDATES IN STATE AND LOCAL ELECTIONS.

The Administrator of the Federal Aviation Administration shall revise section 91.321 of the Administration's regulations (14 CFR 91.321), relating to the carriage of candidates in Federal elections, to make the same or similar rules applicable to the carriage of candidates for election to public office in State and local government elections.

SEC. 409. TRAIN WHISTLE REQUIREMENTS.

The Secretary of Transportation may not implement regulations issued under section 20153(b) of title 49, United States Code, requiring audible warnings to be sounded by a locomotive horn at highway-rail grade crossings, unless—

(1) in implementing the regulations or providing an exception to the regulations under section 20158(c) of such title, the Secretary of Transportation takes into account, among other criteria—

(A) the interest of the communities that, as of July 30, 1996—

(i) have in effect restrictions on sounding of a locomotive horn at highway-rail grade crossings; or

(ii) have not been subject to the routine (as the term is defined by the Secretary) sounding of a locomotive horn at highway-rail grade crossings; and

(B) the past safety record at each grade crossing involved; and

(2) whenever the Secretary determines that supplementary safety measures (as that term is defined in section 20153(a) of title 49, United States Code) are necessary to provide an exception referred to in paragraph (1), the Secretary—

(A) having considered the extent to which local communities have established public awareness initiatives and highway-rail crossing traffic law enforcement programs allows for a period of not to exceed 3 years, beginning on the date of that determination, for the installation of those measures; and

(B) works in partnership with affected communities to provide technical assistance and to develop a reasonable schedule for the installation of those measures.

SEC. 410 LIMITATION ON AUTHORITY OF STATES TO REGULATE GAMBLING DEVICES ON VESSELS.

Subsection (b)(2) of section 5 of the act of January 2, 1951 (commonly referred to as the ''Johnson Act'') (64 Stat. 1135, chapter 1194; 15 U.S.C. 1175), is amended by adding at the end the following:

''(C) EXCLUSION OF CERTAIN VOYAGES AND SEGMENTS.—Except for a voyage or segment of a voyage that occurs within the boundaries of the State of Hawaii, a voyage or segment of a voyage is not described in subparagraph (B) if such voyage or segment includes or consists of a segment—

''(i) that begins and ends in the same State;

''(ii) that is part of a voyage to another State or to a foreign country; and

''(iii) in which the vessel reaches the other State or foreign country within 3 days after leaving the State in which such segment begins.''.

TITLE V—COMMERCIAL SPACE LAUNCH ACT AMENDMENTS

SEC. 501. COMMERCIAL SPACE LAUNCH AMENDMENTS.

(a) AMENDMENTS.—Chapter 701 of title 49, United States Code, is amended—

(1) in the table of sections—

(A) by amending the item relating to section 70104 to read as follows:

''70104. Restrictions on launches, operations, and reentries.'';

(B) by amending the item relating to section 70108 to read as follows:

''70108. Prohibition, suspension, and end of launches, operation of launch sites and reentry sites, and reentries.'';

and

(C) by amending the item relating to section 70109 to read as follows:

''70109. Preemption of scheduled launches or reentries'';

(2) in section 70101—

(A) by inserting ''microgravity research,'' after ''information services,'' in subsection (a)(3);

(B) by inserting '', reentry,'' after ''launching'' both places it appears in subsection (a)(4);

(C) by inserting '', reentry vehicles,'' after ''launch vehicles'' in subsection (a)(5);

(D) by inserting ''and reentry services'' after ''launch services'' in subsection (a)(6);

(E) by inserting ", reentries," after "launches" both places it appears in subsection (a)(7);

(F) by inserting ", reentry sites," after "launch sites" in subsection (a)(8);

(G) by inserting "and reentry services" after "launch services" in subsection (a)(8);

(H) by inserting "reentry sites," after "launch sites," in subsection (a)(9);

(I) by inserting "and reentry site" after "launch site" in subsection (a)(9);

(J) by inserting "reentry vehicles," after "launch vehicles" in subsection (b)(2);

(K) by striking "launch" in subsection (b)(2)(A);

(L) by inserting "and reentry" after "commercial launch" in subsection (b)(3);

(M) by striking "launch" after "and transfer commercial" in subsection (b)(3); and

(N) by inserting "and development of reentry sites," after "launch-site support facilities," in subsection (b)(4)

(3) in section 70102—

(A) by striking "and any payload" and inserting in lieu thereof "or reentry vehicle and any payload from Earth" in paragraph (3);

(B) by inserting "or reentry vehicle" after "means of a launch vehicle" in paragraph (8);

(C) by redesignating paragraphs (10) through (12) as paragraphs (14) through (16), respectively;

(D) by inserting after paragraph (9) the following new paragraphs:

"(10) 'reenter' and reentry' mean to return or attempt to return, purposefully, a reentry vehicle and its payload, if any, from Earth orbit or from outer space to Earth.

"(11) 'reentry services' means—

"(A) activities involved in the preparation of a reentry vehicle and its payload, if any, for reentry; and

"(B) the conduct of a reentry.

"(12) 'reentry site' means the location on Earth to which a reentry vehicle is intended to return (as defined in a license the Secretary issues or transfers under this chapter).

"(13) 'reentry vehicle' means a vehicle designed to return from Earth orbit or outer space to Earth, or a reusable launch vehicle designed to return from outer space substantially intact."; and

(E) by inserting "or reentry services" after "launch services" each place it appears in paragraph (15), as so redesignated by subparagraph (C) of this paragraph;

(4) in section 70103(b)—

(A) by inserting "AND REENTRIES" after "LAUNCHES" in the subsection heading;

(B) by inserting "and reentries" after "space launches" in paragraph (1); and

(C) by inserting "and reentry" after "space launch" in paragraph (2);

(5) in section 70104—

(A) by amending the section designation and heading to read as follows:

"§ 70104. Restrictions on launches, operations, and reentries";

(B) by inserting "or reentry site, or to reenter a reentry vehicle" after "operate a launch site" each place it appears in subsection (a);

(C) by inserting "or reentry" after "launch or operation" in subsection (a)(3) and (4);

(D) in subsection (b)—

(i) by striking "launch license" and inserting in lieu thereof "license";

(ii) by inserting "or reenter" after "may launch"; and

(iii) by inserting "or reentering" after "related to launching"; and

(E) in subsection (c)—

(i) by amending the subsection heading to read as follows: "PREVENTING LAUNCHES AND REENTRIES.—";

(ii) by inserting "or reentry" after "prevent the launch"; and

(iii) by inserting "or reentry" after "decides the launch";

(6) in section 70105—

(A) by inserting "or a reentry site, or the reentry of a reentry vehicle," after "operation of a launch site" in subsection (b)(1); and

(B) by striking "or operation" and inserting in lieu thereof ", operation, or reentry" in subsection (b)(2)(A);

(7) in section 70106(a)—

(A) by inserting "or reentry site" after "observer at a launch site";

(B) by inserting "or reentry vehicle" after "assemble a launch vehicle"; and

(C) by inserting "or reentry vehicle" after "with a launch vehicle";

(8) in section 70108—

(A) by amending the section designation and heading to read as follows:

"§ 70108. Prohibition, suspension, and end of launches, operation of launch sites and reentry sites, and reentries";

and

(B) in subsection (a)—

(i) by inserting "or reentry site, or reentry of a reentry vehicle," after "operation of a launch site"; and

(ii) by inserting "or reentry" after "launch or operation";

(9) in section 70109—

(A) by amending the section designation and heading to read as follows:

"§ 70109. Preemption of scheduled launches or reentries";

(B) in subsection (a)—

(i) by inserting "or reentry" after "ensure that a launch";

(ii) by inserting "; reentry site," after "United States Government launch site";

(iii) by inserting "or reentry date commitment" after "launch date commitment";

(iv) by inserting "or reentry" after "obtained for a launch";

(v) by inserting ", reentry site," after "access to a launch site";

(vi) by inserting ", or services related to a reentry," after "amount for launch services"; and

(vii) by inserting "or reentry" after "the scheduled launch"; and

(C) in subsection (c), by inserting "or reentry" after "prompt launching";

(10) in section 70110—

(A) by inserting "or reentry" after "prevent the launch" in subsection (a)(2); and

(B) by inserting "or reentry site, or reentry of a reentry vehicle," after "operation of a launch site" in subsection (a)(3)(B);

(11) in section 70111—

(A) by inserting "or reentry" after "launch" in subsection (a)(1)(A);

(B) by inserting "and reentry services" after "launch services" in subsection (a)(1)(B);

(C) by inserting "or reentry services" after "or launch services" in subsection (a)(2);

(D) by inserting "or reentry" after "commercial launch" both places it appears in subsection (b)(1);

(E) by inserting "or reentry services" after "launch services" in subsection (b)(2)(C);

(F) by striking "or its payload for launch" in subsection (d) and inserting in lieu thereof "or reentry vehicle, or the payload of either, for launch or reentry"; and

(G) by inserting ", reentry vehicle," after "manufacturer of the launch vehicle" in subsection (d);

(12) in section 70112—

(A) by inserting "or reentry" after "one launch" in subsection (a)(3);

(B) by inserting "or reentry services" after "launch services" in subsection (a)(4);

(C) by inserting "or reentry services" after "launch services" each place it appears in subsection (b);

(D) by inserting "applicable" after "carried out under the" in paragraphs (1) and (2) of subsection (b);

(E) by striking ", Space, and Technology" in subsection (d)(1);

(F) by inserting "OR REENTRIES" after "LAUNCHES" in the heading for subsection (e); and

(G) by inserting "or reentry site or a reentry" after "launch site" in subsection (e);

(13) in section 70113(a)(1) and (d)(1) and (2), by inserting "or reentry" after "one launch" each place it appears;

(14) in section 70115(b)(1)(D)(i)—

(A) by inserting "reentry site," after "launch site,"; and

(B) by inserting "or reentry vehicle" after "launch vehicle" both places it appears; and

(15) in section 70117—

(A) by inserting "or reentry site, or to reenter a reentry vehicle" after "operate a launch site" in subsection (a);

(B) by inserting "or reentry" after "approval of a space launch" in subsection (d);

(C) by amending subsection (f) to read as follows:

"(f) LAUNCH NOT AN EXPORT; REENTRY NOT AN IMPORT.—A launch vehicle, reentry vehicle, or payload that is launched or reentered is not, because of the launch or reentry, an export or import, respectively, for purposes of a law controlling exports or imports."; and

(D) in subsection (g)—

(i) by striking "operation of a launch vehicle or launch site," in paragraph (1) and inserting in lieu thereof "reentry, operation of a launch vehicle or reentry vehicle, or operation of a launch site or reentry site,"; and

(ii) by inserting "reentry," after "launch," in paragraph (2).

(b) ADDITIONAL AMENDMENTS.—(1) Section 70105 of title 49, United States Code, is amended—

(A) by inserting "(1)" before "A person may apply" in subsection (a);

(B) by striking "receiving an application" both places it appears in subsection (a) and inserting in lieu thereof "accepting an application in accordance with criteria established pursuant to subsection (b)(2)(D)";

(C) by adding at the end of subsection (a) the following new paragraph:

"(2) In carrying out paragraph (1), the Secretary may establish procedures for certification of the safety of a launch vehicle, reentry vehicle, or safety system, procedure, service, or personnel that may be used in conducting licensed commercial space launch or reentry activities.";

(D) by striking "and" at the end of subsection (b)(2)(B)";

(E) by striking the period at the end of subsection (b)(2)(C) and inserting in lieu thereof ";and";

(F) by adding at the end of subsection (b)(2) the following new subparagraph:

(D) regulations establishing criteria for accepting or rejecting an application for a license under this chapter within 60 days after receipt of such application."; and

(G) by inserting ", or the requirement to obtain a license," after "waive a requirement" in subsection (b)(3).

(2) The amendment made by paragraph (1)(B) shall take effect upon the effective date of final regulations issued pursuant to section 70105(b)(2)(D) of title 49, United States Code, as added by paragraph (1)(F) of this subsection.

(3) Section 70102(5) of title 49, United States Code, is amended—

(A) by redesignating subparagraphs (A) and (B) as subparagraphs (B) and (C), respectively; and

(B) by inserting before subparagraph (B), as so redesignated by subparagraph (A) of this paragraph, the following new subparagraph:

''(A) activities directly related to the preparation of a launch site or payload facility for one or more launches;''.

(4) Section 70102(b) of title 49, United States Code, is amended—

(A) in the subsection heading, as amended by subsection (a)(4)(A) of this section, by inserting ''AND STATE SPONSORED SPACEPORTS'' after ''AND REENTRIES''; and

(B) in paragraph (1), by inserting ''and State sponsored spaceports'' after ''private sector''.

(5) Section 70105(a)(1) of title 49, United States Code, as amended by subsection (b)(1) of this section, is amended by inserting at the end the following: ''The Secretary shall submit to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a written notice not later than 7 days after any occurrence when a license is not issued within the deadline established by this subsection,''.

(6) Section 70111 of title 49, United States Code, is amended—

(A) in subsection (a)(1), by inserting after subparagraph (B) the following:

''The Secretary shall establish criteria and procedures for determining the priority of competing requests from the private sector and State governments for property and services under this section.'';

(B) by striking ''actual costs'' in subsection (b)(1) and inserting in lieu thereof ''additive costs only''; and

(C) by inserting after subsection (b)(2) the following new paragraph:

''(3) The Secretary shall ensure the establishment of uniform guidelines for, and consistent implementation of, this section by all Federal agencies.''.

(7) Section 70112 of title 49, United States Code, is amended—

(A) in subsection (a)(1), by inserting ''launch, reentry, or site operator'' after ''(1) When a'';

(B) in subsection (b)(1), by inserting ''launch, reentry, or site operator'' after ''(1)A''; and

(C) in subsection (f), by inserting ''launch, reentry, or site operator'' after ''carried out under a''.

(c) REGULATIONS.—(1) Chapter 701 of title 49, United States Code, is amended by adding at the end the following new section:

§ 70120. Regulations

''The Secretary of Transportation, within 6 months after the date of the enactment of this section, shall issue regulations to carry out this chapter that include—

''(1) guidelines for industry to obtain sufficient insurance coverage for potential damages to third parties;

''(2) procedures for requesting and obtaining licenses to operate a commercial launch vehicle and reentry vehicle;

''(3) procedures for requesting and obtaining operator licenses for launch and reentry; and

''(4) procedures for the application of government indemnification.''.

(2) The table of sections for such chapter 701 is amended by adding after the item relating to section 70119 the following new item:

''70120. Regulations.''.

TITLE VI—AIR TRAFFIC MANAGEMENT SYSTEM PERFORMANCE IMPROVEMENT ACT

SEC. 601. SHORT TITLE.

This title may be cited as the ''Air Traffic Management System Performance Improvement Act of 1996''.

SEC. 602. DEFINITIONS.

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

(1) ADMINISTRATION.—The term ''Administration'' means the Federal Aviation Administration.

(2) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Federal Aviation Administration.

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

SEC. 603. EFFECTIVE DATE.

The provisions of this title and the amendments made by this title shall take effect on the date that is 30 days after the date of the enactment of this Act.

Subtitle A—General Provisions

SEC. 621. FINDINGS.

The Congress finds the following:

(1) In many respects the Administration is a unique agency, being one of the few non-defense government agencies that operates 24 hours a day, 365 days of the year, while continuing to rely on outdated technology to carry out its responsibilities for a state-of-the-art industry.

(2) Until January 1, 1996, users of the air transportation system paid 70 percent of the budget of the Administration, with the remaining 30 percent coming from the General Fund. The General Fund contribution of the years is one measure of the benefit received by the general public, military, and other users of Administration's services.

(3) The Administration must become a more efficient, effective, and different organization to meet future challenges.

(4) The need to balance the Federal budget means that it may become more and more difficult to obtain sufficient General Fund contributions to meet the Administration's future budget needs.

(5) Congress must keep its commitment to the users of the national air transportation system by seeking to spend all moneys collected from them each year and deposited into the Airport and Airway Trust Fund. Existing surpluses representing past receipts must also be spent for the purposes for which such funds were collected.

(6) The aviation community and the employees of the Administration must come together to improve the system. The Administration must continue to recognize who its customers are and what their needs are, and to design and redesign the system to make safety improvements and increase productivity.

(7) The Administration projects that commercial operations will increase by 18 percent and passenger traffic by 35 percent by the year 2002. Without effective airport expansion and system modernization, these needs cannot be met.

(8) Absent significant and meaningful reform, future challenges and needs cannot be met.

(9) The Administration must have a new way of doing business.

(10) There is widespread agreement within government and the aviation industry that reform of the Administration is essential to safely and efficiently accommodate the projected growth of aviation within the next decade.

(11) To the extent that the Congress determines that certain segments of the aviation community are not required to pay all of the costs of the government services which they require and benefits which they receive, the Congress should appropriate the difference between such costs and any receipts received from such segment.

(12) Prior to the imposition of any new charges or user fees on segments of the industry, an independent review must be performed to assess the funding needs and assumptions for operations, capital spending, and airport infrastructure.

(13) An independent, thorough, and complete study and assessment must be performed of the costs to the Administration and the costs driven by each segment of the aviation system for safety and operational services, including the use of the air traffic control system and the Nation's airports.

(14) Because the Administration is a unique Federal entity in that it is a participant in the daily operations of an industry, and because the national air transportation system faces significant problems without significant changes, the Administration has been authorized to change the Federal procurement and personnel systems to ensure that the Administration has the ability to keep pace with new technology and is able to match resources with the real personnel needs of the Administration.

(15) The existing budget system does not allow for long-term planning or timely acquisition of technology by the Administration.

(16) Without reforms in the areas of procurement, personnel, funding, and governance, the Administration will continue to experience delays and cost overruns in its major modernization programs and needed improvements in the performance of the air traffic management system will not occur.

(17) All reforms should be designed to help the Administration become more responsive to the needs of its customers and maintain the highest standards of safety.

SEC. 622. PURPOSES.

The purposes of this title are—

(1) to ensure that final action shall be taken on all notices of proposed rulemaking of the Administration within 18 months after the date of their publication;

(2) to permit the Administration, with Congressional review, to establish a program to improve air traffic management system performance and to establish appropriate levels of cost accountability for air traffic management services provided by the Administration;

(3) to establish a more autonomous and accountable Administration within the Department of Transportation; and

(4) to make the Administration a more efficient and effective organization, able to meet the needs of a dynamic, growing industry, and to ensure the safety of the traveling public.

SEC. 623. REGULATION OF CIVILIAN AIR TRANSPORTATION AND RELATED SERVICES BY THE FEDERAL AVIATION ADMINISTRATION AND DEPARTMENT OF TRANSPORTATION.

(a) IN GENERAL.—Section 106 is amended—

(1) by striking ''The Administrator'' in the fifth sentence of subsection (b) and inserting ''Except as provided in subsection (f) of this section or in other provisions of law, the Administrator''; and

(2) by striking subsection (f) and inserting the following:

''(f) AUTHORITY OF THE SECRETARY AND THE ADMINISTRATOR.—

''(1) AUTHORITY OF THE SECRETARY.—Except as provided in paragraph (2), the Secretary of Transportation shall carry out the duties and powers of the Administration.

''(2) AUTHORITY OF THE ADMINISTRATOR.—The Administrator—

''(A) is the final authority for carrying out all functions, powers, and duties of the Administration relating to—

''(i) except as otherwise provided in paragraph (3), the promulgation of regulations, rules, orders, circulars, bulletins, and other official publications of the Administration; and

''(ii) any obligation imposed on the Administrator, or power conferred on the Administrator, by the Air Traffic Management System Performance Improvement Act of 1996 (or any amendment made by that Act);

''(b) shall offer advice and counsel to the President with respect to the appointment

and qualifications of any officer or employee of the Administration to be appointed by the President or as a political appointee;

''(C) may delegate, and authorize successive redelegations of, to an officer or employee of the Administration any function, power, or duty conferred upon the Administrator, unless such delegation is prohibited by law; and

''(D) except as otherwise provided for in this title, and notwithstanding any other provision of law to the contrary, shall not be required to coordinate, submit for approval or concurrence, or seek the advice or views of the Secretary or any other officer or employee of the Department of Transportation on any matter with respect to which the Administrator is the final authority.

''(3) DEFINITION OF POLITICAL APPOINTEE.—For purposes of this subsection, the term 'political appointee' means any individual who—

''(A) is employed in a position on the Executive Schedule under sections 5312 through 5316 of title 5;

''(B) is a limited term appointee, limited emergency appointee, or noncareer appointee in the Senior Executive Service as defined under section 3132(a) (5), (6), and (7) of title 5, respectively; or

''(C) is employed in a position in the executive branch of the Government of a confidential or policy-determining character under Schedule C of subpart C of part 213 of title 5 of the Code of Federal Regulations.''.

(b) PRESERVATION OF EXISTING AUTHORITY.—Nothing in this title or the amendments made by this title limits any authority granted to the Administrator by statute or by delegation that was in effect on the day before the date of enactment of this Act.

SEC. 624. REGULATIONS.

Section 106(f), as amended by section 623, is further amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2) the following:

''(3) REGULATIONS.—

''(A) IN GENERAL.—In the performance of the functions of the Administrator and the Administration, the Administrator is authorized to issue, rescind, and revise such regulations as are necessary to carry out those functions. The issuance of such regulations shall be governed by the provisions of chapter 5 of title 5. The Administrator shall act upon all petitions for rulemaking no later than 6 months after the date such petitions are filed by dismissing such petitions, by informing the petitioner of an intention to dismiss, or by issuing a notice of proposed rulemaking or advanced notice of proposed rulemaking. The Administrator shall issue a final regulation, or take other final action, not later than 18 months after the date of publication in the Federal Register of a notice of proposed rulemaking or, in the case of an advanced notice of proposed rulemaking, if issued, not later than 24 months after that date.

''(B) APPROVAL OF SECRETARY OF TRANSPORTATION.—

''(i) The Administrator may not issue a proposed regulation or final regulation that is likely to result in the expenditure by State, local, and tribal governments in the aggregate, or by the private sector, of $50,000,000 or more (adjusted annually for inflation beginning with the year following the date of enactment of the Air Traffic Management System Performance Improvement Act of 1996) in any 1 year, or any regulation which is significant, unless the Secretary of Transportation approves the issuance of the regulation in advance. For purposes of this paragraph, a regulation is significant if it is likely to—

''(I) have an annual effect on the economy of $100,000,000 or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

''(II) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

''(III) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

''(IV) raise novel legal or policy issues arising out of legal mandates.

''(ii) In an emergency, the Administrator may issue a regulation described in clause (i) without prior approval by the Secretary, but any such emergency regulation is subject to ratification by the Secretary after it is issued and shall be rescinded by the Administrator within 5 days (excluding Saturdays, Sundays, and legal public holidays) after issuance if the Secretary fails to ratify its issuance.

''(iii) Any regulation that does not meet the criteria of clause (i), and any regulation or other action that is a routine or frequent action or a procedural action, may be issued by the Administrator without review or approval by the Secretary.

''(iv) The Administrator shall submit a copy of any regulation requiring approval by the Secretary under clause (i) to the Secretary, who shall either approve it or return it to the Administrator with comments within 45 days after receiving it.

''(C) PERIODIC REVIEW.—(i) Beginning on the date which is 3 years after the date of enactment of the Air Traffic Management System Performance Improvement Act of 1996, the Administrator shall review any unusually burdensome regulation issued by the Administrator after the date of enactment of the Air Traffic Management System Performance Improvement Act of 1996 beginning not later than 3 years after the effective date of the regulation to determine if the cost assumptions were accurate, the benefit of the regulations, and the need to continue such regulations in force in their present form.

''(ii) The Administrator may identify for review under the criteria set forth in clause (i) unusually burdensome regulations that were issued before the date of enactment of the Air Traffic Management System Performance Improvement Act of 1996 and that have been in force for more than 3 years.

''(iii) For purposes of this subparagraph, the term 'unusually burdensome regulation' means any regulation that results in the annual expenditure by State, local, and tribal governments in the aggregate, or by the private sector, of $25,000,000 or more (adjusted annually for inflation beginning with the year following the date of enactment of the Air Traffic Management System Performance Act of 1996) in any year.

''(iv) The periodic review of regulations may be performed by advisory committees and the Management Advisory Council established under subsection (p).''.

SEC. 625. PERSONNEL AND SERVICES.

Section 106 is amended by adding at the end the following new subsection:

''(1) PERSONNEL AND SERVICES.—

''(1) OFFICERS AND EMPLOYEES.—Except as provided in section 40121(a) of this title and section 347 of Public Law 104–50, the Administrator is authorized, in the performance of the functions of the Administrator, to appoint, transfer, and fix the compensation of such officers and employees, including attorneys, as may be necessary to carry out the functions of the Administrator and the Administration. In fixing compensation and benefits of officers and employees, the Administrator shall not engage in any type of bargaining, except to the extent provided for in section 40121(a), nor shall the Administrator be bound by any requirement to establish such compensation or benefits at particular levels.

''(2) EXPERTS AND CONSULTANTS.—The Administrator is authorized to obtain the services of experts and consultants in accordance with section 3109 of title 5.

''(3) TRANSPORTATION AND PER DIEM EXPENSES.—The Administrator is authorized to pay transportation expenses, and per diem in lieu of subsistence expenses, in accordance with chapter 57 of title 5.

''(4) USE OF PERSONNEL FROM OTHER AGENCIES.—The Administrator is authorized to utilize the services of personnel of any other Federal agency (as such term is defined under section 551(1) of title 5).

''(5) VOLUNTARY SERVICES.—

''(A) IN GENERAL.—(i) In exercising the authority to accept gifts and voluntary services under section 326 of this title, and without regard to section 1342 of title 31, the Administrator may not accept voluntary and uncompensated services if such services are used to displace Federal employees employed on a full-time, part-time, or seasonal basis.

''(ii) the Administrator is authorized to provide for incidental expenses, including transportation, lodging, and subsistence for volunteers who provide voluntary services under this subsection.

''(iii) An individual who provides voluntary services under this subsection shall not be considered a Federal employee for any purpose other than for purposes of chapter 81 of title 5, relating to compensation for work injuries, and chapter 171 of title 28, relating to tort claims.''.

SEC. 626. CONTRACTS.

Section 106(l), as added by section 625 of this title, is amended by adding at the end the following new paragraph:

''(6) CONTRACTS.—The Administrator is authorized to enter into and perform such contracts, leases, cooperative agreements, or other transactions as may be necessary to carry out the functions of the Administrator and the Administration. The Administrator may enter into such contracts, leases, cooperative agreements, and other transactions with any Federal agency (as such term is defined in section 551(1) of title 5) or any instrumentality of the United States, any State, territory, or possession, or political subdivision thereof, any other governmental entity, or any person, firm, association, corporation, or educational institution, on such terms and conditions as the Administrator may consider appropriate.''.

SEC. 627. FACILITIES.

Section 106, as amended by section 625 of this title, is further amended by adding at the end the following new subsection:

''(m) COOPERATION BY ADMINISTRATOR.—With the consent of appropriate officials, the Administrator may, with or without reimbursement, use or accept the services, equipment, personnel, and facilities of any other Federal agency (as such term is defined in section 551(1) of title 5) and any other public or private entity. The administrator may also cooperate with appropriate officials of other public and private agencies and instrumentalities concerning the use of services, equipment, personnel, and facilities. The head of each Federal agency shall cooperate with the Administrator in making the services, equipment, personnel, and facilities of the Federal agency available to the Administrator. The head of a Federal agency is authorized, notwithstanding any other provision of law, to transfer to or to receive from the Administration, without reimbursement,

supplies and equipment other than administrative supplies or equipment.''.

SEC. 628. PROPERTY.

Section 106, as amended by section 627 of this title, is further amended by adding at the end the following new subsection:

''(n) ACQUISITION.—

''(1) IN GENERAL.—The Administrator is authorized—

''(A) to acquire (by purchase, lease, condemnation, or otherwise), construct, improve, repair, operate, and maintain—

''(i) air traffic control facilities and equipment;

''(ii) research and testing sites and facilities; and

''(iii) such other real and personal property (including office space and patents), or any interest therein, within and outside the continental United States as the Administrator considers necessary;

''(B) to lease to others such real and personal property; and

''(C) to provide by contract or otherwise for eating facilities and other necessary facilities for the welfare of employees of the Administration at the installations of the Administration, and to acquire, operate, and maintain equipment for these facilities.

''(2) TITLE.—Title to any property or interest therein acquired pursuant to this subsection shall be held by the Government of the United States.''.

SEC. 629. TRANSFERS OF FUNDS FROM OTHER FEDERAL AGENCIES.

Section 106, as amended by section 628 of this title, is further amended by adding at the end the following new subsection:

''(o) TRANSFERS OF FUNDS.—The Administrator is authorized to accept transfers of unobligated balances and unexpended balances of funds appropriated to other Federal agencies (as such term is defined in section 551(1) of title 5) to carry out functions transferred by law to the Administrator or functions transferred pursuant to law to the Administrator on or after the date of the enactment of the Air Traffic Management System Performance Improvement Act of 1996.''.

SEC. 630. MANAGEMENT ADVISORY COUNCIL.

Section 106, as amended by section 629 of this title, is further amended by adding at the end the following new subsection:

''(p) MANAGEMENT ADVISORY COUNCIL.—

''(1) ESTABLISHMENT.—Within 3 months after the date of enactment of the Air Traffic Management System Performance Improvement Act of 1996, the Administrator shall establish an advisory council which shall be known as the Federal Aviation Management Advisory Council (in this subsection referred to as the 'Council'). With respect to Administration management, policy, spending, funding, and regulatory matters affecting the aviation industry, the Council may submit comments, recommended modifications, and dissenting views to the Administrator. The Administrator shall include in any submission to Congress, the Secretary, or the general public, and in any submission for publication in the Federal Register, a description of the comments, recommended modifications, and dissenting views received from the Council, together with the reasons for any differences between the views of the Council and the views or actions of the Administrator.

''(2) MEMBERSHIP.—The Council shall consist of 15 members, who shall consist of—

''(A) a designee of the Secretary of Transportation;

''(B) a designee of the Secretary of Defense; and

''(C) 13 members representing aviation interests, appointed by the President by and with the advice and consent of the Senate.

''(3) QUALIFICATIONS.—No member appointed under paragraph (2)(C) may serve as an officer or employee of the United States Government while serving as a member of the Council.

''(4) FUNCTIONS.—

''(A) IN GENERAL.—(i) The Council shall provide advice and counsel to the Administrator on issues which affect or are affected by the operations of the Administrator. The Council shall function as an oversight resource for management, policy, spending, and regulatory matters under the jurisdiction of the Administration.

''(ii) The Council shall review the rulemaking cost-benefit analysis process and develop recommendations to improve the analysis and ensure that the public interest is fully protected.

''(iii) The Council shall review the process through which the Administration determines to use advisory circulars and service bulletins.

''(B) MEETINGS.—The Council 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 Council 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 (commonly known as the 'Freedom of Information Act'), cost data associated with the acquisition and operation of air traffic service systems. Any member of the Council who receives comercial 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.) does not apply to the Council or such aviation rulemaking committees as the Administrator shall designate.

''(6) ADMINISTRATIVE MATTERS.—

''(A) TERMS OF MEMBERS.—(i) Except as provided in subparagraph (B), members of the Council appointed by the President under paragraph (2)(C) shall be appointed for a term of 3 years.

''(ii) Of the members first appointed by the President—

''(I) 4 shall be appointed for terms of 1 year;

''(II) 5 shall be appointed for terms of 2 years; and

''(III) 4 shall be appointed for terms of 3 years.

''(iii) An individual chosen to fill a vacancy shall be appointed for the unexpired term of the member replaced.

''(iv) A member whose term expires shall continue to serve until the date on which the member's successor takes office.

''(B) CHAIRMAN; VICE CHAIRMAN.—The Council shall elect a chair and a vice chair from among the members appointed under paragraph (2)(C), each of whom shall serve for a term of 1 year. The vice chair shall perform the duties of the chairman in the absence of the chairman.

''(C) TRAVEL AND PER DIEM.—Each member of the Council 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.

''(D) DETAIL OF PERSONNEL FROM THE ADMINISTRATION.—The Administrator shall make available to the Council such staff, information, and administrative services and assistance as may reasonably be required to enable the Council to carry out its responsibilities under this subsection.

''(7) REPORT TO CONGRESS.—The Council, in conjunction with the Administration, shall undertake a review of the overall condition of aviation safety in the United States and emerging trends in the safety of particular sections of the aviation industry. This shall include an examination of—

''(A) the extent to which the dual mission of the Administration to promote and regulate civil aviation may affect aviation safety and provide recommendations to Congress for any necessary changes the Council, in conjunction with Administration, deems appropriate; and

''(B) the adequacy of staffing and training resources for safety personnel of the Administration, including safety inspectors.

The Council shall report to Congress within 180 days after the date of enactment of this Act on its findings and recommendations under this paragraph.

SEC. 631. AIRCRAFT ENGINE STANDARDS.

Subsection (a)(1) of section 44715 is amended to read as follows:

''(a) STANDARDS AND REGULATIONS.—(1) To relieve and protect the public health and welfare from aircraft noise, sonic boom, and aircraft engine emissions, the Administrator of the Federal Aviation Administration, as he deems necessary, shall prescribe—

''(A) standards to measure aircraft noise and sonic boom;

''(B) regulations to control and abate aircraft noise and sonic boom; and

''(C) emission standards applicable to the emission of any air pollutant from any class or classes of aircraft engines which, in the judgment of the Administrator, causes, or contributes to, air pollution which may reasonably be anticipated to endanger public health or welfare.''.

SEC. 632. RURAL AIR FARE STUDY.

(a) IN GENERAL.—The Secretary shall conduct a study to—

(1) compare air fares paid (calculated as both actual and adjusted air fares) for air transportation on flights conducted by commercial air carriers—

(A) between—

(i) nonhub airports located in small communities; and

(ii) large hub airports; and

(B) between large hub airports;

(2) analyse—

(A) the extent to which passenger service that is provided from nonhub airports is provided on—

(i) regional commuter commercial air carriers; or

(ii) major air carriers;

(B) the type of aircraft employed in providing passenger service at nonhub airports; and

(C) whether there is competition among commercial air carriers with respect to the provision of air service to passengers from nonhub airports.

(b) FINDINGS.—The Secretary shall include in the report of the study conducted under subsection (a) findings concerning—

(1) whether passengers who use commercial air carriers to and from rural areas (as defined by the Secretary) pay a disproportionately greater price for that transportation than passengers who use commercial air carriers between urban areas (as defined by the Secretary);

(2) the nature of competition, if any, in rural markets (as defined by the Secretary) for commercial air carriers;

(3) whether a relationship exists between higher air fares and competition among commercial air carriers for passengers traveling on jet aircraft from small communities (as defined by the Secretary) and, if such a relation exists, the nature of that relationship;

(4) the number of small communities that have lost air service as a result of the deregulation of commercial air carriers with respect to air fares;

(5) the number of small communities served by airports with respect to which, after commercial air carrier fares were deregulated, jet aircraft service was replaced by turboprop aircraft service; and

(6) LARGE HUB AIRPORT.—The term ''large hub airport'' shall be defined by the Secretary but the definition may not include a small hub airport, as that term is defined in section 41731(a)(5) of such title.

(7) MAJOR AIR CARRIER.—The term ''major air carrier'' shall be defined by the Secretary.

(8) NONHUB AIRPORT.—The term ''nonhub airport'' is defined in section 41731(a)(4) of such title.

(9) REGIONAL COMMUTER AIR CARRIER.—The term ''regional commuter air carrier'' shall be defined by the Secretary.

Subtitle B—Federal Aviation Administration Streamlining Programs

SEC. 651. REVIEW OF ACQUISITION MANAGEMENT SYSTEM.

Not later than April 1, 1999, the Administration shall employ outside experts to provide an independent evaluation of the effectiveness of its acquisition management system within 3 months after such date. The Administrator shall transmit a copy of the evaluation to the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Transportation and Infrastructure of the House of Representatives.

SEC. 652. AIR TRAFFIC CONTROL MODERNIZATION REVIEWS.

Chapter 401, as amended by section 402 of this Act, is amended by redesignating section 40121 as 40123, and by inserting after section 40120 the following new section:

''§ 40121. Air traffic control modernization reviews

''(a) REQUIRED TERMINATIONS OF ACQUISITIONS.—The Administrator of the Federal Aviation Administration (hereinafter referred to in this section as the 'Administrator') shall terminate any program initiated after the date of enactment of the Air Traffic Management System Performance Improvement Act of 1996 and funded under the Facilities and Equipment account that—

''(1) is more than 50 percent over the cost goal established for the program;

''(2) fails to achieve at least 50 percent of the performance goals established for the program; or

''(3) is more than 50 percent behind schedule as determined in accordance with the schedule goal established for the program.

''(b) AUTHORIZED TERMINATIONS OF ACQUISITIONS.—The Administrator shall consider terminating, under the authority of subsection (a), any substantial acquisition that—

''(1) is more than 10 percent over the cost goal established for the program;

''(2) fails to achieve at least 90 percent of the performance goals established for the program; or

''(3) is more than 10 percent behind schedule as determined in accordance with the schedule goal established for the program.

''(c) EXCEPTIONS AND REPORT.—

''(1) CONTINUANCE OF PROGRAM, ETC.—Notwithstanding subsection (a), the Administrator may continue an acquisitions program required to be terminated under subsection (a) if the Administrator determines that termination would be inconsistent with the development or operation of the national air transportation system in a safe and efficient manner.

''(2) DEPARTMENT OF DEFENSE.—The Department of Defense shall have the same exemptions from acquisition laws as are waived by the Administrator under section 348(b) of Public Law 104–50 when engaged in joint actions to improve or replenish the national air traffic control system. The Administration may require real property, goods, and services through the The Department of Defense, or other appropriate agencies, but is bound by the acquisition laws and regulations governing those cases.

''(3) REPORT.—If the Administrator makes a determination under paragraph (1), the Administrator shall transmit a copy of the determination, together with a statement of the basis for the determination, to the Committees on Appropriations of the Senate and the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Transportation and infrastructure of the House of Representatives.''.

SEC. 653. FEDERAL AVIATION ADMINISTRATION PERSONNEL MANAGEMENT SYSTEM.

Chapter 401, as amended by section 652, is further amended by inserting after section 40121 the following new section:

''§40122. Federal Aviation Administration personnel management system

''(a) IN GENERAL.—

''(1) CONSULTATION AND NEGOTIATION.—In developing and making changes to the personnel management system initially implemented by the Administrator on April 1, 1996, the Administrator shall negotiate with the exclusive bargaining representatives of employees of the Administration certified under section 7111 of title 5 and consult with other employees of the Administration.

''(2) MEDIATION.—If the Administrator does not reach an agreement under paragraph (1) with the exclusive bargaining representatives, the services of the Federal Mediation and Conciliation Service shall be used to attempt to reach such agreement. If the services of the Federal Mediation and Conciliation Service do not lead to an agreement, the Administrator's proposed change to the personnel management system shall not take effect until 60 days have elapsed after the Administrator has transmitted the proposed change, along with the objections of the exclusive bargaining representatives to the change, and the reasons for such objections, to the Congress.

''(3) COST SAVINGS AND PRODUCTIVITY GOALS.—The Administration and the exclusive bargaining representatives of the employees shall use every reasonable effort to find cost savings and to increase productivity within each of the affected bargaining units.

''(4) ANNAL BUDGET DISCUSSIONS.—The Administration and the exclusive bargaining representatives of the employees shall meet annually for the purpose of finding additional cost savings within the Administration's annual budget as it applies to each of the affected bargaining units and throughout the agency.

''(b) EXPERT EVALUATION.—On the date that is 3 years after the personnel management system is implemented, the Administration shall employ outside experts to provide an independent evaluation of the effectiveness of the system within 3 months after such date. For this purpose, the Administrator may utilize the services of experts and consultants under section 3109 of title 5 without regard to the limitation imposed by the last sentence of section 3109(b) of such title, and may contract on a sole source basis, notwithstanding any other provision of law to the contrary.

''(c) PAY RESTRICTION.—No offer or employee of the Administration may receive an annual rate of basic pay in excess of the annual rate of basic pay payable to the Administrator.

''(d) ETHICS.—The Administration shall be subject to Executive Order No. 12674 and regulations and opinions promulgated by the Office of Government Ethics, including those set forth in section 3635 of title 5 of the Code of Federal Regulations.

''(e) EMPLOYEE PROTECTIONS.—Until July 1, 1999, basic wages (including locality pay) and operational differential pay provided employees of the Administration shall not be involuntarily adversely affected by reason of the enactment of this section, except for unacceptable performance or by reason of a reduction in force or reorganization or by agreement between the Administration and the affected employees' exclusive bargaining representative.

''(f) LABOR-MANAGEMENT AGREEMENTS.—Except as otherwise provided by this title, all labor-management agreements covering employees of the Administration that are in effect on the effective date of the Air Traffic Management System Performance Improvement Act of 1996 shall remain in effect until their normal expiration date, unless the Administrator and the exclusive bargaining representation agree to the contrary.''.

SEC. 654. CONFORMING AMENDMENT.

The chapter analysis for chapter 401, as amended by section 403(b) of this Act, is amended by striking the item relating to section 40120 and inserting the following new items:

''40121. Air traffic control modernization reviews.

''40122. Federal Aviation Administration personnel management system.

''40123. Relationship to other laws.''.

Subtitle C—System To Fund Certain Federal Aviation Administration Functions

SEC. 671. FINDINGS.

The Congress finds the following:

(1) The Administration is recognized throughout the world as a leader in aviation safety.

(2) The Administration certifies aircraft, engines, propellers, and other manufactured parts.

(3) The Administration certifies more than 650 training schools for pilots and nonpilots, more than 4,858 repair stations, and more than 193 maintenance schools.

(4) The Administration certifies pilot examiners, who are then qualified to determine if a person has the skills necessary to become a pilot.

(5) The Administration certifies more than 6,000 medical examiners, each of whom is then qualified to medically certify the qualifications of pilots and nonpilots.

(6) The Administration certifies more than 470 airports, and provides a limited certification for another 205 airports. Other airports in the United States are also reviewed by the Administration.

(7) The Administration each year performs more than 355,000 inspections.

(8) The Administration issues more than 655,000 pilot's licenses and more than 560,000 nonpilot's licenses (including mechanics).

(9) The Administration's certification means that the product meets worldwide recognized standards of safety and reliability.

(10) The Administration's certification means aviation-related equipment and services meet worldwide recognized standards.

(11) The Administration's certification is recognized by governments and businesses throughout the world and as such may be a valuable element for any company desiring to sell aviation-related products throughout the world.

(12) The Administration's certification may constitute a valuable license, franchise, privilege, or benefits for the holders.

(13) The Administration also is a major purchaser of computers, radars, and other systems needed to run the air traffic control system. The Administration's design, acceptance, commissioning, or certification of such

equipment enables the private sector to market those products around the world, and as such confers a benefit on the manufacturer.

(14) The Administration provides extensive services to public use aircraft.

SEC. 672. PURPOSES.

The purposes of this title are—

(1) to provide a financial structure for the Administration so that it will be able to support the future growth in the national aviation and airport system;

(2) to review existing and alternative funding options, including incentive-based fees for services, and establish a program to improve air traffic management system performance and to establish appropriate levels of cost accountability for air traffic management services provided by the Administration;

(3) to ensure that any funding will be dedicated solely for the use of the Administration;

(4) to authorize the Administration to recover the costs of its services from those who benefit from, but do not contribute to, the national aviation system and the services provided by the Administration;

(5) to consider a fee system based on the cost or value of the services provided and other funding alternatives;

(6) to develop funding options for the Congress in order to provide for the long-term efficient and cost-effective support of the Administration and the aviation system; and

(7) to achieve a more efficient and effective Administration for the benefit of the aviation transportation industry.

SEC. 673. USER FEES FOR VARIOUS FEDERAL AVIATION ADMINISTRATION SERVICES.

(1) IN GENERAL.—Chapter 453 is amended by striking section 45301 and inserting the following new section:

"§ 45301. General provisions

''(a) SCHEDULE OF FEES.—The Administrator shall establish a schedule of new fees, and a collection process for such fees, for the following services provided by the Administration:

''(1) Air traffic control and related services provided to aircraft other than military and civilian aircraft of the United States Government or of a foreign government that neither take off from, nor land in, the United States.

''(2) Services (other than air traffic control services) provided to a foreign government.

''(b) LIMITATIONS.—

''(1) AUTHORIZATION AND IMPACT CONSIDERATIONS.—In establishing fees under subsection (a), the Administrator—

''(A) is authorized to recover in fiscal year 1997 $100,000,000; and

''(B) shall ensure that each of the fees required by subsection (a) is directly related to the Administration's costs of providing the service rendered.

''(2) PUBLICATION; COMMENT.—The Administrator shall publish in the Federal Register an initial fee schedule and associated collection process as an interim final rule, pursuant to which public comment will be sought and a final rule issued.

''(c) USE OF EXPERTS AND CONSULTANTS.—In developing the system, the Administrator may consult with such nongovernmental experts as the Administrator may employ and the Administrator may utilize the services of experts and consultants under section 3109 of title 5 without regard to the limitation imposed by the last sentence of section 3109(b) of such title, and may contract on a sole source basis, notwithstanding any other provision of law to the contrary. Notwithstanding any other provision of law to the contrary, the Administrator may retain such experts under a contract awarded on a basis other than a competitive basis and without regard to any such provisions requiring competitive bidding or precluding sole source contract authority.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 453 is amended by striking the item relating to section 45301 and inserting the following new item:

''45301. General provisions.''.

(c) REPEAL.—

(1) IN GENERAL.—Section 70118 is repealed.

(2) CONFORMING AMENDMENT.—The chapter analysis for chapter 701 is amended by striking the item relating to section 70118.

SEC. 674. INDEPENDENT ASSESSMENT AND TASK FORCE TO REVIEW EXISTING AND INNOVATIVE FUNDING MECHANISMS.

(a) INDEPENDENT ASSESSMENT.—

(1) INITIATION.—As soon as all members of the task force are appointed under subsection (b) of this section, the Administrator shall contract with an entity independent of the Administration and the Department of Transportation to conduct a complete independent assessment of the financial requirements of the Administration through the year 2002.

(2) ASSESSMENT CRITERIA.—The Administrator shall provide to the independent entity estimates of the financial requirements of the Administration for the period described in paragraph (1), using as a base the fiscal year 1997 authorization levels established by the Congress. The independent assessment shall be based on an objective analysis of agency funding needs.

(3) CERTAIN FACTORS TO BE TAKEN INTO ACCOUNT.—The independent assessment shall take into account all relevant factors, including—

(A) anticipated air traffic forecasts;

(B) other workload measures;

(C) estimated productivity gains, if any, which contribute to budgetary requirements;

(D) the need for programs; and

(E) the need to provide for continued improvements in all facets of aviation safety, along with operational improvements in air traffic control.

(4) COST ALLOCATION.—The independent assessment shall also assess the costs to the Administration occasioned by the provision of services to each segment of the aviation system.

(5) DEADLINE.—The independent assessment shall be completed no later than 90 days after the contract is awarded, and shall be submitted to the task force, the Secretary, the Secretary of the Treasury, the Committee on Commerce, Science, and Transportation and the Committee on Finance of the Senate, and the Committee on Transportation and Infrastructure and the Committee on Ways and Means of the House of Representatives.

(b) TASK FORCE.—

(1) ESTABLISHMENT.—Not later than 30 days after the date of enactment of this Act, the Secretary, in consultation with the Secretary of the Treasury, shall establish an 11-member task force, independent of the Administration and the Department of Transportation.

(2) MEMBERSHIP.—The members of the task force shall be selected from among individuals who have expertise in the aviation industry and who are able, collectively, to represent a balance view of the issues important to general aviation, major air carriers, air cargo carriers, regional air carriers, business aviation, airports, aircraft manufacturers, the financial community, aviation industry workers, and airline passengers. At least one member of the task force shall have detailed knowledge of the congressional budgetary process.

(3) HEARINGS AND CONSULTATION.—

(a) HEARINGS.—The task force shall take such testimony and solicit and receive such comments from the public and other interested parties as it considers appropriate, shall conduct 2 public hearings after affording adequate notice to the public thereof, and is authorized to conduct such additional hearings as may be necessary.

(B) CONSULTATION.—The task force shall consult on a regular and frequent basis with the Secretary of Transportation, the Secretary of the Treasury, the Committee on Commerce, Science, and Transportation and the Committee on Finance of the Senate, and the Committee on Transportation and Infrastructure and the Committee on Ways and Means of the House of Representatives.

(C) FACA NOT TO APPLY.—The task force shall not be considered an advisory committee for purposes of the Federal Advisory Committee Act (5 U.S.C. App.).

(4) DUTIES.—

(A) REPORT TO SECRETARY.—

(i) IN GENERAL.—The task force shall submit a report setting forth a comprehensive analysis of the Administration's budgetary requirements through fiscal year 2002, based upon the independent assessment under subsection (a), that analyzes alternative financing and funding means for meeting the needs of the aviation system through the year 2002. The task force shall submit a preliminary report of that analysis to the Secretary not later than 6 months after the independent assessment is completed under subsection (a). The Secretary shall provide comments on the preliminary report to the task force within 30 days after receiving it. The task force shall issue a final report of such comprehensive analysis within 30 days after receiving the Secretary's comments on its preliminary report.

(i) CONTENTS.—The report submitted by the task force under clause (i)—

(I) shall consider the independent assessment under subsection (a);

(II) shall consider estimated cost savings, if any, resulting from the procurement and personnel reforms included in this Act or in sections 347 and 348 of Public Law 104–50, and additional financial initiatives;

(III) shall include specific recommendations to the Congress on how the Administration can reduce costs, raise additional revenue for the support of agency operations, and accelerate modernization efforts; and

(IV) shall include a draft bill containing the changes in law necessary to implement its recommendations.

(B) RECOMMENDATIONS.—The task force shall make such recommendations under subparagraph (A)(III) as the task force deems appropriate. Those recommendations may include—

(i) alternative financing and funding proposals, including linked financing proposals;

(ii) modifications to existing levels of Airports and Airways Trust Fund receipts and taxes for each type of tax;

(iii) establishment of a cost-based user fee system based on, but not limited to, criteria under subparagraph (F) and methods to ensure that costs are borne by users on a fair and equitable basis;

(iv) methods to ensure that funds collected from the aviation community are able to meet the needs of the agency;

(v) methods to ensure that funds collected from the aviation community and passengers are used to support the aviation system;

(vi) means of meeting the airport infrastructure needs for large, medium, and small airports; and

(vii) any other matter the task force deems appropriate to address the funding and needs of the Administration and the aviation system.

(C) ADDITIONAL RECOMMENDATIONS.—The task force report may also make recommendations concerning—

(i) means of improving productivity by expanding and accelerating the use of automation and other technology;

(ii) means of contracting out services consistent with this Act, other applicable law, and safety and national defense needs;

(iii) methods to accelerate air traffic control modernization and improvements in aviation safety and safety services;

(iv) the elimination of unneeded programs; and

(v) a limited innovative program based on funding mechanisms such as loan guarantees, financial partnerships with for-profit private sector entities, government-sponsored enterprises, and revolving loan funds, as a means of funding specific facilities and equipment projects, and to provide limited additional funding alternatives for airport capacity development.

(D) IMPACT ASSESSMENT FOR RECOMMENDATIONS.—For each recommendation contained in the task force's report, the report shall include a full analysis and assessment of the impact implementation of the recommendation would have on—

(i) safety;

(ii) administrative costs;

(iii) the congressional budget process;

(iv) the economics of the industry (including the proportionate share of all users);

(v) the ability of the Administration to utilize the sums collected; and

(vi) the funding needs of the Administration.

(E) TRUST FUND TAX RECOMMENDATIONS.—If the task force's report includes a recommendation that the existing Airport and Airways Trust Fund tax structure be modified, the report shall—

(i) state the specific rates for each group affected by the proposed modifications;

(ii) consider the impact such modifications shall have on specific users and the public (including passengers); and

(iii) state the basis for the recommendations.

(F) FEE SYSTEM RECOMMENDATIONS.—If the task force's report includes a recommendation that a fee system be established, including an air traffic control performance-based user fee system, the report shall consider—

(i) the impact such a recommendation would have on passengers, air fares (including low-fare, high frequency service), service, and competition;

(ii) existing contributions provided by individual air carriers toward funding the Administration and the air traffic control system through contributions to the Airport and Airways Trust Fund;

(iii) continuing the promotion of fair and competitive practices;

(iv) the unique circumstances associated with interisland air carrier service in Hawaii and rural air service in Alaska;

(v) the impact such a recommendation would have on service to small communities;

(vi) the impact such a recommendation would have on services provided by regional air carriers;

(vii) alternative methodologies for calculating fees so as to achieve a fair and reasonable distribution of costs of service among users;

(viii) the usefulness of phased-in approaches to implementing such a financing system;

(ix) means of assuring the provision of general fund contributions, as appropriate, toward the support of the Administration; and

(x) the provision of incentives to encourage greater efficiency in the provision of air traffic services by the Administration and greater efficiency in the use of air traffic services by aircraft operators.

(G) ACCESS TO DOCUMENTS AND STAFF.—The Administration may give the task force 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, United States Code (commonly known as the 'Freedom of Information Act') cost data associated with the acquisition and operation of air traffic service systems. Any member of the task force who receives commercial or other proprietary data from the Administrator shall be subject to the provisions of section 1905 of title 18, United States Code, pertaining to unauthorized disclosure of such information.

(H) TRAVEL AND PER DIEM.—Each member of the task force 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, United States Code.

(I) DETAIL OF PERSONNEL FROM THE ADMINISTRATION.—The Administrator shall make available to the task force such staff, information, and administrative services and assistance as may reasonably be required to enable the task force to carry out its responsibilities under this subsection.

(5) AUTHORIZATION OF APPROPRIATIONS.—There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this subsection.

(c) REPORT BY SECRETARY TO CONGRESS.—

(1) CONSIDERATION OF TASK FORCE'S PRELIMINARY REPORT.—Within 30 days after receiving the preliminary report of the task force under subsection (b), the Secretary, in consultation with the Secretary of the Treasury, shall furnish comments on that report to the task force.

(2) SECRETARY'S REPORT TO CONGRESS.—Within 30 days after receiving the final report of the task force and in no event more than 1 year after the date of enactment of this Act, the Secretary, after consulting the Secretary of the Treasury, shall submit a report, based upon the final report of the task force, containing the Secretary's recommendations for funding the needs of the aviation system through the year 2002 to the Committee on Commerce, Science, and Transportation and the Committee on Finance of the Senate and the Committee on Transportation and Infrastructure and the Committee on Ways amd Means of the House of Representatives.

(3) CONTENTS.—The Secretary shall include in his report to the Congress under paragraph (2)—

(A) a copy of the final report of the task force; and

(B) a draft bill containing the changes in law necessary to implement the Secretary's recommendations.

(4) PUBLICATION.—The Secretary shall cause a copy of the reports to be printed in the Federal Register upon their submission to Congress.

(d) GAO AUDIT OF COST ALLOCATION.—The Comptroller General shall conduct an assessment of the manner in which costs for air traffic control services are allocated between the Administration and the Department of Defense. The Comptroller General shall report the results of the assessment, together with any recommendations the Comptroller General may have for reallocation of costs and for opportunities to increase the efficiency of air traffic control services provided by the Administration and by the Department of Defense, to the task force, the Administrator, the Secretary of Defense, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Commerce, Science, and Transportation of the Senate not later than 120 days after the date of enactment of this Act.

SEC. 675. PROCEDURE FOR CONSIDERATION OF CERTAIN FUNDING PROPOSALS.

(a) IN GENERAL.—Chapter 481 is amended by adding at the end thereof the following:

"§ 48111. Funding proposals

"(a) INTRODUCTION AND REFERRAL.—Within 15 days (not counting any day on which either House is not in session) after a funding proposal is submitted to the House of Representatives and the Senate by the Secretary of Transportation under section 674(c) of the Air Traffic Management System Performance Improvement Act of 1996, an implementing bill with respect to such funding proposed shall be introduced in the House by the Majority Leader of the House, for himself and the Minority Leader of the House, or by Members of the House designated by the Majority Leader and Minority Leader of the House; and shall be introduced in the Senate by the Majority Leader of the Senate, for himself and the Minority Leader of the Senate, or by Members of the Senate designated by the Majority Leader and Minority Leader of the Senate. The implementing bill shall be referred by the Presiding Officers of the respective Houses to the appropriate committee, or, in the case of a bill containing provisions within the jurisdiction of two or more committees, jointly to such committees for consideration of those provisions within their respective jurisdictions.

"(b) CONSIDERATION IN THE HOUSE OF REPRESENTATIVES.—

"(1) REFERRAL AND REPORTING.—Any committee of the House of Representatives to which an implementing bill is referred shall report it, with or without recommendation, not later than the 45th calendar day of session after the date of its introduction. If any committee fails to report the bill within that period, it is in order to move that the House discharge the committee from further consideration of the bill. A motion to discharge may be made only by a Member favoring the bill (but only at a time or place designated by the Speaker in the legislative schedule of the day after the calendar day on which the Member offering the motion announces to the House his intention to do so and the form of the motion). The motion is highly privileged. Debate thereon shall be limited to not more than one hour, the time to be divided in the House equally between a proponent and an opponent. The previous question shall be considered as ordered on the motion to its adoption without intervening motion. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order.

"(2) CONSIDERATION OF IMPLEMENTING BILL.—After an implementing bill is reported or a committee has been discharged from further consideration, it is in order to move that the House resolve into the Committee of the Whole House on the State of the Union for consideration of the bill. If reported and the report has been available for at least one calendar day, all points of order against the bill and against consideration of the bill are waived. If discharged, all points of order against the bill and against consideration of the bill are waived. The motion is highly privileged. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. During consideration of the bill in the Committee of the Whole, the first reading of the bill shall be dispensed with. General debate shall proceed, shall be confined to the bill, and shall not exceed one hour equally divided and controlled by a proponent and an opponent of the bill. The bill shall be considered as read for amendment under the five-minute rule. Only one motion to rise shall be in order, except

if offered by the manager. No amendment to the bill is in order except an amendment that is relevant to aviation funding and the Federal Aviation Administration. Consideration of the bill for amendment shall not exceed one hour excluding time for recorded votes and quorum calls. No amendment shall be subject to further amendment, except pro forma amendments for the purposes of debate only. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion. A motion to reconsider the vote on passage of the bill shall not be in order.

''(3) APPEALS OF RULINGS.—Appeals from decision of the Chair regarding application of the rules of the House of Representatives to the procedure relating to an implementing bill shall be decided without debate.

''(4) CONSIDERATION OF MORE THAN ONE IMPLEMENTING BILL.—It shall not be in order to consider under this subsection more than one implementing bill under this section, except for consideration of a similar Senate bill (unless the House has already rejected an implementing bill) or more than one motion to discharge described in paragraph (1) with respect to an implementing bill.

''(c) CONSIDERATION IN THE SENATE.—

''(1) REFERRAL AND REPORTING.—An implementing bill introduced in the Senate shall be referred to the appropriate committee or committees. A committee to which an implementing bill has been referred shall report the bill not later than the 45th day of session following the date of introduction of that bill. If any committee fails to report the bill within that period, then it shall be in order to move to discharge the committee from further consideration of the bill under rule 17.4 of the Standing Rules of the Senate, and the bill shall be placed on the Calendar. A motion to discharge the committee from further consideration of an implementing bill under this paragraph shall not be debatable. It shall not be in order to move to reconsider the vote by which the motion to discharge was adopted or rejected, although subsequent motions to discharge may be made under this paragraph.

''(2) IMPLEMENTING BILL FROM HOUSE.—When the Senate receives from the House of Representatives an implementing bill, the bill shall not be referred to committee and shall be placed on the Calendar.

''(3) CONSIDERATION OF SINGLE IMPLEMENTING BILL.—After the Senate has proceeded to the consideration of an implementing bill under this subsection, then no other implementing bill originating in that same House shall be subject to the procedures set forth in this subsection.

''(4) AMENDMENTS.—No amendment to the bill is in order except an amendment that is relevant to aviation funding and the Federal Aviation Administration. Consideration of the bill for amendment shall not exceed one hour excluding time for recorded votes and quorum calls. No amendment shall be subject to further amendment, except for perfecting amendments.

''(5) MOTION NONDEBATABLE.—A motion to proceed to consideration of an implementing bill under this subsection shall not be debatable. It shall not be in order to move to reconsider the vote by which the motion to proceed was adopted or rejected, although subsequent motions to proceed may be made under this paragraph.

''(6) LIMIT ON CONSIDERATION.—

''(A) After no more than 20 hours of consideration of an implementing bill, the Senate shall proceed, without intervening action or debate (except as permitted under paragraph (9)), to vote on the final disposition thereof to the exclusion of all amendments not then pending and to the exclusion of all motions, except a motion to reconsider or table.

''(B) The time for debate on the implementing bill shall be equally divided between the Majority Leader and the Minority Leader or their designees.

''(7) DEBATE OF AMENDMENTS.—Debate on any amendment to an implementing bill shall be limited to one hour, equally divided and controlled by the Senator proposing the amendment and the majority manager, unless the majority manager is in favor of the amendment, in which case the minority manager shall be in control of the time in opposition.

''(8) NO MOTION TO RECOMMIT.—A motion to recommit an implementing bill shall not be in order.

''(9) DISPOSITION OF SENATE BILL.—If the Senate has read for the third time an implementing bill that originated in the Senate, then it shall be in order at any time thereafter to move to proceed to the consideration of an implementing bill for the same special message received from the House of Representatives and placed on the Calendar pursuant to paragraph (2), strike all after the enacting clause, substitute the text of the Senate implementing bill, agree to the Senate amendment, and vote on final disposition of the House implementing bill, all without any intervening action or debate.

''(10) CONSIDERATION OF HOUSE MESSAGE.—Consideration in the Senate of all motions, amendments, or appeals necessary to dispose of a message from the House of Representatives on an implementing bill shall be limited to not more than 4 hours. Debate on each motion or amendment shall be limited to 30 minutes. Debate on any appeal or point of order that is submitted in connection with the disposition of the House message shall be limited to 20 minutes. Any time for debate shall be equally divided and controlled by the proponent and the majority manager, unless the majority manager is a proponent of the motion, amendment, appeal, or point of order, in which case the minority manager shall be in control of the time in opposition.

''(d) CONSIDERATION IN CONFERENCE.—

''(1) CONVENING OF CONFERENCE.—In the case of disagreement between the two Houses of Congress with respect to an implementing bill passed by both Houses, conferees should be promptly appointed and a conference promptly convened, if necessary.

''(2) HOUSE CONSIDERATION.—Notwithstanding any other rule of the House of Representatives, it shall be in order to consider the report of a committee of conference relating to an implementing bill if such report has been available for one calendar day (excluding Saturdays, Sundays, and legal holidays, unless the House is in session on such a day) and the accompanying statement shall have been filed in the House.

''(3) SENATE CONSIDERATION.—Consideration in the Senate of the conference report and any amendments in disagreement on an implementing bill shall be limited to not more than 4 hours equally divided and controlled by the Majority Leader and the Minority Leader or their designees. A motion to recommit the conference report is not in order.

''(e) DEFINITIONS.—For purposes of this section—

''(1) IMPLEMENTING BILL.—The term 'implementing bill' means only a bill of either House of Congress which is introduced as provided in subsection (a) with respect to one or more Federal Aviation Administration funding proposals which contain changes in existing laws or new statutory authority required to implement such funding proposal or proposals.

''(2) FUNDING PROPOSAL.—The term 'funding proposal' means a proposal to provide interim or permanent funding for operations of the Federal Aviation Administration.

''(f) RULES OF HOUSE OF REPRESENTATIVES AND SENATE.—This section is enacted by the Congress—

''(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of implementing bills described in subsection (d); and they supersede other rules only to the extent that they are inconsistent therewith; and

''(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 481 is amended by adding at the end thereof the following:

''48111. Funding proposals.''.

SEC. 676. ADMINISTRATIVE PROVISIONS.

(a) IN GENERAL.—Chapter 453, as amended by section 654 of this title, is further amended by—

(1) redesignating section 45303 as section 45304; and

(2) by inserting after section 45302 the following:

''§ 45303. Administrative provisions

''(a) IN GENERAL.—

''(1) FEES PAYABLE TO ADMINISTRATOR.—All fees imposed and amounts collected under this chapter for services performed, or materials furnished, by the Federal Aviation Administration (hereafter in this section referred to as 'Administration') are payable to the Administrator.

''(2) REFUNDS.—The Administrator may refund any fee paid by mistake or any amount paid in excess of that required.

''(3) RECEIPTS CREDITED TO ACCOUNT.—Notwithstanding section 3302 of title 31 all fees and amounts collected by the Administration, except insurance premiums and other fees charged for the provision of insurance and deposited in the Aviation Insurance Revolving Fund and interest earned on investments of such Fund, and except amounts which on the date of enactment of the Air Traffic Management System Performance Improvement Act of 1996 are required to be credited to the general fund of the Treasury (whether imposed under this section or not)—

''(A) shall be credited to a separate account established in the Treasury and made available for Administration activities as offsetting collections;

''(B) shall be available immediately for expenditure but only for congressionally authorized and intended purposes; and

''(C) shall remain available until expended.

''(4) ANNUAL BUDGET REPORT BY ADMINISTRATOR.—The Administrator shall, on the same day each year as the President submits the annual budget to the Congress, provide to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives—

''(A) a list of fee collections by the Administration during the preceding fiscal year;

''(B) a list of activities by the Administration during the preceding fiscal year that were supported by fee expenditures and appropriations;

''(C) budget plans for significant programs, projects, and activities of the Administration, including out-year funding estimates;

''(D) any proposed disposition of surplus fees by the Administration; and

''(E) such other information as those committees consider necessary.

''(5) DEVELOPMENT OF COST ACCOUNTING SYSTEM.—The Administration shall develop a cost accounting system that adequately and accurately reflects the investments, operating and overhead costs, revenues, and other financial measurement and reporting aspects of its operations.

''(6) COMPENSATION TO CARRIERS FOR ACTING AS COLLECTION AGENTS.—The Administration shall prescribe regulations to ensure that any air carrier required, pursuant to the Air Traffic Management System Performance Improvement Act of 1996 or any amendments made by that Act, to collect a fee imposed on another party by the Administrator may collect from such other party an additional uniform amount that the Administrator determines reflects the necessary and reasonable expenses (net of interest accruing to the carrier after collection and before remittance) incurred in collecting and handling the fee.

''(7) COST REDUCTION AND EFFICIENCY REPORT.—Prior to the submission of any proposal for establishment, implementation, or expansion of any fees or taxes imposed on the aviation industry, the Administrator shall prepare a report for submission to the Congress which includes—

''(A) a justification of the need for the proposed fees or taxes;

''(B) a statement of steps taken by the Administrator to reduce costs and improve efficiency within the Administration;

''(C) an analysis of the impact of any fee or tax increase on each sector of the aviation transportation industry; and

''(D) a comparative analysis of any decrease in tax amounts equal to the receipts from which are credited to the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 453 is amended by striking the item relating to section 45303 and inserting the following:

''45303. Administrative provisions.
''45304. Maximum fees for private person services.''.

SEC. 677. ADVANCE APPROPRIATIONS FOR AIRPORT AND AIRWAY TRUST FUND ACTIVITIES.

(a) IN GENERAL.—Part C of subtitle VII is amended by adding at the end the following new chapter:

''CHAPTER 482—ADVANCE APPROPRIATIONS FOR AIRPORT AND AIRWAY TRUST FACILITIES

''Sec.
''48201. Advance appropriations.

''§ 48201. Advance appropriations

''(a) MULTIYEAR AUTHORIZATIONS.—Beginning with fiscal year 1998, any authorization of appropriations for an activity for which amounts are to be appropriated from the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 shall provide funds for a period of not less than 3 fiscal years unless the activity for which appropriations are authorized is to be concluded before the end of that period.

''(b) MULTIYEAR APPROPRIATIONS.—Beginning with fiscal year 1998, amounts appropriated from the Airport and Airway Trust Fund shall be appropriated for periods of 3 fiscal years rather than annually.''.

(c) CONFORMING AMENDMENT.—The analysis for subtitle VIII is amended by adding at the end the following new item:

''482. Advance appropriations for airport and airway trust facilities ..... 48201.''.

SEC. 678. RURAL AIR SERVICE SURVIVAL ACT.

(a) SHORT TITLE.—This section may be cited as the ''Rural Air Service Survival Act''.

(b) FINDINGS.—The Congress finds that—

(1) air service in rural areas is essential to a national transportation network;

(2) the rural air service infrastructure supports the safe operation of all air travel;

(3) rural air service creates economic benefits for all air carriers by making the national aviation system available to passengers from rural areas;

(4) rural air service has suffered since deregulation;

(5) the essential air service program under the Department of Transportation—

(A) provides essential airline access to rural and isolated rural communities throughout the Nation;

(B) is necessary for the economic growth and development of rural communities;

(C) is a critical component of the national transportation system of the United States; and

(D) has endured serious funding cuts in recent years; and

(6) a reliable source of funding must be established to maintain air service in rural areas and the essential air service program.

(c) ESSENTIAL AIR SERVICE AUTHORIZATION.—Section 41742 is amended to read as follows:

''§ 41742. Essential air service authorization

''(a) IN GENERAL.—Out of the amounts received by the Administration credited to the account established under section 45303(a)(3) or otherwise provided to the Administration, the sum of $50,000,000 is authorized and shall be made available immediately for obligation and expenditure to carry out the essential air service program under this subchapter for each fiscal year.

''(b) FUNDING FOR SMALL COMMUNITY AIR SERVICE.—Notwithstanding any other provision of law, moneys credited to the account established under section 45303(a), including the funds derived from fees imposed under the authority contained in section 45301(a), shall be used to carry out the essential air service program under this subchapter. Notwithstanding section 47114(g) of this title, any amounts from those fees that are not obligated or expended at the end of the fiscal year for the purpose of funding the essential air service program under this subchapter shall be made available to the Administration for use in improving rural air safety under subchapter I of chapter 471 of this title and shall be used exclusively for projects at rural airports under this subchapter.''.

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

''41742. Essential air service authorization.''.

(e) SECRETARY MAY REQUIRE MATCHING LOCAL FUNDS.—Section 41737 is amended by adding at the end thereof the following:

''(e) MATCHING FUNDS.—No earlier than 2 years after the effective date of section 679 of the Air Traffic Management System Performance Improvement Act of 1996, the Secretary may require an eligible agency, as defined in section 40117(a)(2) of this title, to provide matching funds of up to 10 percent for any payments it receives under this subchapter.''.

(f) TRANSFER OF ESSENTIAL AIR SERVICE PROGRAM TO FAA.—The responsibility for administration of subchapter II of chapter 417 is transferred from the Secretary of Transportation to the Administrator.

TITLE VII—PILOT RECORDS

SEC. 701. SHORT TITLE.

This title may be cited as the ''Pilot Records Improvement Act of 1996''.

SEC. 702. EMPLOYMENT INVESTIGATIONS OF PILOT APPLICANTS.

(a) IN GENERAL.—Section 44936 is amended by adding at the end the following new subsection:

''(f) RECORDS OF EMPLOYMENT OF PILOT APPLICANTS.—

''(1) IN GENERAL.—Before hiring an individual as a pilot, an air carrier shall request and receive the following information:

''(A) FAA RECORDS.—From the Administrator of the Federal Aviation Administration (hereafter in this subsection referred to as the 'Administrator'), records pertaining to the individual that are maintained by the Administrator concerning—

''(i) current airman certificates (including airman medical certificates) and associated type ratings, including any limitations to those certificates and ratings; and

''(ii) summaries of legal enforcement actions resulting in a finding by the Administrator of a violation of this title or a regulation prescribed or order issued under this title that was not subsequently overturned.

''(B) AIR CARRIER AND OTHER RECORDS.—From any air carrier or other person that has employed the individual at any time during the 5-year period preceding the date of the employment application of the individual, or from the trustee in bankruptcy for such air carrier or person—

''(i) records pertaining to the individual that are maintained by an air carrier under regulations set forth in—

''(I) section 121.683 of title 14, Code of Federal Regulations;

''(II) paragraph (A) of section VI, appendix I, part 121 of such title;

''(III) paragraph (A) of section IV, appendix J, part 121 of such title;

''(IV) section 125.401 of such title; and

''(V) section 135.63(a)(4) of such title; and

''(ii) other records pertaining to the individual that are maintained by the air carrier or person concerning—

''(I) the training, qualifications, proficiency, or professional competence of the individual, including comments and evaluations made by a check airman designated in accordance with section 121.411, 125.295, or 135.337 of such title;

''(II) any disciplinary action taken with respect to the individual that was not subsequently overturned; and

''(III) any release from employment or resignation, termination, or disqualification with respect to employment.

''(C) NATIONAL DRIVER REGISTER RECORDS.—In accordance with section 30305(b)(7), from the chief driver licensing official of a State, information concerning the motor vehicle driving record of the individual.

''(2) WRITTEN CONSENT; RELEASE FROM LIABILITY.—An air carrier making a request for records under paragraph (1)—

''(A) shall be required to obtain written consent to the release of those records from the individual that is the subject of the records requested; and

''(B) may, notwithstanding any other provision of law or agreement to the contrary, require the individual who is the subject of the records to request to execute a release from liability for any claim arising from the furnishing of such records to or the use of such records by such air carrier (other than a claim arising from furnishing information known to be false and maintained in violation of a criminal statute).

''(3) 5-YEAR REPORTING PERIOD.—A person shall not furnish a record in response to a request made under paragraph (1) if the record was entered more than 5 years before the date of the request, unless the information concerns a revocation or suspension of an airman certificate or motor vehicle license that is in effect on the date of the request.

''(4) REQUIREMENT TO MAINTAIN RECORDS.—The Administrator shall maintain pilot records described in paragraph (1)(A) for a period of at least 5 years.

''(5) RECRIPT OF CONSENT; PROVISION OF INFORMATION.—A person shall not furnish a

record in response to a request made under paragraph (1) without first obtaining a copy of the written consent of the individual who is the subject of the records requested. A person who receives a request for records under this paragraph shall furnish a copy of all of such requested records maintained by the person not later than 30 days after receiving the request.

''(6) RIGHT TO RECEIVE NOTICE AND COPY OF ANY RECORD FURNISHED.—A person who receives a request for records under paragraph (1) shall provide to the individual who is the subject of the records—

''(A) written notice of the request and of the right of that individual to receive a copy of such records; and

''(B) a copy of such records, if requested by the individual.

''(7) REASONABLE CHARGES FOR PROCESSING REQUESTS AND FURNISHING COPIES.—A person who receives a request under paragraph (1) or (6) may establish a reasonable charge for the cost of processing the request and furnishing copies of the requested records.

''(8) STANDARD FORMS.—The Administrator shall promulgate—

''(A) standard forms that may be used by an air carrier to request records under paragraph (1); and

''(B) standard forms that may be used by an air carrier to—

''(i) obtain the written consent of the individual who is the subject of a request under paragraph (1); and

''(ii) inform the individual of—

''(I) the request; and

''(II) the individual right of that individual to receive a copy of any records furnished in response to the request.

''(9) RIGHT TO CORRECT INACCURACIES.—An air carrier that maintains or requests and receives the records of an individual under paragraph (1) shall provide the individual with a reasonable opportunity to submit written comments to correct any inaccuracies contained in the records before making a final hiring decision with respect to the individual.

''(10) RIGHT OF PILOT TO REVIEW CERTAIN RECORDS.—Notwithstanding any other provision of law or agreement, an air carrier shall, upon written request from a pilot employed by such carrier, make available, within a reasonable time of the request, to the pilot for review, any and all employment records referred to in paragraph (1)(B) (i) or (ii) pertaining to the employment of the pilot.

''(11) PRIVACY PROTECTIONS.—An air carrier that receives the records of an individual under paragraph (1) may use such records only to assess the qualifications of the individual in deciding whether or not to hire the individual as a pilot. The air carrier shall take such actions as may be necessary to protect the privacy of the pilot and the confidentiality of the records, including ensuring that information contained in the records is not divulged to any individual that is not directly involved in the hiring decision.

''(12) PERIODIC REVIEW.—Not later than 18 months after the date of enactment of the Pilot Records Improvement Act of 1996, and at least once every 3 years thereafter, the Administrator shall transmit to the Congress a statement that contains, taking into account recent developments in the aviation industry—

''(A) recommendations by the Administrator concerning proposed changes to Federal Aviation Administration records, air carrier records, and other records required to be furnished under subparagraphs (A) and (B) of paragraph (1); or

''(B) reasons why the Administrator does not recommend any proposed changes to the records referred to in subparagraph (A).

''(13) REGULATIONS.—The Administrator may prescribe such regulations as may be necessary—

''(A) to protect—

''(i) the personal privacy of any individual whose records are requested under paragraph (1); and

''(ii) the confidentiality of those records;

''(B) to preclude the further dissemination of records received under paragraph (1) by the person who requested those records; and

''(C) to ensure prompt compliance with any request made under paragraph (1).

''(g) LIMITATION ON LIABILITY; PREEMPTION OF STATE LAW.—

''(1) LIMITATION ON LIABILITY.—No action or proceeding may be brought by or on behalf of an individual who has applied for or is seeking a position with an air carrier as a pilot and who has signed a release from liability, as provided for under paragraph (2), against—

''(A) the air carrier requesting the records of that individual under subsection (a)(1);

''(B) a person who has complied with such request; or

''(C) an agent or employee of a person described in subparagraph (A) or (B);

in the nature of an action for defamation, invasion of privacy, negligence, interference with contract, or otherwise, or under any Federal or State law with respect to the furnishing or use of such records in accordance with subsection (a).

''(2) PREEMPTION.—No State or political subdivision thereof may enact, prescribe, issue, continue in effect, or enforce any law (including any regulation, standard, or other provision having the force and effect of law) that prohibits, penalizes, or imposes liability for furnishing or using records in accordance with subsection (a).

''(3) PROVISION OF KNOWINGLY FALSE INFORMATION.—Paragraph (1) and (2) shall not apply with respect to a person who furnishes information in response to a request made under subsection (f)(1), that—

''(A) the person knows is false; and

''(B) was maintained in violation of a criminal statute of the United States.''.

(b) CONFORMING AMENDMENT.—Section 30305(b) is amended—

(1) by redesignating paragraph (7) as paragraph (8); and

(2) by inserting after paragraph (6) the following;

''(7) An individual who is seeking employment by an air carrier as a pilot may request the chief driver licensing official of a State to provide information about the individual under paragraph (2) to the prospective employer of the individual or to the Secretary of Transportation. Information may not be obtained from the National Driver Register under this subsection if the information was entered in the Register more than 5 years before the request unless the information is about a revocation or suspension still in effect on the date of the request.''.

(c) APPLICABILITY.—The amendments made by this section shall apply to any air carrier hiring an individual as a pilot whose application was first received by the carrier on or after the 120th day after the date of enactment of this Act.

SEC. 703. STUDY OF MINIMUM STANDARDS FOR PILOT QUALIFICATIONS.

The Administrator shall appoint a task force consisting of appropriate representatives of the aviation industry to conduct a study directed toward the development of—

(1) standards and criteria for preemployment screening tests measuring the psychomotor coordination, general intellectual capacity, instrument and mechanical comprehension, and physical and mental fitness of an applicant for employment as a pilot by an air carrier; and

(2) standards and criteria for pilot training facilities to be licensed by the Administrator and which will assure that pilots trained at such facilities meet the preemployment screening standards and criteria described in paragraph (1).

TITLE VIII-ABOLITION OF BOARD OF REVIEW

SEC. 801. ABOLITION OF BOARD OF REVIEW AND RELATED AUTHORITY.

(a) ABOLITION OF BOARD OF REVIEW.—Section 6007 of the Metropolitan Washington Airports Act of 1986 (formerly 49 U.S.C. App. 2456) is amended—

(1) by striking subsections (f) and (h);

(2) by redesignating subsection (g) as subsection (f); and

(3) by redesignating subsection (i) as subsection (g).

(b) CONFORMING AMENDMENTS.—

(1) RELATIONSHIP TO AND EFFECT OF OTHER LAWS.—Section 6009(b) of the Metropolitan Washington Airports Act of 1986 (formerly 49 U.S.C. App. 2458(b)) is amended by striking ''or by reason of the authority'' and all that follows through the end of the subsection and inserting a period.

(2) SEPARABILITY.—Section 6011 of the Metropolitan Washington Airports Act of 1986 (formerly 49 U.S.C. App. 2460) is amended by striking ''Except as provided in section 6007(h), if'' and inserting ''If''.

(c) PROTECTION OF CERTAIN ACTIONS.—Any action taken by the Airports Authority and submitted to the Board of Review pursuant to section 6007(f)(4) of the Metropolitan Washington Airports Act of 1986 before April 1, 1995, shall remain in effect and shall not be set aside solely by reason of a judicial order invalidating certain functions of the Board.

SEC. 802. SENSE OF THE SENATE.

It is the sense of the Senate that the Airports Authority—

(1) should not provide any reserved parking areas free of charge to Members of Congress, other Government officials, or diplomats at Washington National Airport or Washington Dulles International Airport; and

(2) should establish a parking policy for such airports that provides equal access to the public, and does not provide preferential parking privileges to Members of Congress, other Government officials, or diplomats.

SEC. 803. CONFORMING AMENDMENTS IN OTHER LAW.

Any reference in any Federal law, Executive order, rule, regulation, or delegation of authority to the Board of Review or the provisions of law repealed under this title is hereby repealed.

SEC. 804. DEFINITIONS.

For purposes of this title—

(1) the terms ''Airports Authority'', ''Washington National Airport'', and ''Washington Dulles International Airport'' have the same meanings as in section 6004 of the Metropolitan Washington Airports Act of 1986; and

(2) the term ''Board of Review'' means the Board of Review of the Airports Authority.

SEC. 805. INCREASE IN NUMBER OF PRESIDENTIALLY APPOINTED MEMBERS OF BOARD.

(a) IN GENERAL.—Section 6007(e) of the Metropolitan Washington Airports Act of 1986 (formerly 49 U.S.C. 2456(e)) is amended—

(1) by striking ''11 members,'' in paragraph (1) and inserting ''13 members,'';

(2) by striking ''one member'' in paragraph (1)(D) and inserting ''3 members''; and

(3) by striking ''Seven'' in paragraph (5) and inserting ''Eight''.

(b) STAGGERING TERMS FOR PRESIDENTIAL APPOINTEES.—Of the members first appointed by the President after the date of enactment of this Act—

(1) one shall be appointed for a term that expires simultaneously with the term of the

member of the Metropolitan Washington Airports Authority board of directors serving on that date (or, if there is a vacancy in that office, the member appointed to fill the existing vacancy and the member to whom this paragraph applies shall be appointed for 2 years);

(2) one shall be appointed for a term ending 2 years after the term of the member (or members) to whom paragraph (1) applies expires; and

(3) one shall be appointed for a term ending 4 years after the term of the member (or members) to whom paragraph (1) applies expires.

SEC. 806. RECONSTITUTED BOARD TO FUNCTION WITHOUT INTERRUPTION.

Notwithstanding any provision of State law, including those provisions establishing, providing for the establishment of, or recognizing the Metropolitan Washington Airports Authority, and based upon the Federal interest in the continued functions of the Metropolitan Washington Airports (as defined in section 6004(4) of the Metropolitan Washington Airports Authority Act of 1986 (formerly 49 U.S.C. 2451(4)), the board of directors of such Authority, including any members appointed under the amendments made by section 805, shall continue to meet and act after the date of enactment of this Act until such time as necessary conforming changes in State law are made in the same manner as if those conforming changes had been enacted on the date of enactment of this Act.

SEC. 807. OPERATIONAL SLOTS AT NATIONAL AIRPORT.

Nothing in this title shall affect the number or distribution of operational slots at National Airport.

SEC. 808. AIRPORTS AUTHORITY SUPPORT OF BOARD.

Section 6005 of the Metropolitan Washington Airports Authority Act of 1986 (formerly 49 U.S.C. 2454) is amended by adding at the end thereof the following:

''(f) FEDERAL AGENCY OVERSIGHT.—The Airports Authority shall not be required—

''(1) to pay any person;

''(2) to provide office space or administrative support; or

''(3) to reimburse the Secretary of Transportation for expenses incurred,

for carrying out any Federal agency oversight responsibilities under this Act. Nothing in this subsection precludes the Airport Authority from providing services or expenses to any member of the Board of Directors.''.

TITLE IX—AIRPORT REVENUE PROTECTION

SEC. 901. SHORT TITLE.

This title may be cited as the ''Airport Revenue Protection Act of 1996''.

SEC. 902. FINDINGS; PURPOSE.

(a) IN GENERAL.—The Congress finds that—

(1) section 47107 of title 49, United States Code, prohibits the diversion of certain revenue generated by a public airport as a condition of receiving a project grant;

(2) a grant recipient that uses airport revenue for purposes that are not airport related in a manner inconsistent with chapter 471 of title 49, United States Code, illegally diverts airport revenues;

(3) any diversion of airport revenues in violation of the condition referred to in paragraph (1) undermines the interest of the United States in promoting a strong national air transportation system that is responsive to the needs of airport users;

(4) the Secretary and the Administrator have not enforced airport revenue diversion rules adequately and must have additional regulatory tools to increase enforcement efforts; and

(5) sponsors who have been found to have illegally diverted airport revenues—

(A) have not reimbursed or made restitution to airports in a timely manner; and

(B) must be encouraged to do so.

(b) PURPOSE.—The purpose of this title is to ensure that airport users are not burdened with hidden taxation for unrelated municipal services and activities by—

(1) eliminating the ability of any State or political subdivision thereof that is a recipient of a project grant to divert airport revenues for purposes that are not related to an airport, in violation of section 47107 of title 49, United States Code;

(2) imposing financial reporting requirements that are designed to identify instances of illegal diversions referred to in paragraph (1);

(3) establishing a statute of limitations for airport revenue diversion actions;

(4) clarifying limitations on revenue diversion that are permitted under chapter 471 of title 49, United States Code; and

(5) establishing clear penalties and enforcement mechanisms for identifying and prosecuting airport revenue diversion.

SEC. 903. DEFINITIONS.

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

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Federal Aviation Administration.

(2) AIRPORT.—The term ''airport'' has the meaning provided that term in section 47102(2) of title 49, United States Code.

(3) PROJECT GRANT.—The term ''project grant'' has the meaning provided that term in section 47102(14) of title 49, United States Code.

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

(5) SPONSOR.—The term ''sponsor'' has the meaning provided that term in section 47102(19) of title 49, United States Code.

SEC. 904. RESTRICTION ON USE OF AIRPORT REVENUES.

(a) IN GENERAL.—Subchapter I of chapter 471, as amended by section 201(a) of this Act, is further amended by adding at the end of subchapter I the following new section:

''§ 47133. Restriction on use of revenues

''(a) PROHIBITION.—Local taxes on aviation fuel (except taxes in effect on December 30, 1987) or the revenues generated by an airport that is the subject of Federal assistance may not be expended for any purpose other than the capital or operating costs of—

''(1) the airport;

''(2) the local airport system; or

''(3) any other local facility that is owned or operated by the person or entity that owns or operates the airport that is directly and substantially related to the air transportation of passengers or property.

''(b) EXCEPTIONS.—Subsection (a) shall not apply if a provision enacted not later than September 2, 1982, in a law controlling financing by the airport owner or operator, or a covenant or assurance in a debt obligation issued not later than September 2, 1982, by the owner or operator, provides that the revenues, including local taxes on aviation fuel at public airports, from any of the facilities of the owner or operator, including the airport, be used to support not only the airport but also the general debt obligations or other facilities of the owner or operator.

''(c) RULE OF CONSTRUCTION.—Nothing in this section may be construed to prevent the use of a State tax on aviation fuel to support a State aviation program or the use of airport revenue on or off the airport for a noise mitigation purpose.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for subchapter I of chapter 471 is amended by adding at the end the following new item:

''47133. Restriction on use of revenues.''.

SEC. 905. REGULATIONS; AUDITS AND ACCOUNTABILITY.

(a) IN GENERAL.—Section 47107 is amended by adding at the end the following new subsections:

''(m) AUDIT CERTIFICATION.—

''(1) IN GENERAL.—The Secretary of Transportation (hereafter in this section referred to as the 'Secretary'), acting through the Administrator of the Federal Aviation Administration (hereafter in this section referred to as the 'Administrator'), shall promulgate regulations that require a recipient of a project grant (or any other recipient of Federal financial assistance that is provided for an airport) to include as part of an annual audit conducted under sections 7501 through 7505 of title 31, a review and opinion of the review concerning the funding activities with respect to an airport that is the subject of the project grant (or other Federal financial assistance) and the sponsors, owners, or operators (or other recipients) involved.

''(2) CONTENT OF REVIEW.—A review conducted under paragraph (1) shall provide reasonable assurances that funds paid or transferred to sponsors are paid or transferred in a manner consistent with the applicable requirements of this chapter and any other applicable provision of law (including regulations promulgated by the Secretary or the Administrator).

''(3) REQUIREMENTS FOR AUDIT REPORT.—The report submitted to the Secretary under this subsection shall include a specific determination and opinion regarding the appropriateness of the disposition of airport funds paid or transferred to a sponsor.

''(n) RECOVERY OF ILLEGALLY DIVERTED FUNDS.—

''(1) IN GENERAL.—Not later than 180 days after the issuance of an audit or any other report that identifies an illegal diversion of airport revenues (as determined under subsections (b) and (l) and section 47133), the Secretary, acting through the Administrator, shall—

''(A) review the audit or report;

''(B) perform appropriate factfinding; and

''(C) conduct a hearing and render a final determination concerning whether the illegal diversion of airport revenues asserted in the audit or report occurred.

''(2) NOTIFICATION.—Upon making such a finding, the Secretary, acting through the Administrator, shall provide written notification to the sponsor and the airport of—

''(A) the finding; and

''(B) the obligations of the sponsor to reimburse the airport involved under this paragraph.

''(3) ADMINISTRATIVE ACTION.—The Secretary may withhold any amount from funds that would otherwise be made available to the sponsor, including funds that would otherwise be made available to a State, municipality, or political subdivision thereof (including any multimodal transportation agency or transit authority of which the sponsor is a member entity) as part of an appointment or grant made available pursuant to this title, if the sponsor—

''(A) receives notification that the sponsor is required to reimburse an airport; and

''(B) has had an opportunity to reimburse the airport, but has failed to do so.

''(4) CIVIL ACTION.—If a sponsor fails to pay an amount specified under paragraph (3) during the 180-day period beginning on the date of notification and the Secretary is unable to withhold a sufficient amount under paragraph (3), the Secretary, acting through the Administrator, may initiate a civil action under which the sponsor shall be liable for civil penalty in an amount equal to the illegal diversion in question plus interest (as determined under subsection (o)).

''(5) DISPOSITION OF PENALTIES.—

''(A) AMOUNTS WITHHELD.—The Secretary or the Administrator shall transfer any amounts withheld under paragraph (3) to the Airport and Airway Trust Fund.

''(B) CIVIL PENALTIES.—With respect to any amount collected by a court in a civil action under paragraph (4), the court shall cause to be transferred to the Airport and Airway Trust Fund any amount collected as a civil penalty under paragraph (4).

''(6) REIMBURSEMENT.—The Secretary, acting through the Administrator, shall, as soon as practicable after any amount is collected from a sponsor under paragraph (4), cause to be transferred from the Airport and Airway Trust Fund to an airport affected by a diversion that is the subject of a civil action under paragraph (4), reimbursement in an amount equal to the amount that has been collected from the sponsors under paragraph (4) (including any amount of interest calculated under subsection (o)).

''(7) STATUTE OF LIMITATION.—No person may bring an action for the recovery of funds illegally diverted in violation of this section (as determined under subsections (b) and (*l*)) or section 47133 after the date that is 6 years after the date on which the diversion occurred.

''(o) INTEREST.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary, acting through the Administrator, shall charge a minimum annual rate of interest on the amount of any illegal diversion of revenues referred to in subsection (n) in an amount equal to the average investment interest rate for tax and loan accounts of the Department of the Treasury (as determined by the Secretary of the Treasury) for the applicable calendar year, rounded to the nearest whole percentage point.

''(2) ADJUSTMENT OF INTEREST RATES.—If, with respect to a calendar quarter, the average investment interest rate for tax and loan accounts of the Department of the Treasury exceeds the average investment interest rate for the immediately preceding calendar quarter, rounded to the nearest whole percentage point, the Secretary of the Treasury may adjust the interest rate charged under this subsection in a manner that reflects that change.

''(3) ACCRUAL.—Interest assessed under subsection (n) shall accrue from the date of the actual illegal diversion of revenues referred to in subsection (n).

''(4) DETERMINATION OF APPLICABLE RATE.—The applicable rate of interest charged under paragraph (1) shall—

''(A) be the rate in effect on the date on which interest begins to accrue under paragraph (3); and

''(B) remain at a rate fixed under subparagraph (A) during the duration of the indebtedness.

''(p) PAYMENT BY AIRPORT TO SPONSOR.—If, in the course of an audit or other review conducted under this section, the Secretary or the Administrator determines that an airport owes a sponsor funds as a result of activities conducted by the sponsor or expenditures by the sponsor for the benefit of the airport, interest on that amount shall be determined in the same manner as provided in paragraphs (1) through (4) of subsection (o), except that the amount of any interest assessed under this subsection shall be determined from the date on which the Secretary or the Administrator makes that determination.''.

(b) REVISION OF POLICIES AND PROCEDURES; DEADLINES.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary, acting through the Administrator, shall revise the policies and procedures established under section 47107(*l*) of title 49, United States Code, to take into account the amendments made to that section by this title.

(2) STATUTE OF LIMITATIONS.—Section 47107(*l*) is amended by adding at the end the following new paragraph:

''(5) STATUTE OF LIMITATIONS.—In addition to the statute of limitations specified in subsection (n)(7), with respect to project grants made under this chapter—

''(A) any request by a sponsor to any airport for additional payments for services conducted off of the airport or for reimbursement for capital contributions or operating expenses shall be filed not later than 6 years after the date on which the expense is incurred; and

''(B) any amount of airport funds that are used to make a payment or reimbursement as described in subparagraph (A) after the date specified in that subparagraph shall be considered to be an illegal diversion of airport revenues that is subject to subsection (n).''.

SEC. 906. CONFORMING AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.

Section 9502 of the Internal Revenue Code of 1986 is amended—

(1) by striking ''and'' at the end of subsection (b)(3);

(2) by striking the period at the end of subsection (b)(4) and inserting '', and''; and

(3) by adding at the end of subsection (b) the following:

''(5) amounts determined by the Secretary of the Treasury to be equivalent to the amounts of civil penalties collected under section 47107(n) of title 49, United States Code.''; and

(4) in subsection (d), by adding at the end of subsection (d) the following:

''(4) TRANSFERS FROM THE AIRPORT AND AIRWAY TRUST FUND ON ACCOUNT OF CERTAIN AIRPORTS.—The Secretary of the Treasury may transfer from the Airport and Airway Trust Fund to the Secretary of Transportation or the Administrator of the Federal Aviation Administration an amount to make a payment to an airport affected by a diversion that is the subject of an administrative action under paragraph (3) or a civil action under paragraph (4) of section 47107(n) of title 49, United States Code.''.

CHAFEE (AND BAUCUS) AMENDMENT NO. 5361

Mr. CHAFEE (for himself and Mr. BAUCUS) proposed an amendment to the bill, S. 1994, supra; as follows:

On page 78, line 12, strike ''and aircraft engine emissions,''.

On page 78, line 19 through 24, strike all of paragraph (C) and insert the following:

(C) The Administrator, as the Administrator deems appropriate, shall provide for the participation of a representative of the Environmental Protection Agency on such advisory committees or associated working groups that advise the Administrator on matters related to the environmental effects of aircraft and aircraft engines.

WARNER AMENDMENTS NOS. 5362–5363

Mr. WARNER proposed two amendments to the bill, S. 1994, supra; as follows:

AMENDMENT NO. 5362

On page 8, strike lines 14 through 17 and insert the following:

paragraph (D); and

(B) by striking subparagraph (F) and inserting the following:

''(F) for debt financing of a terminal development project that, on an annual basis, has a total number of enplanements that is less than or equal to 0.05 percent of the total enplanements in the United States if—

''(i) construction for the project commenced during the period beginning on November 6, 1988, and ending on November 4, 1990; and

''(ii) the eligible agency certifies that no other eligible airport project that affects airport safety, security, or capacity will be deferred as a result of the debt financing.''.

AMENDMENT NO. 5363

On page 10, line 23, strike ''(4)'' and insert ''(5)''.

On page 11, line 4, strike ''and';''

On page 11, between lines 4 and 5, insert the following:

''(4) any increase in the number of passenger boardings in the preceding 12-month period at the airport at which the project will be carried out, with priority consideration to be given to projects at airports at which, during that period, the number of passenger boardings was 20 percent or greater than the number of such boardings during the 12-month period preceding that period; and;''.

SIMON (AND JEFFORDS) AMENDMENT NO. 5364

Mr. SIMON (for himself and Mr. JEFFORDS) proposed an amendment to the bill, S. 1994, supra; as follows:

At the appropriate place in the bill, insert the following new section.

SEC. . PROVISIONS RELATING TO LIMITED SCOPE AUDIT.

(a) IN GENERAL.—Subparagraph (C) of section 103(a)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1023(a)(3)(C)) is amended by adding at the end the following new clause:

''(ii) If an accountant is offering his opinion under this section in the case of an employee pension benefit plan, the accountant shall, to the extent consistent with generally accepted auditing standards, rely on the work of any independent public accountant of any bank or similar institution or insurance carrier regulated and supervised and subject to periodic investigation by a State or Federal agency that holds assets or processes transactions of the employee pension benefit plan.''

(b) CONFORMING AMENDMENTS.—

(1) Section 103(a)(3)(A) of such Act (29 U.S.C. 1023(a)(3)(A)) is amended by striking ''subparagraph (C)'' and inserting ''subparagraph (C)(i)''.

(2) Section 103(a)(3)(C) of such Act (29 U.S.C. 1023(a)(3)(C)) is amended by striking ''(C) The'' and inserting ''(C)(i) In the case of an employee benefit plan other than an employee pension benefit plan, the''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to opinions required under section 103(a)(3)(A) of the Employee Retirement Income Security Act of 1974 for plan years beginning on or after January 1 of the calendar year following the date of the enactment of this Act.

THE COMPREHENSIVE METHAMPHETAMINE CONTROL ACT OF 1996

HATCH (AND OTHERS) AMENDMENT NO. 5365

Mr. MCCAIN (for Mr. HATCH, for himself, Mr. BIDEN, Mrs. FEINSTEIN, Mr.

GRASSLEY, and Mr. WYDEN) proposed an amendment to the bill (S. 1965) to prevent the illegal manufacturing and use of methamphetamine; as follows:

On page 9, line 2, strike ''or facilitate to manufacture'' and insert ''or to facilitate the manufacture of''.

On page 10, line 8, strike ''IMPORTATION REQUIREMENTS'' and insert ''IMPORTATION AND EXPORTATION REQUIREMENTS''.

On page 11, line 9, strike the comma after ''item''.

On page 11, line 12, strike beginning with ''For purposes'' through line 21 and insert ''For purposes of paragraph (11), there is a rebuttable presumption of reckless disregard at trial if the Attorney General notifies a firm in writing that a laboratory supply sold by the firm, or any other person or firm, has been used by a customer of the notified firm, or distributed further by that customer, for the unlawful production of controlled substances or listed chemicals a firm distributes and 2 weeks or more after the notification the notified firm distributes a laboratory supply to the customer.'.''.

On page 14, line 24, strike ''Iso safrole'' and insert ''Isosafrole''.

On page 15, between lines 5 and 6, add the following:

SEC. 210. WITHDRAWAL OF REGULATIONS.

The final rule concerning removal of exemption for certain pseudoephedrine products marketed under the Federal Food, Drug, and Cosmetic Act published in the Federal Register of August 7, 1996 (61 FR 40981–40993) is null and void and of no force or effect.

On page 21, line 23, strike beginning with '', except that'' through ''transaction'' on page 22, line 6, and insert '', except that the threshold for any sale of products containing pseudoephedrine or phenylpropanolamine products by retail distributors or by distributors required to submit reports by section 310(b)(3) of this title shall be 24 grams of pseudoephedrine or 24 grams of phenylpropanolamine in a single transaction''.

On page 22, line 8, strike ''abuse'' and insert ''offense''.

On page 23, strike lines 1 through 14 and insert the following:

''(46)(A) The term 'retail distributor' means a grocery store, general merchandise store, drug store, or other entity or person whose activities as a distributor relating to pseudoephedrine or phenylpropanolamine products are limited almost exclusively to sales for personal use, both in number of sales and volume of sales, either directly to walk-in customers or in face-to-face transactions by direct sales.

On page 24, line 12, strike ''The'' and insert the following: ''Pursuant to subsection (d)(1), the''.

On page 25, line 17, strike ''effective date of this section'' and insert ''date of enactment of this Act''.

On page 26, line 1, after ''being'' insert ''widely''.

On page 26, line 4, strike ''in bulk'' and insert ''for distribution or sale''.

On page 27, line 15, strike ''effective date of this section'' and insert ''date of enactment of this Act''.

On page 28, between lines 19 and 20, insert the following and redesignate the following paragraphs accordingly:

(3) SIGNIFICANT NUMBER OF INSTANCES.—

(A) IN GENERAL.—For purposes of this subsection, isolated or infrequent use, or use in insubstantial quantities, of ordinary over-the-counter pseudoephedrine or phenylpropanolamine, as defined in section 102(45) of the Controlled Substances Act, as added by section 401(b) of this Act, and sold at the retail level for the illicit manufacture of methamphetamine or amphetamine may not be used by the Attorney General as the basis for establishing the conditions under paragraph (1)(A)(ii) of this subsection, with respect to pseudoephedrine, and paragraph (2)(A)(ii) of this subsection, with respect to phenylpropanolamine.

(B) CONSIDERATIONS AND REPORT.—The Attorney General shall—

(i) in establishing a finding under paragraph (1)(A)(ii) or (2)(A)(ii) of this subsection, consult with the Secretary of Health and Human Services in order to consider the effects on public health that would occur from the establishment of new single transaction limits as provided in such paragraph; and

(ii) upon establishing a finding, transmit a report to the Committees on the Judiciary in both, respectively, the House of Representatives and the Senate in which the Attorney General will provide the factual basis for establishing the new single transaction limits.

On page 29, between lines 14 and 15, insert the following:

(f) COMBINATION EPHEDRINE PRODUCTS.—

(1) IN GENERAL.—For the purposes of this section, combination ephedrine products shall be treated the same as pseudoephedrine products, except that—

(A) a single transaction limit of 24 grams shall be effective as of the date of enactment of this Act and shall apply to sales of all combination ephedrine products, notwithstanding the form in which those products are packaged, made by retail distributors or distributors required to submit a report under section 310(b)(3) of the Controlled Substances Act (as added by section 402 of this Act);

(B) for regulated transactions for combination ephedrine products other than sales described in subparagraph (A), the transaction limit shall be—

(i) 1 kilogram of ephedrine base, effective on the date of enactment of this Act; or

(ii) a threshold other than the threshold described in clause (i), if established by the Attorney General not earlier than 1 year after the date of enactment of this Act; and

(C) the penalties provided in subsection (d)(1)(B) of this section shall take effect on the date of enactment of this Act for any individual or business that violates the single transaction limit of 24 grams for combination ephedrine products.

(2) DEFINITION.—For the purposes of this section, the term ''combination ephedrine product'' means a drug product containing ephedrine or its salts, optical isomers, or salts of optical isomers and therapeutically significant quantities of another active medicinal ingredient.

On page 29, line 15, strike ''(f)'' and insert ''(g)''.

On page 29, line 17, strike all beginning with ''over-the-counter'' through line 20 and insert ''pseudoephedrine or phenylpropanolamine product prior to 12 months after the date of enactment of this Act, except that, on application of a manufacturer of a particular pseudoephedrine or phenylpropanolamine drug product, the Attorney General may, in her sole discretion, extend such effective date up to an additional six months.Notwithstanding any other provision of law, the decision of the Attorney General on such an application shall not be subject to judicial review.''

On page 35, line 5, after ''funds'' insert ''or appropriations''.

KENNEDY (AND SIMON) AMENDMENT NO. 5366

Mr. MCCAIN (for Mr. KENNEDY, for himself and Mr. SIMON) proposed an amendment to the bill, S. 1965, supra; as follows:

Strike sections 301 and 302 and insert the following:

SEC. 301. PENALTY INCREASES FOR TRAFFICKING IN METHAMPHETAMINE.

(a) DIRECTIVE TO THE UNITED STATES SENTENCING COMMISSION.—Pursuant to its authority under section 994 of title 28, United States Code, the United States Sentencing Commission shall review and amend its guidelines and its policy statements to provide for increased penalties for unlawful manufacturing, importing, exporting, and trafficking of methamphetamine, and other similar offenses, including unlawful possession with intent to commit any of those offenses, and attempt and conspiracy to commit any of those offenses. The Commission shall submit to Congress explanations therefor and any additional policy recommendations for combating methamphetamine offenses.

(b) IN GENERAL.—In carrying out this section, the Commission shall ensure that the sentencing guidelines and policy statements for offenders convicted of offenses described in subsection (a) and any recommendations submitted under such subsection reflect the heinous nature of such offenses, the need for aggressive law enforcement action to fight such offenses, and the extreme dangers associated with unlawful activity involving methamphetamine, including—

(1) the rapidly growing incidence of methamphetamine abuse and the threat to public safety such abuse poses;

(2) the high risk of methamphetamine addiction;

(3) the increased risk of violence associated with methamphetamine trafficking and abuse; and

(4) the recent increase in the illegal importation of methamphetamine and precursor chemicals.

SEC. 302. ENHANCED PENALTIES FOR OFFENSES INVOLVING CERTAIN LISTED CHEMICALS.

(a) CONTROLLED SUBSTANCES ACT.—Section 401(d) of the Controlled Substances Act (21 U.S.C. 841(d)) is amended by striking ''not more than 10 years,'' and inserting ''not more than 20 years in the case of a violation of paragraph (1) or (2) involving a list I chemical or not more than 10 years in the case of a violation of this subsection other than a violation of paragraph (1) or (2) involving a list I chemical,''.

(b) CONTROLLED SUBSTANCE IMPORT AND EXPORT ACT.—Section 1010(d) of the Controlled Substance Import and Export Act (21 U.S.C. 960(d)) is amended by striking ''not more than 10 years,'' and inserting ''not more than 20 years in the case of a violation of paragraph (1) or (3) involving a list I chemical or not more than 10 years in the case of a violation of this subsection other than a violation of paragraph (1) or (3) involving a list I chemical,''.

(c) SENTENCING GUIDELINES.—

(1) IN GENERAL.—The United States Sentencing Commission shall, in accordance with the procedures set forth in section 21(a) of the Sentencing Act of 1987, as though the authority of that section had not expired, amend the sentencing guidelines to increase by at least two levels the offense level for offenses involving list I chemicals under—

(A) section 401(d) (1) and (2) of the Controlled Substances Act (21 U.S.C. 841(d) (1) and (2)); and

(B) section 1010(d) (1) and (3) of the Controlled Substance Import and Export Act (21 U.S.C. 960(d) (1) and (3)).

(2) REQUIREMENT.—In carrying out this subsection, the Commission shall ensure that the offense levels for offenses referred to in paragraph (1) are calculated proportionally on the basis of the quantity of controlled substance that reasonably could have

been manufactured in a clandestine setting using the quantity of the list I chemical possessed, distributed, imported, or exported.

On page 2, strike out the items relating to sections 301 and 302 and insert the following:

Sec. 301. Penalty increases for trafficking in methamphetamine.

Sec. 302. Enhanced penalties for offenses involving certain listed chemicals.

THE THRIFT SAVINGS INVESTMENT FUNDS ACT OF 1996

KERREY (AND PRYOR) AMENDMENT NO. 5367

Mr. MCCAIN (for Mr. KERREY, for himself and Mr. PRYOR) proposed an amendment to the bill (S. 1080) to amend chapter 84 of title 5, United States Code, to provide additional investment funds for the Thrift Savings Plan; as follows:

On page 15, line 2 of the bill, change the ''.'' to an '','' and add the following: ''and by adding at the end of the paragraph the following sentence: 'Before a loan is issued, the Executive Director shall provide in writing the employee or Member with appropriate information concerning the cost of the loan relative to other sources of financing, as well as the lifetime cost of the loan, including the difference in interest rates between the funds offered by the Thrift Savings Fund, and any other effect of such loan on the employee's or Members's final account balance'.''

NOTICE OF HEARING

COMMITTEE ON ENERGY AND NATURAL RESOURCES, SUBCOMMITTEE ON PARKS, HISTORIC PRESERVATION, AND RECREATION

Mr. CAMPBELL. Mr. President, I would like to announce for the public that the hearing scheduled before the Subcommittee on Parks, Historic Preservation, and Recreation of the Committee on Energy and Natural Resources to review S. 1539, a bill to establish the Los Caminos del Rio National Heritage Area along the Lower Rio Grande Texas-Mexico border; S. 1583, a bill to establish the Lower Eastern Shore American Heritage Area; S. 1785, a bill to establish in the Department of the Interior the Essex National Heritage Commission; and S. 1808, a bill to amend the Act of October 15, 1966 (80 Stat. 915), as amended, establishing a program for the preservation of additional historic property throughout the Nation on Thursday, September 19, 1996 at 9:30 a.m. in room SD–366 of the Dirksen Senate Office Building in Washington, DC has been canceled.

For further information, please contact Jim O'Toole of the subcommittee staff at (202) 224–5161.

SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS

Mr. THOMAS. Mr. President, I would like to announce for the information of the Senate and the public that an oversight hearing has been scheduled before the Subcommittee on Oversight and Investigations, Energy and Natural Resources Committee, to examine the NEPA decision making process in the federal land management agencies, including the role of the Council on Environmental Quality.

The hearing will take place Thursday, September 26, 1996 at 2:00 p.m. in Room SD–366 of the Dirksen Senate Office Building in Washington, D.C.

Those wishing to testify or who wish to submit written statements should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C. 20510. For further information, please call Kelly Johnson or Jo Meuse at (202) 224–6730.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. GORTON. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be allowed to meet twice during the Tuesday, September 17, 1996 session of the Senate for the purpose of conducting a hearing on airport security and a hearing on computational biology.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. GORTON. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Tuesday, September 17, 1996, for purposes of conducting a Full Committee hearing which is scheduled to begin at 9:30 a.m. The purpose of this oversight hearing is to receive testimony on the issue of U.S. Climate Change Policy.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. GORTON. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee to meet on Tuesday, September 17, 1996, at 9:15 a.m., for a hearing on S. 1794, Congressional, Presidential, and Judiciary Pension Forfeiture Act.

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

COMMITTEE ON INDIAN AFFAIRS

Mr. GORTON. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet during the session of the Senate on Tuesday, September 17, 1996 at 9:30 a.m. in room 485 of the Russell Senate Office Building to conduct a hearing on economic development on Indian reservations.

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

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. GORTON. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet for a hearing on The National Labor Relations Board, during the session of the Senate on Tuesday, September 17, 1996, at 10:00.

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

COMMITTEE ON VETERANS' AFFAIRS

Mr. GORTON. The Committee on Veterans' Affairs would like to request unanimous consent to hold a joint hearing with the House Committee on Veterans' Affairs to receive the legislative presentations of the American Legion.

The hearing will be held on September 17, 1996, at 9:30 a.m., in room 334 of the Cannon House Office Building.

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

ADDITIONAL STATEMENTS

TRIBUTE TO LOWELL MOHLER

• Mr. BOND. Mr. President, I rise today to pay tribute to Lowell Mohler of Missouri, who is retiring after many decades of service to the Missouri Farm Bureau.

Lord Chesterfield, an English statesman in the 18th century advised citizens to ''Be wiser than other people if you can, but do not tell them so.'' This advice has been practiced regularly by 20th century Missourian Lowell Mohler, from the halls of the University of Missouri to the State and Nation's Capitol, where he has advised farmers, professors, Governors, and Senators. Though Lowell's tenure at Farm Bureau was slightly more brief than the 20th century, his service on behalf of rural Americans has been immense. His approach is always warm, his counsel wise, his strategy practical, and his word true.

Lowell Mohler is truly representative of the Missouri Farm Bureau, an organization of members who are characterized by common sense, work hard, value initiative and character, and who love agriculture, family, God, and country—not necessarily in that order. He, like they, live by a more stringent self-imposed code of right and wrong which is an example for all to observe.

Lowell also has the typical nonmodern and unrealistic view of retirement. He said he is going to retire to spend more time extolling the virtues of the University of Missouri and to farm. He reminds me of the Missouri farmer who came out of retirement to farm and was asked if he was going to work full time. ''No, just 6 days a week,'' the elderly farmer replied.

I hope that Lowell will now have some well-deserved time to spend with his terrific family, of which I know he is very proud. He and his wife, JoAnn, can grow asparagus and hornets and maybe catch some fish at their farm. They can invite large crowds of friends to backyard barbecues and leave the cleanup duties to the coyotes which come up from the river near his house and clean perfectly the remains.

Only Lowell could make the availability of coyotes useful. It must relate to his affinity with members of the media and politicians that he can appreciate coyotes. If he is so inclined, he

can come to Mexico, Missouri and help me keep the deer away from my tree orchards. Maybe we can plant some walnut trees.

Lowell Mohler's career climbed heights he surely never expected, but has never lost sight of where he came from, or the conventions and needs of the ordinary women and men who live the life that makes this country great. His work made rural America better; he left his mark and he did it his way, the Farm Bureau way. He is and will be remembered as a great American example.

JoAnn, thank you on behalf of everyone for sharing Lowell with us. We return him to you with immense gratitude, and wish you both well as you enter this new chapter of your lives.●

STUDENT-SPONSOR PARTNERSHIP

● Mr. MOYNIHAN. Mr. President, Adlai E. Stevenson remarked of Eleanor Roosevelt that ''She would rather light candles than curse the darkness.'' The same can be said of my dear friend, Peter M. Flanigan. I rise to call to the Senate's attention the Student-Sponsor Partnership, a program for troubled students that Mr. Flanigan started in 1986. Private donors help pay the tuition for New York City high school students whose backgrounds include poverty, poor grades, and discipline problems so that they may attend Catholic schools.

In 1984 Mr. Flanigan promised a class of sixth-graders that if they finished high school he would pay for their college education. It soon became clear that even this was insufficient incentive for many of the participants to complete high school, and Mr. Flanigan realized that a different approach was needed. He learned that Catholic schools had higher graduation rates, and so concluded that he would help students attend such schools by subsidizing their tuition. Mr. Flanigan also realized the importance of providing each student with a mentor to provide encouragement and counsel.

This program works; 75 percent of the participants graduate in 4 years, and 90 percent eventually go on to college. These are remarkable statistics for a group made up of troubled students. I congratulate Peter Flanigan for all his concern and efforts, and I ask unanimous consent that an article in the September 12 New York Times on the Student-Sponsor Partnership Program be printed in the RECORD.

The article follows:

[From the New York Times, Sept. 12, 1996]

PRIVATE PROGRAM FOR TROUBLED STUDENTS ECHOES CATHOLIC SCHOOL PLAN

(By Mirta Ojito)

Two years ago, Sean Kendell Winn was the kind of student who is at the heart of the plan advocated this week by Mayor Rudolph W. Giuliani to send some public school students to Roman Catholic schools.

A Bronx student who would get into fights and end up suspended, Sean was accepted by a Catholic school in his first year of high school. Almost all expenses were paid by private donors.

''My life,'' Sean said yesterday, ''is much nicer now.''

Sean, now a 16-year-old junior at All Hallows High School with an 85 average, is a beneficiary of a 10-year-old private program, Student-Sponsor Partnership, which was created by Peter M. Flanigan, an investment banker.

The partnership, which has helped 825 students enrolled in 18 Catholic schools to graduate since 1986, bears striking similarities to a proposal recently made by the Roman Catholic Archdiocese of New York and, since Sunday, backed by the Mayor.

Under the Archdiocese's plan, Catholic schools would educate 1,000 of the city school system's worst students, providing both secular and religious instruction. Their tuition would be paid by private businesses.

After some board members cited Constitutional concerns about having school employees acting as admissions counselors for Roman Catholic schools, Schools Chancellor Rudy Crew said yesterday that the Board of Education would not compile lists of eligible students for the program advocated by Mr. Giuliani.

But the Chancellor's spokeswoman said that guidance counselors would continue to advise students to seek scholarships to private schools, and would release school records for students applying for scholarships. The public schools have been giving that help to Student-Sponsor Partnership for 10 years.

''We hope that what we are doing could serve as a blueprint for what the Mayor is proposing,'' said Mayree Clark, the chairwoman of the partnership's board, who is the director of global research at Morgan Stanley.

Ms. Clark said 75 percent of the program's students graduate in four years and 90 percent go on to college. Omar Antigua, a 20-year-old junior at Carnegie Mellon University in Pittsburgh, is one of them.

''They opened up so many doors for me, I couldn't even begin to count them,'' said Mr. Antigua, the third child of an unemployed immigrant who reared three boys by herself in a tough Bronx neighborhood. ''Where I come from, I'm a rarity.''

Mary Grace Eapen, the partnership's executive director, said the program works to make students feel special. ''They want discipline, they want order,'' she said. ''They want to have someone in their lives who expects great things from them, and we do.''

Applicants learn of the program through their eighth-grade guidance counselors or community leaders, Ms. Eapen said. Once a student decides to apply, school counselors or teachers supply test scores, a list of the student's weaknesses and strengths and an analysis of why the student would probably not succeed were he or she to continue in the public school system.

''Counselors are very vigilant at spotting the kids that could benefit the most from our help,'' Ms. Eapen said. ''They want what's best for their kids and they know we provide it.''

Of the thousands of students who apply every year, several hundred are accepted. This year, 345 new students entered the program.

Although the partnership program is similar to the one advocated by the Mayor, it differs in two ways.

First, its eligibility requirements are broader: It considers poverty, poor grades and disciplinary problems as qualifications for entry, not simply whether a student has been identified as one of the school system's worst. Second, it provides mentors to guide students in addition to paying their tuitions.

The partnership has 1,030 students and but is short 150 mentors.

Sponsors pay at least $850 in tuition a year for four years. The rest of a student's tuition, which could be as high as $3,800 is paid by parents, who contribute $30 a month, and money raised from foundations and private businesses.

The idea for the partnership came about when Mr. Flanigan realized that it took more than the promise of a bright future to make students finish their education, Ms. Eapen said. More than a decade ago, he promised a class of sixth graders that if they finished high school, he would pay for their college education. Despite the incentive, many students dropped out of school.

The schools, he concluded, were failing the students. About the same time, Mr. Flanigan learned that Roman Catholic schools were more successful in keeping students in the classroom, so he shifted his focus and decided to encourage public school students to attend those private schools. To further increase the students' chances of success, he paired students with mentors.

The partnership tries to match sponsors with students based on shared interests or experiences, sometimes a difficult goal because most of the students are black or Latino while 88 percent of the sponsors are non-Hispanic whites.

But most of the time, despite cultural and economic differences, a bond is forged. It happened to Sean and his sponsor, James Jurney, a 26-year-old who went to boarding school, lives at Central Park West and works at Morgan Stanley. Their bond is theater. Sean wants to be an actor; Mr. Jurney is interested in television and films.

''We go to the theater.'' Mr. Jurney said, ''we talk. He tells me about his girlfriends. I'm his big brother. He's a good kid.''●

CONGRATULATIONS TO KELLY SERVICES

● Mr. ABRAHAM. Mr. President, I rise to congratulate Kelly Services on the occasion of its 50th anniversary. Founded on October 7, 1946, in Detroit, MI, by William Russell Kelly, Kelly Services blazed a trail in the office staffing industry. Built on a strong reputation of caring for its customers and employees, Kelly has grown into a Fortune 500 company. Today, Kelly provides the services of more than 675,000 employees annually to 200,000 customers. With more than 1,300 offices around the world Kelly is a major player in the office staffing industry.

Recognizing the changing needs of our economy, Kelly has branched out into legal services, full as well as partial office staffing, assisted living, and

the research and development of software for testing and training products. Kelly's innovative training and testing programs have kept it at the head of its industry. The experience of this Michigan company shows that hard work and dedication to quality service and integrity pave the road to success.

Mr. President, I am proud that Kelly Services, based in Troy, MI, is part of the vibrant and growing business community in my State of Michigan. The quality and innovation shown by this aggressive enterprise under the leadership of President and Chief Executive Officer Terence E. Adderley have been an inspiration to all business people in my State. Through its contributions to area businesses it has improved life in the 37 Michigan communities in which it has branches, as well as the communities all over the world in which it conducts business.

Kelly Services has been celebrating its anniversary throughout this year. The company will host a major event at its headquarters in Troy on October 7. I would like to extend my best wishes to Kelly Services for a festive celebration and for another 50 years of superior success through superior service.●

EMPLOYMENT NONDISCRIMINATION ACT

● Mr. DORGAN. Mr. President, I would like to take this opportunity to explain why I supported the Employment Nondiscrimination Act.

In an earlier vote, I supported the Defense of Marriage Act because I do not believe that we should change the definition of marriage that has made the family—a husband, wife, and children—the cornerstone of our society.

But the Employment Nondiscrimination Act is about a different issue. It is about whether discrimination in the workplace against homosexuals is permissible. I supported this bill because I do not believe we should tolerate discrimination of any type in the workplace.

The people of this Nation already have decided that it is unacceptable to discriminate against someone in the workplace just because of that person's race, gender, or religious beliefs. I just don't believe that one's sexual orientation is relevant to whether or not they can do a job, and it ought not be a permissible basis for discrimination.

This bill includes substantial protections and safeguards for employers. It includes exemptions for the Armed Forces, small businesses, religious institutions, and private membership clubs. Most important, the bill states clearly that it does not protect inappropriate or public sexual conduct by any employee, whether or not that employee is homosexual.

Some people have said that this legislation isn't necessary, that there is no discrimination against homosexuals in the workplace. I would like to give you just one example of why I think this legislation is needed: Ernest Dillon was a postal employee in Detroit, MI. He worked hard and everyone agreed he was good at his job. But that wasn't enough. When Ernest's coworkers found out he was homosexual, they repeatedly taunted him until one day, while he was on the job, they beat him unconscious. Their harassment continued unabated until he was forced out of his job, fearing for his life. Although he went to the courts for relief, there was nothing there to protect him.

It is time for our country to decide that we will not tolerate that kind of discrimination. This legislation does that. Nine States have already enacted legislation similar to this bill.

I have heard from many of my own constituents and from mayors, Governors, religious leaders, corporate CEO's, and others that, regardless of their views about homosexuality, they support this bill because they oppose discrimination in all its forms. I agree, and that is why I voted for this bill.●

THANKS TO PRODIGY SERVICE CORP.

● Mr. GREGG. Mr. President, I rise today to express my thanks to Prodigy Service Corp. for responding promptly to the letter sent out by 19 Senators and myself on August 1, 1996. In the letter, my colleagues and I urged Prodigy and several other Internet service providers and search engines to adopt company policies to block access to bomb-making information through their services.

Prodigy is the first of these companies to respond and I am pleased to announce that letter provides some hope in our efforts to curb the availability of bomb construction information on the Internet. This outstanding company has already begun to offer its customers free installment of the CyberPatrol access control software program, which blocks access to bomb-making information. This generous contribution to our Nation's safety and well-being is commendable.

While Prodigy's efforts help solve the problem of the wide availability of dangerous bomb construction information, the CyberPatrol program also demonstrates that blocking bomb-making instructions on the Internet is possible.

At this time, I ask that the Senate join me in urging other Internet service providers to adopt similar policies. I ask that Prodigy's response be printed in the RECORD.

The letter follows:

PRODIGY,
New York, NY, August 27, 1996.

Hon. JUDD GREGG,
U.S. Senate, Washington, DC.

DEAR SENATOR GREGG: Thank you for your letter of August 1, regarding bomb-making information on the Internet. We, too, are outraged by the cowardly, senseless acts of terrorism that have victimized so many innocent individuals and families. We are repulsed by the twisted minds of people who disseminate bomb-making information for reasons known only to them.

As you know, bomb-making information is available widely and publicly today through a large number of channels, including bookstores and libraries, and governmental attempts to restrict the availability of otherwise lawful information raise serious First Amendment concerns. Nevertheless, Prodigy tries to strike a responsible balance, providing a safe environment for users to openly exchange valuable information, while enabling them to insure they won't come in contact with inappropriate material.

Unlike other media, the online environment does offer an effective way for consumers to exercise control. Earlier this year, Prodigy began offering our members the CyberPatrol access control software program, which they can install on their family's personal computer at no extra charge (Prodigy picks up the cost of the program). This easy-to-use program automatically filters and blocks access to bomb-making information and other inappropriate content on the Internet.

Please feel free to contact me if you have any further questions.

Sincerely,

MARC JACOBSON,
Vice President and General Counsel.●

REPEAL OF SECTION 434 OF THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996

● Mr. MOYNIHAN. Mr. President, yesterday I introduced legislation to repeal section 434 of the recently enacted Personal Responsibility and Work Opportunity Reconciliation Act of 1996. Section 434 provides that:

> Notwithstanding any other provision of Federal, State, or local law, no State or local government entity may be prohibited, or in any way restricted, from sending to or receiving from the Immigration and Naturalization Service INS information regarding the immigration status, lawful or unlawful, of an alien in the United States.

This provision is ill-advised and threatens the public health and safety of residents of New York City because it conflicts with an executive order, issued by the major of New York in 1985, prohibiting city employees from reporting suspected illegal aliens to the Immigration and Naturalization Service unless the alien has been charged with a crime. The executive order, which is similar to local laws in other States and cities, was intended to ensure that fear of deportation does not deter illegal aliens from seeking emergency medical attention, reporting crimes, and so forth.

On September 8, 1995, during Senate consideration of H.R. 4, the Work Opportunity Act of 1995, Senators SANTORUM and NICKLES offered this provision as an amendment. The amendment was adopted by a vote of 91 to 6. The Senators who voted ''no'' were: Senators AKAKA, CAMPBELL, INOUYE, MOSELEY-BRAUN, MOYNIHAN, and SIMON.

Four of these six—Senators AKAKA, MOSELEY-BRAUN, SIMON, and the Senator from New York—were also among the 11 Democrats who voted against H.R. 4 when it passed the Senate on September 19, 1995. H.R. 4, of course, was later vetoed by President Clinton.

Last week, Mayor Rudolph W. Giuliani of New York announced that he and his staff had recently become aware of section 434 of the new welfare law, and planned to challenge it in court.

An alien who witnesses a crime should feel free to report it to the police without fear of being deported. Just as an alien ought to be able to get emergency medical attention without fear of deportation. Mr. President, section 434 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 poses a serious threat to health and safety in New York City and elsewhere. It should be repealed.●

TRIBUTE TO ELECTROPAC'S 20TH ANNIVERSARY

● Mr. SMITH. Mr. President, I rise today to pay tribute to Electropac, a New Hampshire company, in honor of their 20th anniversary. On September 19th and 20th, a number of employees, individuals, and organizations will gather together at Electropac's corporate headquarters in Manchester, NH, to celebrate their 20th year of business. I would like to congratulate everyone who helped this technology company grow to become the success it is today. The dedication and hard work, as evidenced by the growth that Electropac has experienced over the years, is truly unparalleled.

Electropac is an independently owned, small to mid-sized company that specializes in manufacturing high-tech printed circuit boards for the computer, telecommunication, medical instrumentation, and military industries. The circuit boards they produce are state of the art, double sided, multilayered boards.

The Manchester office of Electropac has served as Electropac's corporate headquarters and center of manufacturing operations since 1980. In addition to being located in Manchester, Electropac has expanded with a prototype facility in Londonderry, and with circuit board companies in Montreal, Canada, and St. Catharines, Ontario. At these locations, Electropac employs over 400 people and brings in over $33 million in business. This is an enormous increase considering the company's founder and president, Raymond Boissoneau, established Electropac with only one employee and $1,000 in cash.

Electropac has been included on a regular basis as one of the top 50 and the top 75 privately owned companies in the State of New Hampshire. Just this past year, Electropac designed a program with the Manchester School of Technology that brings students into the company and allows Electropac to become their classroom, thus providing students with hands-on experience and training in high-tech manufacturing. Electropac supports a number of organizations throughout the State of New Hampshire including the N.H. Job Training Council, the Manchester Chamber of Commerce, the Made in New Hampshire Expo, the Merrimack Youth Association, and the Merrimack Rotary and Lions Clubs. Among numerous other awards, Raymond Boissoneau has received the New Hampshire High Technology Council's Entrepreneur of the Year Award. It is through his leadership and inspiration that has caused Electropac to rise to be the success that it is today. Raymond Boissoneau places the responsibility of the company with the employees, which adds great measure to the company's prosperity.

Electropac's success over the years can be attributed to a number of factors. One factor is the emphasis placed on the level of service and quality, rather than on quantity and growth. By maintaining several medium sized operations, Electropac diversifies itself, providing its customers with efficient and cost-effective service specialities. Flexibility is the key to their success in such a competitive market because they are able to adapt their products quickly to the technological growth of today's industry. Also, Electropac is the first manufacturer in the United States and only the second in the world to provide a beta site. A beta site essentially is a test site for outside companies. Electropac opens their manufacturing operations and allows various companies to test new technical products, that are not on the market yet, using all of Electropac's facilities and machinery.

Mr. President, I commend Electropac and its employees for their support of New Hampshire, and for their contributions as a whole to the industry of America. Electropac is an excellent example of a truly successful and dynamic New Hampshire company. Congratulations to Raymond Boissoneau and his dedicated employees who have made Electropac so competitive in today's technology industry. May you experience continued growth and success.●

CONGRATULATIONS TO JOSEPH J. FRANK

● Mr. BOND. Mr. President, today I congratulate my fellow Missourian, Joseph J. Frank, on his election as national commander of the American Legion, at the 78th national convention, on September 5, 1996.

I am very proud that the Legion, the Nation's largest veterans' organization, comprised of over 3 million members, will be represented by an individual with the kind of dedication, integrity, and commitment that has been Mr. Frank's hallmark.

My State is proud of our military heritage, and we revere native military leaders such as John J. Pershing, the first six star general since George Washington. Joe Frank, born and raised in St. Louis County, MO, has achieved another first: he's the first Missourian and first Vietnam veteran to command the American Legion. I am sure both of these firsts will bring new insights and perspectives to the post.

Mr. Frank served in Vietnam in 1968. He was wounded severely and continues to cope each day with the paralysis which resulted, but these wounds have not dampened his patriotism or his commitment to serving his fellow Americans. Immediately after recovering from the wounds he sustained in Vietnam, Mr. Frank founded the Crestwood Memorial American Legion Post 777, now the Joseph L. Frank Memorial Post 777, renamed in memory of his father. Since founding the post, Mr. Frank has gone on to serve as post commander, district commander, and state commander. He has also held several previous leadership positions on the national level, including national vice commander, chairman of the national economic commission, and chairman of the foreign relations commission.

But Joe Frank's service radiates well beyond the American Legion. He has dedicated himself to helping individuals with disabilities through his positions on the Executive Board of the President's Committee on Employment of People With Disabilities, and the Missouri Governor's Council on Disability. Mr. Frank has also been recognized by the White House for his service to the Selective Service System.

I am confident, Mr. President, that Joe Frank, from my own great State of Missouri, will serve his fellow veterans with dignity, vigor, and direction. He already has set forth part of his agenda, by identifying three priorities: increasing membership, protecting the U.S. flag from desecration, and improving and expanding health care to our veterans. Because of my own involvement in the area of veterans health care through my chairmanship of the Senate appropriations subcommittee with jurisdiction over veterans programs, I am especially delighted to recognize Mr. Frank's leadership in this area.

It is my honor to join with Mr. Frank's wife, Barbara, his family, many friends, and especially his fellow American Legion members in saluting Joseph J. Frank for providing inspiration and a source of pride for veterans, Missourians, and for all Americans.●

ELECTRONIC FREEDOM OF INFORMATION IMPROVEMENT ACT OF 1996

Mr. McCAIN. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 406, S. 1090.

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

The clerk will report.

The legislative clerk read as follows:

A bill (S. 1090) to amend section 552 of title 5, U.S. Code (commonly known as the Freedom of Information Act), to provide for public access to information in an electronic format, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Electronic Freedom of Information Improvement Act of 1996''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) the purpose of the Freedom of Information Act is to require agencies of the Federal Government to make certain agency information available for public inspection and copying and to establish and enable enforcement of the right of any person to obtain access to the records of such agencies (subject to statutory exemptions) for any public or private purpose;

(2) since the enactment of the Freedom of Information Act in 1966, and the amendments enacted in 1974 and 1986, the Freedom of Information Act has been a valuable means through which any person can learn how the Federal Government operates;

(3) the Freedom of Information Act has led to the disclosure of waste, fraud, abuse, and wrongdoing in the Federal Government;

(4) the Freedom of Information Act has led to the identification of unsafe consumer products, harmful drugs, and serious health hazards;

(5) Government agencies increasingly use computers to conduct agency business and to store publicly valuable agency records and information; and

(6) Government agencies should use new technology to enhance public access to agency records and information.

(b) PURPOSES.—The purposes of this Act are to—

(1) foster democracy by ensuring public access to agency records and information;

(2) improve public access to agency records and information;

(3) ensure agency compliance with statutory time limits; and

(4) maximize the usefulness of agency records and information collected, maintained, used, retained, and disseminated by the Federal Government.

SEC. 3. PUBLIC INFORMATION AVAILABILITY.

Section 552(a)(1) of title 5, United States Code, is amended—

(1) in the matter before subparagraph (A) by inserting ''including by computer telecommunications, or if computer telecommunications means are not available, by other electronic means,'' after ''Federal Register'';

(2) by striking out ''and'' at the end of subparagraph (D);

(3) by redesignating subparagraph (E) as subparagraph (F); and

(4) by inserting after subparagraph (D) the following new subparagraph:

''(E) a complete list of all statutes that the agency head or general counsel relies upon to authorize the agency to withhold information under subsection (b)(3) of this section, together with a specific description of the scope of the information covered; and''.

SEC. 4. MATERIALS MADE AVAILABLE IN ELECTRONIC FORMAT AND INDEX OF RECORDS MADE AVAILABLE TO THE PUBLIC.

Section 552(a)(2) of title 5, United States Code, is amended—

(1) in the matter before subparagraph (A) by inserting '', including, within 1 year after the date of the enactment of the Electronic Freedom of Information Improvement Act of 1996, by computer telecommunications, or if computer telecommunications means are not available, by other electronic means,'' after ''copying'';

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

(3) by adding after subparagraph (C) the following new subparagraphs:

''(D) an index of all major information systems containing agency records regardless of form or format unless such an index is provided as otherwise required by law;

''(E) a description of any new major information system with a statement of how such system shall enhance agency operations under this section;

''(F) an index of all records which are made available to any person under paragraph (3) of this subsection; and

''(G) copies of all records, regardless of form or format, which because of the nature of their subject matter, have become or are likely to become the subject of subsequent requests for substantially the same records under paragraph (3) of this subsection;'';

(4) in the second sentence by striking out ''or staff manual or instruction'' and inserting in lieu thereof ''staff manual, instruction, or index or copies of records, which are made available under paragraph (3) of this subsection''; and

(5) in the third sentence by inserting ''and the extent of such deletion shall be indicated on the portion of the record which is made available or published at the place in the record where such deletion was made'' after ''explained fully in writing''.

SEC. 5. HONORING FORMAT REQUESTS.

Section 552(a)(3) of title 5, United States Code, is amended by—

(1) inserting ''(A)'' after ''(3)'';

(2) inserting ''(A) through (F)'' after ''under paragraphs (1) and (2)'';

(3) striking out ''(A) reasonably'' and inserting in lieu thereof ''(i) reasonably'';

(4) striking out ''(B)'' and inserting in lieu thereof ''(ii)''; and

(5) adding at the end thereof the following new subparagraphs:

''(B) An agency shall, as requested by any person, provide records in any form or format in which such records are maintained by that agency.

''(C) An agency shall make reasonable efforts to search for records in electronic form or format and provide records in the form or format requested by any person, including in an electronic form or format, even where such records are not usually maintained but are available in such form or format.''.

SEC. 6. DELAYS.

(a) FEES.—Section 552(a)(4)(A) of title 5, United States Code, is amended by adding at the end thereof the following new clause:

''(viii) If at an agency's request, the Comptroller General determines that the agency annually has either provided responsive documents or denied requests in substantial compliance with the requirements of paragraph (6)(A), one-half of the fees collected under this section shall be credited to the collecting agency and expended to offset the costs of complying with this section through staff development and acquisition of additional request processing resources. The remaining fees collected under this section shall be remitted to the Treasury as general funds or miscellaneous receipts.''.

(b) DEMONSTRATION OF CIRCUMSTANCES FOR DELAY.—Section 552(a)(4)(E) of title 5, United States Code, is amended—

(1) by inserting ''(i)'' after ''(E)''; and

(2) by adding at the end thereof the following new clause:

''(ii) Any agency not in compliance with the time limits set forth in this subsection shall demonstrate to a court that the delay is warranted under the circumstances set forth under paragraph (6) (B) or (C) of this subsection.''.

(c) PERIOD FOR AGENCY DECISION TO COMPLY WITH REQUEST.—Section 552(a)(6)(A)(i) is amended by striking out ''ten days'' and inserting in lieu thereof ''twenty days''.

(d) AGENCY BACKLOGS.—Section 552(a)(6)(C) of title 5, United States Code, is amended by inserting after the second sentence the following: ''As used in this subparagraph, for requests submitted pursuant to paragraph (3) after the date of the enactment of the Electronic Freedom of Information Improvement Act of 1996, the term 'exceptional circumstances' means circumstances that are unforeseen and shall not include delays that result from a predictable workload, including any ongoing agency backlog, in the ordinary course of processing requests for records.''.

(e) NOTIFICATION OF DENIAL.—The last sentence of section 552(a)(6)(C) of title 5, United States Code, is amended to read: ''Any notification of any full or partial denial of any request for records under this subsection shall set forth the names and titles or positions of each person responsible for the denial of such request and the total number of denied records and pages considered by the agency to have been responsive to the request.''.

(f) MULTITRACK FIFO PROCESSING AND EXPEDITED ACCESS.—Section 552(a)(6) of title 5, United States Code, is amended by adding at the end thereof the following new subparagraphs:

''(D)(i) Each agency shall adopt a first-in, first-out (hereafter in this subparagraph referred to as FIFO) processing policy in determining the order in which requests are processed. The agency may establish separate processing tracks for simple and complex requests using FIFO processing within each track.

''(ii) For purposes of such a multitrack system—

''(I) a simple request shall be a request requiring 10 days or less to make a determination on whether to comply with such a request; and

''(II) a complex request shall be a request requiring more than 10 days to make a determination on whether to comply with such a request.

''(iii) A multitrack system shall not negate a claim of due diligence under subparagraph (C), if FIFO processing within each track is maintained and the agency can show that it has reasonably allocated resources to handle the processing for each track.

''(E)(i) Each agency shall promulgate regulations, pursuant to notice and receipt of public comment, providing that upon receipt of a request for expedited access to records and a showing by the person making such request of a compelling need for expedited access to records, the agency determine within 10 days (excepting Saturdays, Sundays, and legal public holidays) after the receipt of such a request, whether to comply with such request. A request for records to which the agency has granted expedited access shall be processed as soon as practicable. A request for records to which the agency has denied expedited access shall be processed within the time limits under paragraph (6) of this subsection.

''(ii) A person whose request for expedited access has not been decided within 10 days of its receipt by the agency or has been denied shall be required to exhaust administrative remedies. A request for expedited access which has not been decided may be appealed to the head of the agency within 15 days (excepting Saturdays, Sundays, and legal public holidays) after its receipt by the agency. A request for expedited access that has been denied by the agency may be appealed to the head of the agency within 5 days (excepting Saturdays, Sundays, and legal public holidays) after the person making such request receives notice of the agency's denial. If an agency head has denied, affirmed a denial, or failed to respond to a timely appeal of a request for expedited access, a court which would have jurisdiction of an action under paragraph (4)(B) of this subsection may, upon complaint, require the agency to show cause why the request for expedited access should not be granted, except that such review shall be limited to the record before the agency.

''(iii) The burden of demonstrating a compelling need by a person making a request for expedited access may be met by a showing, which such person certifies under penalty of perjury to be true and correct to the best of such person's knowledge and belief, that failure to obtain the requested records within the timeframe for expedited access under this paragraph would—

''(I) threaten an individual's life or safety;

''(II) result in the loss of substantial due process rights and the information sought is not otherwise available in a timely fashion; or

''(III) affect public assessment of the nature and propriety of actual or alleged governmental actions that are the subject of widespread, contemporaneous media coverage.''.

SEC. 7. COMPUTER REDACTION.

Section 552(b) of title 5, United States Code, is amended by inserting before the period in the sentence following paragraph (9) the following: '', and the extent of such deletion shall be indicated on the released portion of the record at the place in the record where such deletion was made''.

SEC. 8. DEFINITIONS.

Section 552(f) of title 5, United States Code, is amended to read as follows:

''(f) For purposes of this section—

''(1) the term 'agency' as defined in section 551(1) of this title includes any executive department, military department, Government corporation, Government controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency;

''(2) the term 'record' means all books, papers, maps, photographs, machine-readable materials, or other information or documentary materials, regardless of physical form or characteristics, but does not include—

''(A) library and museum material acquired or received and preserved solely for reference or exhibition purposes;

''(B) extra copies of documents preserved solely for convenience of reference;

''(C) stocks of publications and of processed documents; or

''(D) computer software which is obtained by an agency under a licensing agreement prohibiting its replication or distribution; and

''(3) the term 'search' means a manual or automated review of agency records that is conducted for the purpose of locating those records which are responsive to a request under subsection (a)(3)(A) of this section.''.

Mr. McCAIN. Mr. President, I ask unanimous consent that the committee amendment be agreed to, the bill be deemed read the third time, and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill appear at this point in the RECORD.

The committee amendment was agreed to.

The bill (S. 1090), as amended, was deemed read the third time, and passed.

Mr. LEAHY. Mr. President: I am delighted that the Senate has today passed important amendments to the Freedom of Information Act that will bring this statute into the electronic age. Passage of these amendments are a tremendous way to mark the 30th anniversary of the Freedom of Information Act.

The FOIA has served the country well in maintaining the right of Americans to know what their government is doing—or not doing. As President Johnson said in 1966, when he signed the Freedom of Information Act into law:

This legislation springs from one of our most essential principles: A democracy works best when the people have all the information that the security of the Nation permits.

Just over the past few months, records released under the FOIA have revealed FAA actions against Valuejet before the May 11 crash in the Everglades, the government's treatment of South Vietnamese commandos who fought in a CIA-sponsored army in the early 1960's, the high salaries paid to independent counsels, the unsafe lead content of D.C. tap water, and the types of tax cases that the IRS recommends for criminal prosecution.

In the 30 years since the Freedom of Information Act became law, technology has dramatically altered the way government handles and stores information. Gone are the days when agency records were solely on paper stuffed into file cabinets. Instead, agencies depend on personal computers, computer databases and electronic storage media, such as CD-ROM's, to carry out their mission.

The time is long overdue to update this law to address new issues related to the increased use of computers by federal agencies. Computers are just as ubiquitous in Federal agency offices as in the private sector. We need to make clear that the FOIA is not just a right to know what's on paper law, but that it applies equally to electronic records.

That is why Senator BROWN, Senator KERRY, and I, with the strong support of many library, press, civil liberties, consumer and research groups, have pushed for passage of the Electronic FOIA bill. The Senate recognized the need to update the FOIA in the last Congress by passing an earlier version of this bill.

This legislation takes steps so that agencies use technology to make government more accessible and accountable to its citizens. Storing government information on computers should actually make it easier to provide public access to information in more meaningful formats. For example, people with sight or hearing impairments can use special computer programs to translate electronic information into braille or large print or synthetic speech output.

Electronic records also make it possible to provide dial-up access to any citizen who can use computer networks, such as the Internet. Those Americans living in the remotest rural area in Vermont, or in a distant State far from Federal agencies' public reading rooms here in Washington, DC, should be able to use computer networks to get direct access to the warehouse of unclassified information stored in government computer banks. The explosion of the Internet adds enormously to the need for clarification of the status of electronic government records under the FOIA and the significance of this legislation for citizen access. These amendments to the FOIA will encourage federal agencies to use the Internet to increase access to government records for all Americans.

Ensuring public access to electronic government records is not just important for broader citizen access. Information is a valuable commodity and the Federal Government is probably the largest single producer and repository of accurate information. This government information is a national resource that commercial companies pay for under the FOIA, add value to, and then sell—creating jobs and generating revenue in the process. It is important for our economy and for American competitiveness that fast, easy access to that resource in electronic form be available. The electronic FOIA bill would contribute to our information economy.

I would like to highlight some of what this bill would accomplish. First, it would require agencies to provide records in a requested format whenever possible.

Second, the bill would encourage agencies to increase on-line access to government records that agencies currently put in their public reading rooms. These records would include copies of records that are the subject of repeated FOIA requests.

Finally, the bill would address the biggest single complaint of people making FOIA requests: delays in getting a response. I understand that at the FBI, the delays can stretch to over four years. Because of these delays, writers, students and teachers and others working under time deadlines, have been frustrated in using FOIA to meet their research needs. Long delays in access can mean no access at all.

The current time limits in the FOIA are a joke. Few agencies actually respond to FOIA requests within the 10-day limit required in the law. Such routine failure to comply with the statutory time limits is bad for morale in the agencies and breeds contempt by citizens who expect government officials to abide by, not routinely break, the law.

I appreciate the budget and resource constraints under which agencies are operating. We have made every effort in this bill to make sure it works for both agencies and requestors. Some agencies, particularly those with huge backlogs of FOIA requests resulting in delays of up to four years for an agency response, are concerned that the bill removes backlogs as an automatic excuse to ignore the time limits. We should not give agencies an incentive to create backlogs. Agencies will have to show that they are taking steps to reduce their backlogs before they qualify for additional time to respond to a FOIA request.

While increased computer access to government records may necessitate an initial outlay of money and effort, as more information is made available online, the labor intensive task of physically searching and producing documents should be reduced. The net result should be increased efficiency in

satisfying agency FOIA obligations, reduced paperwork burdens, reduced errors and better service to the public.

The Electronic FOIA bill should help agencies comply with the law's time limits by doubling the ten-day time limit to give agencies a more realistic time period for responding to FOIA requests, making more information available on-line, requiring the use of better record management techniques, such as multi-track processing, and providing expedited access to requestors who demonstrate a compelling need for a speedy response.

All these steps, and others in the bill, may not provide a total cure but should help reduce the endemic delay problems.

This has generally been a very partisan Congress. I commend members of the House Government Reform and Oversight Subcommittee on Government Management, Information and Technology, and, in particular, Chairman STEPHEN HORN, ranking member CAROLYN MALONEY, and Representatives RANDY TATE and COLLIN PETERSON, for rising above the partisan fray and moving this legislation in the House. They saw this bill for what it is: a good government issue, not a partisan one. We have worked diligently to sort out any differences in the House and Senate bills, and we can all be proud of the final product reflected in both the Substitute amendment to S. 1090 and the final version of the bill passed by the House.

Even as we have worked on this legislation, new issues about the coverage of the FOIA have surfaced. I refer specifically to the D.C. Court of Appeals case, decided on August 2, 1996, that the National Security Council is not an ''agency'' subject to the FOIA, despite the fact that the NSC has complied with the FOIA for years under both Republican and Democratic Presidents. Litigation on this matter continues and the case may now go to the U.S. Supreme Court. Clarification of which offices within the White House are ''agencies'' subject to the FOIA may be a matter requiring congressional attention in the next Congress.

As the Federal Government increasingly maintains its records in electronic form, we need to make sure that this information is available to citizens on the same basis as information in paper files. Doing so will fulfill the promise first made thirty years ago in the FOIA that citizens have a right to know and a right to see the records the government collects with their tax dollars.

I ask unanimous consent that a section-by-section analysis of that amendment be printed in the RECORD.

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

SUMMARY OF SUBSTITUTE TO LEAHY-BROWN-KERRY ELECTRONIC FOIA IMPROVEMENT ACT (S. 1090)

Section 1. Short Title. The Act may be cited as the ''Electronic Freedom of Information Act Amendments of 1996.''

Section 2. Findings and Purposes. The findings make clear that Congress enacted the FOIA to require Federal agencies to make records available to the public through public inspection and upon the request of any person for any public or private use. The findings also acknowledge the increase in the government's use of computers and exhorts agencies to use new technology to enhance public access to government information.

The purposes of the bill include improving public access to government information and records, and reducing the delays in agencies' responses to requests for records under the Freedom of Information Act.

Section 3. Application of Requirements to Electronic Format Information. The bill would add a definition of ''record'' to the FOIA to address electronically stored information. There is little disagreement that the FOIA covers all government records, regardless of the form in which they are stored by the agency. The Department of Justice agrees that computer database records are agency records subject to the FOIA. See ''Department of Justice Report on 'Electronic Record' Issues Under the Freedom of Information Act,'' S. Hrg. 102–1098, 102d Cong., 2d Sess. 33 (1992). The bill would define ''record'' to ''include any information that would be an agency record subject to the requirements of this section when maintained by an agency in any format, including an electronic format.''

Section 4. Information Made Available in Electronic Format and Indexation of Records. The Office of Management and Budget has directed agencies to use electronic media and formats, including public networks, to make government information more easily accessible and useful to the public. This bill will help effectuate this goal.

This section of the bill would require that materials, such as agency opinions and policy statements, which an agency must ''make available for public inspection and copying,'' pursuant to Section 552(a)(2), and which are created on or after November 1, 1996, be made available by computer telecommunications, as well as in hard copy, within 1 year after the date of enactment. If an agency does not have the means established to make these materials available on-line, then the information should be made available in some other electronic form, e.g., CD–ROM or disc. The bill would thus treat (a)(2) materials in the same manner as it treats (a)(1) materials, which under the Government Printing Office Electronic Information Access Enhancement Act of 1993 (''GPO Access Act''), Pub. Law 103–40, are required, via the Federal Register, to be made available on-line.

This section would also increase the information made available under Section 552(a)(2). Specifically, agencies would be required to make available for public inspection and copying, in the same manner as other materials required to be made available under Section 552(a)(2), copies of records released in response to FOIA requests that the agency determines have been or will likely be the subject of additional requests. In addition, they would be required to make available a general index of these prior-released records. By December 31, 1999, this index should be made available by computer telecommunications. Since not all individuals have access to computer networks or are near agency public reading rooms, however, requesters would still be able to access previously-released FOIA records through the normal FOIA process.

As a practical matter, this would mean that copies of prior-released records on a popular topic, such as the assassinations of public figures, would subsequently be treated as (a)(2) materials, which are made available for public inspection and copying. This would help to reduce the number of multiple FOIA requests for the same records requiring separate agency responses. Likewise, the general index would assist requesters in determining which records have been the subject of prior FOIA requests. Since requests for prior-released records are more readily identified by the agency without the need for new searches, this index would assist agencies in complying with the FOIA time limits.

This section would make clear that to prevent a clearly unwarranted invasion of personal privacy, an agency may delete identifying details when it makes available or publishes the index and copies of prior-released records.

Finally, this section would require, consistent with the ''Computer Redaction'' requirement in Section 9 of the bill, an agency to indicate the extent of any deletion from the prior-released records and, where technically feasible, to indicate the deletion at the place on the record where the deletion was made. Such indication need not be included when doing so would harm an interest protected by the exemption in subsection (b) under which the deletion was made.

Section 5. Honoring Form or Format Requests. Section 5 would require agencies to assist requesters by providing information in the form requested, including requests for the electronic form of records, if the agency is able to reproduce it in that form. This section would overrule *Dismukes* v. *Department of the Interior*, 603 F. Supp. 760, 763 (D.D.C. 1984), which held that an agency ''has no obligation under the FOIA to accommodate plaintiff's preference [but] need only provide responsive, nonexempt information in a reasonably accessible form.''

This section would also require agencies to make reasonable efforts to search for records that are maintained in electronic form or format, unless such search efforts would significantly interfere with the operation of the agency's automated information systems.

The bill defines ''search'' as a ''review, manually or by automated means,'' of ''agency records for the purpose of locating those records responsive to a request.'' Under the FOIA, an agency is not required to create documents that do not exist. Computer records located in a database rather than in a file cabinet may require the application of codes or some form of programming to retrieve the information. Under the definition of ''search'' in the bill, the search of computerized records would not amount to the creation of records. Otherwise, it would be virtually impossible to get records that are maintained completely in an electronic form, like computer database information, because some manipulation of the information likely would be necessary to search the records.

Section 6. Standard for Judicial Review. Section 6 would require a court to accord substantial weight to an agency's determination as to both the technical feasibility of redacting nonreleasable material at the place on the record where the deletion was made, under paragraphs (2)(C) and subsection (b), as amended by this Act, and the reproducibility of the requested form or format of records, under paragraph (3)(B), as amended by this Act. Such deference is warranted since an agency is familiar with the availability of technical resources within the agency to process, redact and reproduce records.

Section 7. Ensuring Timely Response to Requests. The bill addresses the single most frequent complaint about the operation of the FOIA, namely, agency delays in responding to FOIA requests by encouraging agencies to employ better records management systems.

Multitrack Processing.—An agency commitment to process requests on a first-come, first-served basis has been held to satisfy the requirement that an agency exercise due diligence in dealing with backlogs of FOIA requests. Processing requests solely on a FIFO basis, however, may result in lengthy delays for simple requested due to the prior receipt and processing of complex requests, and in increased agency backlogs. The bill would permit agencies to promulgate regulations implementing multitrack processing systems, and make clear that agencies should exercise due diligence within each track. Agencies would also be permitted to provide requesters with the opportunity to limit the scope of their requests in order to qualify for processing under a faster track.

Unusual Circumstances.—The FOIA currently permits an agency in ''unusual circumstances'' to extend for a maximum of 10 working days the statutory time limit for responding to a FOIA request, upon written notice to the requester setting forth the reason for such extension. The FOIA enumerates various reasons for such an extension, including the need to search for and collect requested records from multiple offices, the volume of records requested, and the need for consultation among components of an agency.

For unusually burdensome FOIA requests, an extra ten days still provides insufficient time for an agency to respond. The bill would provide a mechanism to deal with such requests, which an agency would not be able to process even with an extra ten days. For such requests, the bill would require an agency to inform the requester that the request cannot be processed within statutory time limits and provide an opportunity for the requester to limit the scope of the request so that it may be processed within statutory time limits, or arrange with the agency an agreed upon time frame for processing the request. In the event that the requester refuses to reasonably limit the request's scope or agree upon a time frame and then seeks judicial review, that refusal shall be considered as a factor in determining whether ''exceptional circumstances'' exist under subparagraph (6)(C).

Requesters should not be able to make multiple requests merely to avoid the procedures otherwise applicable in unusual circumstances. To avoid the potential problem of multiple requests for purely circumvention purposes, the bill would permit agencies to promulgate regulations to aggregate requests made by the same requester, or group of requesters acting in concert, if the agency reasonably believes that such requests actually constitute a single request, which would otherwise satisfy the unusual circumstances specified in subparagraph (6)(B)(iii) of the bill. The aggregated requests must involve clearly related matters. Agencies are directed not to aggregate multiple requests involving unrelated matters.

Exceptional Circumstances.—The FOIA provides that in ''exceptional circumstances,'' a court may extend the statutory time limits for an agency to respond to a FOIA request, but does not specify what those circumstances are. The bill would clarify that routine, predictable agency backlogs for FOIA requests do not constitute exceptional circumstances for purposes of the Act, unless the agency demonstrates reasonable progress in reducing its backlog of pending requests. This is consistent with the holding in *Open America* v. *Watergate Special Prosecution Force*, 547 F.2d 605 (D.C. Cir. 1976), where the court held that an unforeseen 3,000 percent increase in FOIA requests in one year, which created a massive backlog in an agency with insufficient resources to process those requests in a timely manner, can constitute ''exceptional circumstances.'' Routine backlogs of requests for records under the FOIA should not give agencies an automatic excuse to ignore the time limits, since this provides a disincentive for agencies to clear up those backlogs. The bill also makes clear that those agencies with backlogs must make efforts to reduce that backlog before exceptional circumstances will be found to exist.

Section 8. Time Period for Agency Consideration of Requests. The bill contains provisions designed to address the needs of both agencies and requesters for more workable time periods for the processing of FOIA requests.

Expedited Access.—The bill would require agencies to promulgate regulations authorizing expedited access to requesters who demonstrate a ''compelling need'' for a speedy response. The agency would be required to make a determination whether or not to grant the request for expedited access within ten days and then notify the requester of the decision. The requester would bear the burden of showing that expedition is appropriate by certifying in a statement that the demonstration of compelling need is true and correct to the best of the requester's knowledge and belief. The bill would permit only limited judicial review based on the same record before the agency of the determination whether to grant expedited access. Moreover, federal courts will not have jurisdiction to review an agency's denial of an expedited access request if the agency has already provided a complete response to the request for records.

A ''compelling need'' warranting expedited access would be demonstrated by showing that failure to obtain the records within an expedited time frame would: (I) pose an imminent threat to an individual's life or physical safety; or, (II) ''with respect to a request made by a person primarily engaged in disseminating information, urgency to inform the public concerning actual or alleged federal government activity.'' Agencies are also permitted to provide for expedited processing in other cases as they may determine.

Expansion of Agency Response Time.—To assist federal agencies in reducing their backlog of FOIA requests, the bill would double the time limit for an agency to respond to FOIA requests from ten days to twenty days. Attorney General Janet Reno has acknowledged the inability of most federal agencies to comply with the ten-day rule ''as a serious problem'' stemming principally from ''too few resources in the face of too heavy a workload.''

Estimation of Matter Denied.—The bill would require agencies when denying a FOIA request to make reasonable efforts to estimate the volume of any denied material and provide that estimate to the requester, unless doing so would harm an interest protected by an exemption pursuant to which the denial is made.

Section 9. Computer Redaction. The ease with which information on the computer may be redacted makes the determination of whether a few words or 30 pages have been withheld by an agency at times impossible. The bill would require agencies to indicate deletions of the released portion of the record and, where technically feasible, to indicate the deletion at the place on the record where the deletion was made, unless including that indication would harm an interest protected by an exemption pursuant to which the deletion is made.

Section 10. Report to the Congress. This section would add to the information an agency is already required to publish as part of its annual report. Specifically, agencies would be required to publish in its annual reports information regarding denials of requested records, appeals, a complete list of statutes upon which the agency relies to withhold information under Section 552(b)(3), which exempts information that is specifically exempted from disclosure by other statutes, the number of backlogged FOIA requests, the number of days taken to process requests, the amount of fees collected, and staff devoted to processing FOIA requests. The annual reports would be required to be made available to the public, including by computer telecommunications means. If an agency does not have the means established to make the report available on-line, then the report should be made available in some other electronic form. The Attorney General is required to make each report available at a single electronic access point, and advise certain Members of Congress that such reports are available.

The Attorney General and the Director of the Office of Management and Budget are required to develop reporting guidelines for the annual reports by October 1, 1997.

Section 11. Reference Materials and Guides. The bill would require agencies to make publicly available, upon request, reference material or a grade for requesting records or information from an agency. This guide would include an index and description of all major information systems of an agency, and a handbook for obtaining various types and categories of public information from an agency.

Section 12. Effective Date. To provide agencies time to implement new requirements under the Act, Sections 7 and 8 of the bill concerning multitrack and expedited processing, unusual and exceptional circumstances, the doubling of the statutory time period for responding to FOIA requests, and estimating the amount of material to which access is denied, will take effect 180 days after the date of enactment, and the remainder of the Act will become effective one year after the date of enactment.

COMPREHENSIVE METHAMPHETAMINE CONTROL ACT OF 1996

Mr. MCCAIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 566, S. 1965, which was introduced earlier by Senator HATCH.

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

The clerk will report.

A bill (S. 1965) to prevent the illegal manufacturing and use of methamphetamine.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. HATCH. Mr. President, a number of us have spent countless hours trying to devise a plan to turn back the dreadful tide of methamphetamine abuse which is now beginning to flow westward across the United States, threatening to engulf both cities and rural areas.

We have now crafted such a plan, a bipartisan plan which meets those goals, we have introduced as S. 1965, the Comprehensive Methamphetamine Control Act of 1996.

I rise to ask my colleagues' support for this legislation and for the amendments to that bill that have allowed it to win near unanimous support.

Mr. President, we have all seen the recent alarming reports indicating that drug abuse has increased during the tenure of the Clinton administration.

Today, the Congress can take an important step to curb our nation's recent backsliding on the drug issue.

I am proud to point out that this is a bipartisan measure—I think this is how drug policy should be made—and I wish to thank all of our cosponsors: Senators BIDEN; GRASSLEY; FEINSTEIN; WYDEN; DASCHLE; DEWINE; SPECTER; D'AMATO; HARKIN; ASHCROFT; REID; KYL; FEINGOLD; and MCCAIN.

I wish to thank especially the ranking member of the Judiciary Committee, Mr. BIDEN, for his help in developing this legislation.

I can report to my colleagues in the Senate that the House Judiciary Committee is also at hard work on this issue—they have a markup scheduled for tomorrow—so I think it is very possible, indeed highly probable, that we will send a bill to the President before adjournment. That time cannot come soon enough.

Two weeks ago, I testified before the House Judiciary's Subcommittee on Crime, which held a hearing on the meth epidemic. I was encouraged at that hearing by the efforts of Chairman MCCOLLUM and Representatives HEINEMAN, SCHUMER and FAZIO, who are working with us to get a bill we can all endorse.

We developed this bill in close consultation with the Department of Justice and the Drug Enforcement Administration. Indeed, General McCaffrey, Director of the Office of National Drug Control Policy, has testified before the Judiciary Committee that he supports our legislation, so I am certain that the President will sign the bill once the House completes it work on this measure.

Frankly, it is time for this administration to show that the war against drugs is a top national priority. A responsibility of those in leadership positions is to give first attention to the most important problems and this is certainly one.

Mr. President, meth is a killer. We know that meth-related deaths are up dramatically from 151 in 1991 to 433 in 1994.

We know that methamphetamine-related hospital admissions are up about 300 percent in the last 5 years.

Seizures or illegal meth labs are up all over the country and even in my home State of Utah. Illicit lab seizures in Utah increased from 13 in 1994 to 56 in 1995. In 1996, there have already have been 40 meth lab seizures in my State.

Given this pernicious trend, the time to act is now. We must act in a comprehensive fashion and that is what this bill does.

S. 1965 increases the penalties for illegal manufacture and distribution of methamphetamine and its precursors chemicals. It also increases penalties for illegal possession of and trafficking in illicit methamphetamine.

In a careful balance, S. 1965 also reduces single transaction reporting requirements for sales of over-the-counter pseudoephedrine and phenylpropanolamine products to 24 grams. At the same time, our proposal creates a safe harbor for legitimate cough and cold products sold in blister packs at the retail level at quantities of up to 3 grams.

The Comprehensive Methamphetamine Control Act establishes new reporting requirements for firms selling these products through the mail, since law enforcement officials have found that mail order sales are a significant source of diversion.

I believe that education and research are key to efforts to stop drug abuse, and our bill contains a separate title which makes them a top priority.

The bill creates an interagency task force on the methamphetamine epidemic which will coordinate efforts across the Government. It requires that the Secretary of Health and Human Services develop a public health monitoring program, which will collect and disseminate data which can be used in policy development.

The bill also established a public-private education program, an advisory panel of Federal, State and local law enforcement and regulatory agencies with experience in investigating and prosecuting illegal transactions of precursor chemicals.

As I have said, Mr. President, this bill is the product of long and hard negotiations among many parties.

None of us are completely comfortable with every provision, but taken as a whole we are confident the bill will meet our common goal.

An important component of the bill we introduced, as well as the Clinton administration's proposal, were mandatory minimum sentences for meth dealers. The bill we pass today does not contain those ''mandatory minimums,'' due to adoption of the Kennedy-Simon amendment.

From my perspective, the Kennedy-Simon language on sentencing will not be as effective as the mandatory minimums that were contained in the original version of the bill. My colleagues should note that this bill would not have passed without our accepting the Kennedy-Simon amendment. The sponsors of this amendment were rather clear in expressing their desire to keep this bill from passing by unanimous consent without the change embodied in their amendment. In the 105th Congress, it is my intention to pursue enactment of these penalties. In the interest of passing a bill in an expeditious fashion, I have reluctantly agreed to accept the Kennedy-Simon amendment.

Another troublesome aspect of the compromise is the manner in which combination ephedrine products are treated. In the bill we are about to adopt, such products are treated differently than pseudoephedrine or phenylpropanolamine products. The chief difference is that the combination ephedrine products are not permitted to take advantage of the 3 gram, blister pack rule that is afforded to pseudoephedrine and phenylpropanolamine products.

I do not know of, and understand that the Drug Enforcement Agency does not know of, any public policy justification for this difference in treatment of products. One possible—perhaps likely—result will be to decrease the public's legitimate access to these products. I think this is unfortunate, and I hope this provision can be revisited.

I would also like to comment on a few of the changes we made in the bill after its introduction. These changes are embodied in the Hatch-Biden-Wyden-Grassley-Feinstein technical correction amendment.

One such change, which I believe is a significant improvement, is to provide guidance of what evidence the Department of Justice may use in examining whether the safe harbor provisions that affect certain products—those products sold in blister packs in quantities of 3 grams or less—are being diverted. We have clarified that isolated or infrequent use, or use of small quantities of these products, cannot be used to close the 3 gram, blister pack safe harbor for pseudoephedrine and phenylpropanolamine products.

As we crack down on those who make and sell illegal drugs we must also balance the interests of the millions of our citizens who benefit from legitimate over-the-counter drug products. Only if there is solid evidence of systemic abuse of 3 gram, blister pack retail sales should any further steps be taken that would impede the ability of ordinary, law-abiding Americans to have access to safe and effective cold remedies upon which they have come to rely.

We must give the safe harbor provisions a fair test, and that is why the revised bill requires consultation with the Secretary of Health and Human Services and departmental reporting to Congress if the Justice Department believes the safe harbor should be breached.

Make no mistake about it, without the 3 gram, blister pack provision, many legitimate distributors of over-the-counter products would likely choose not to offer pseudoephedrine and phenylpropanolamine products. This is so because without this safe harbor language legitimate distributors of these over-the-counter products risk triggering the reporting and record keeping provisions and criminal sanctions that are attendant to regulated sales.

At the request of the DEA, we included two important provisions. One makes the effective date of the so-called ''safe harbor'' provision effective for products on the shelf one year after enactment. The original bill had an effective date for products initially introduced into interstate commerce

prior to 9 months after the date of enactment.

The other provision allows the DEA to begin immediately upon enactment to collect data used to determine if the safe harbor provision should not be retained.

I would also like to comment on another critical provision of the Hatch-Biden-Wyden-Grassley-Feinstein amendment, which is that it takes the unusual step of legislatively overriding a regulation. This provision was made necessary due to the fact that, on August 7, 1996, the DEA promulgated a final rule with respect to certain pseudoephedrine products.

The DEA had been involved, almost daily, in the negotiations over the development of the bill prior to promulgation of this final rule. I take the unilateral action on the part of the DEA to issue that rule—without any notice to the relevant committees—to be unfortunate bureaucratic judgment or a snafu.

I have accepted the assurances of DEA Administrator Tom Constantine that this was an inadvertent error and that such failure to communicate, particularly when it could jeopardize good faith work toward a common goal, will not occur in the future.

As chairman of the Judiciary Committee, I plan to continue to work closely with the DEA and Department of Justice as we plan, implement, and oversee our Nation's battle against drug abuse. It is important that we work together.

Finally, as a result of testimony at the House hearing, we have added two provisions to the bill. One allows the effective date to be extended up to 6 months at the sole discretion of the administration. The second allows manufacturers to petition for reinstatement from the legal drug exemption; the Attorney General may grant such an exemption if she finds that the product is manufactured and distributed in a manner which prevents diversion.

On balance, I think that these provisions represent a reasonable compromise.

We have all strived to keep in mind our topmost goal: curbing methamphetamine abuse. The bill we are considering today meets that goal. It is comprehensive, it is tough, and it is much needed.

I hope that we will approve the amended version of S. 1965 quickly, so that the House may consider the measure, and we can move it swiftly downtown to the President for his signature.

Mr. BIDEN. Mr. President, the story of our failure to foresee—and prevent—the crack cocaine epidemic is one of the most significant public policy mistakes in modern history. Although warning signs of an outbreak flared over several years, few took action until it was too late.

We now face similar warning signs with another drug—methamphetamine. Without swift action now, history may repeat itself.

In July, Senator HATCH and I, along with Senators FEINSTEIN, FEINGOLD, DASCHLE, GRASSLEY, SPECTER, HARKIN, WYDEN, D'AMATO, KYL, REID, ASHCROFT, MCCAIN, and DEWINE introduced legislation to address this new emerging drug epidemic before it is too late.

Within the past few years the production and use of methamphetamine have risen dramatically. Newspaper and media reports over the past few months have highlighted these increases. I have been tracking this development and pushing legislation to increase Federal penalties and strengthen Federal laws against methamphetamine production, trafficking, and use since 1990.

And what I and others have found is alarming:

From 1991 through 1994 methamphetamine related emergency room episodes increased 256 percent—the increase from 1993 to 1994 alone was 75 percent—with more than 17,000 people overdosing and being brought to the emergency room because of methamphetamine.

A survey of high school seniors, which only measures the use of ''ice''—a fraction of the methamphetamine market—found that in 1995 86,000 12th graders had used ice in the past year, 39,000 had used it in the past month, and 3,600 reported using ice daily. This same survey found that only 54 percent of high school seniors perceived great risk in trying ice—down from 62 percent in 1990. And 27 percent of these children said it would be easy for them to get ice if they wanted it.

The cause for concern over a methamphetamine epidemic is further fueled by drug-related violence—again something we saw during the crack era—that we can expect to flourish with methamphetamine as well. Putting the problem in perspective, drug experts claim that ''ice surpasses PCP in inducing violent behavior.''

In addition to the violence—both random and irrational—associated with methamphetamine users, there is also the enormous problem of violence among methamphetamine traffickers and the environmental and life-threatening conditions endemic in the clandestine labs where methamphetamine is produced.

The bill the Senate is considering addresses all of the dangers of methamphetamine and takes bold actions to stop this potential epidemic in its tracks. Specifically, the Hatch-Biden methamphetamine enforcement bill will take six major steps toward cracking down on methamphetamine production, trafficking, and use, particularly use by the most vulnerable population threatened by this drug—our young people.

First and foremost, we increase penalties for possessing and trafficking in methamphetamine.

Second, we crack down on methamphetamine producers and traffickers by increasing the penalties for the illicit possession and trafficking of the precursor chemicals and equipment used to manufacture methamphetamine.

Third, we increase the reporting requirements and restrictions on the legitimate sales of products containing these precursor chemicals in order to prevent their diversion, and we impose even greater requirements on all firms which sell these product by mail. This includes the use of civil penalties and injunctions to stop ''legitimate'' firms from recklessly providing precursor chemicals to methamphetamine manufacturers.

Fourth, we address the international nature of methamphetamine manufacture and trafficking by coordinating international enforcement efforts and strengthening provisions against the illegal importation of methamphetamine and precursor chemicals.

Fifth, we ensure that methamphetamine manufacturers who endanger the life on any individual or endanger the environment while making methamphetamine will receive enhanced prison sentences.

Finally, we require Federal, State, and local law enforcement and public health officials to stay ahead of any potential growth in the methamphetamine epidemic by creating national working groups on protecting the public from the dangers of methamphetamine production, trafficking, and abuse.

The Hatch-Biden bill addresses all of these needs with a fair balance between the needs of manufacturers and consumers of legitimate products which contain methamphetamine precursor chemicals and the need to protect the public by instituting harsh penalties for any and all methamphetamine-related activities.

This legislation is the crucial, comprehensive tool we need to stay ahead of the methamphetamine epidemic and to avoid the mistakes made during the early stages of the crack-cocaine explosion.

I want to thank Senator HATCH and my other colleagues who share my desire to move now on the problem of methamphetamine. I also want to thank the Clinton administration, which also was determined to act now on this issue and worked with us in developing several of the provisions in this bill.

I urge all my colleagues to join us in protecting our children and our society from the devastations of methamphetamine by supporting this vital legislation.

Mr. WYDEN. Mr. President, I rise as an original cosponsor of the Comprehensive Methamphetamine Control Act of 1996, S. 1965, to urge its swift enactment.

Today, the Senate is telling drug dealers that we aren't going to let methamphetamine become the crack of the 1990s. By passing the Comprehensive Methamphetamine Control Act, the Senate is taking decisive action to

stem the tide of the methamphetamine epidemic that has sunk its claw into communities in Oregon and across the Nation.

I do not believe we are acting a moment too soon. Last year in Oregon, 52 deaths were tied to methamphetamine. By comparison, Oregon's Office of Alcohol and Drug Abuse Programs reported that there was only one meth-related death in 1991. Meth-related arrests are rising across my State: Over the last 5 years in Jackson County, meth-related violations rose 1,100 percent, while in Malheur County, meth-related arrests jumped 110 percent from 1993 to 1994. In Portland, police seizures of meth increased 145 percent from 1994 to 1995.

Since this bill was introduced in June, I have met with Oregonians from across the State who have told me about the need for a tough Federal response to the meth crisis. In Medford, I attended a Methamphetamine Awareness Conference, where law enforcement officials joined with public health experts and other social service providers to discuss the need for a comprehensive approach to the meth problem. In Portland, I convened a round table so law enforcement officials from across the State could focus on how Federal, State, and local law enforcement can come together to take on the methamphetamine crisis. Everywhere I go, the refrain is the same—the problem is growing, as is its grip on our communities.

The Comprehensive Methamphetamine Control Act will aid in turning the tide against the methamphetamine menace by giving law enforcement much needed new tools to combat this deadly drug.

The legislation goes after the source of the methamphetamine problem—the precursor chemicals, often found in legal, over-the-counter drug products, which are used to manufacture methamphetamine and its ugly cousin, amphetamine. While still allowing consumers access to many helpful and commonly used products containing the precursor chemicals, the bill will place significant restrictions on the bulk sale of the chemicals, both through the mail and over the counter. The legislation will also increase the penalties for the illegal possession and trafficking of the precursor chemicals and the equipment used to manufacture the controlled substances and will allow law enforcement increased flexibility to obtain injunctions to stop the illegal production and sale of precursor chemicals.

This legislation addresses the international trafficking in precursor chemicals by imposing a maximum 10-year penalty on the manufacture outside the United States of precursor chemicals with the intent to import the chemical into this country.

Back at home, the bill will increase penalties for those convicted of possessing and trafficking in methamphetamine. Penalties for methamphetamine trafficking have been too low for too long, and I hope the enhanced penalties will make drug dealers think twice before they peddle their poison. The bill will also ensure that methamphetamine manufacturers who put the life of any person at risk or endanger the environment will receive longer prison sentences.

Finally, I think that all our efforts at enforcing penalties against traffickers and users are going to be for naught unless we work to get at the root of the problem, which is the addiction to this deadly substance. I am pleased that this legislation will expand education, treatment and research activities related to methamphetamine.

While the Comprehensive Methamphetamine Control Act will make a difference in the battle against this deadly drug, there should be no doubt that we will all need to remain engaged so we can counter the challenges posed by the methamphetamine crisis and by other illegal drugs, which are eating away at our Nation's youth.

I commend the fine bipartisan effort that went into crafting this bill. My colleagues, led by Chairman HATCH and Senators BIDEN and FEINSTEIN, deserve praise for their commitment and cooperation on this matter. As we all seek to stamp out drug abuse in this country, I hope the partisan spirit that permeated this bill can be a harbinger of good things to come.

Mr. DASCHLE. Mr. President, I rise in support of this important and much-needed bill. Law enforcement officers in my state of South Dakota know firsthand the serious impact the use of methamphetamines or ''meth'' has had on the State. Easily made from legally available chemicals—indeed, instructions for manufacturing the drug can be found on the Internet—meth is relatively cheap because local manufacturing eliminates the need for illegal smuggling. Highly addictive and capable of producing sharp personality alterations, violent episodes, and brain damage in users, the drug imposes a tremendous cost on our communities, families and law enforcement resources.

Methamphetamines have been linked with several violent crimes in South Dakota. In the last year, a contract-killing and a murder-suicide were both attributable to use of this drug. The DEA has registered an increase in the percentage of arrests due to meth in South Dakota from around 20 percent of the total arrest rate to 70 percent. And users often harm themselves as well. From 1991 through 1994, emergency room episodes caused by use of this drug increased 256 percent nationwide.

This bill addresses this emerging drug epidemic by increasing Federal penalties and strengthening Federal laws against production, trafficking and use of methamphetamines; increasing penalties for illicit possession and trafficking of precursor chemicals and equipment used to make the drug; increasing reporting requirements and restrictions on legitimate sales of products containing these precursor chemicals to prevent their diversion to illegal use; and strengthening provisions against illegal importation of methamphetamine and precursor chemicals.

I urge my colleagues to provide needed tools to our law enforcement officers by joining the fight against this dangerous drug. We should and we must pass this bill.

Mr. FEINGOLD. Mr. President, I rise today in support of S. 1965, the Comprehensive Methamphetamine Control Act of 1996. I am pleased to join many of my colleagues from the Judiciary Committee, including Chairman HATCH and the ranking member, Senator BIDEN, as a cosponsor of this legislation.

This bill is an important step in attempting to halt the spread of methamphetamine across this Nation. Methamphetamine is a dangerous synthetic drug which stimulates the central nervous system and can lead to such unfortunate consequences, as death, violent and uncontrollable behavior and severe depression. Methamphetamine is similar to another synthetic drug which appeared in my home State of Wisconsin in the recent past, methcathinone or cat as it is commonly known. Thankfully, through the hard work of law enforcement, both Federal and local, throughout the upper Midwest, it appears that methcathinone remains a relatively isolated problem. In contrast, however, the use of methamphetamine appears to be spreading.

While use of methamphetamine creates responses similar to that of crack cocaine, reactions to methamphetamine have been far more severe and longer in duration than those of crack or cocaine. Furthermore, in recent years the purity of this drug has increased, thus enhancing the potential for violent reactions among its users. The consequences of this are serious, not only for the user, but for society as well. Drug abuse can often lead to crime or violent behavior, possibilities which may be amplified when methamphetamine is involved. A recent national conference of Federal, State and local law enforcement indicated that law enforcement must become prepared to deal with more violent offenders who have abused methamphetamine.

The re-emergence of this drug can be traced to the early 1990's when Mexican drug traffickers began to increase their production and importation of methamphetamine in the United States. Although originally produced primarily in Mexico, the clandestine labs which generate methamphetamine have begun to appear in this nation. Initially, the devastating presence of this drug was largely restricted to the Western United States, predominately in California and Arizona. For the period of 1991 through 1994, methamphetamine related deaths increased by 176

percent for the cities of Los Angeles, Phoenix, San Diego, and San Francisco. In the city of Phoenix the number of methamphetamine related emergency room incidents increased by 370 percent for that same 4-year period. Nationwide, the number of emergency room incidents increased 350 percent from 1991 to 1994. While originally restricted to the western part of the United States, it appears that the drug has begun an eastward migration to parts of the Midwest. Mr. President, there can be no doubt that the consequences of using this drug are serious. We must take steps to address this growing problem and this legislation does just that.

S. 1965 includes provisions to strengthen and enhance penalties for the trafficking of methamphetamine. It increases penalties for the illegal possession and trafficking of precursor chemicals, those chemicals which are used to produce this deadly drug. The bill increases penalties for the illegal manufacture and possession of equipment used to construct the clandestine labs which generate methamphetamine and other controlled substances. Another troubling facet of this drug, which this bill addresses, is that the labs which produce this drug often pour volatile and lethal chemicals into the environment. This bill increases the penalties for those individuals who endanger the lives of innocent people and law enforcement as well as threaten the environment by operating these labs.

Because many of the components of methamphetamine are products which are otherwise legally available, the bill tightens restrictions on the sale and importation of the precursor chemicals used by methamphetamine traffickers. It enhances reporting requirements for pseudoephedrine or phenylpropanolamine, both important components in the production of methamphetamine. In short, Mr. President, in addition to punishing those individuals who market in this deadly drug, the bill addresses the important issue of regulating precursor chemicals which are essential to drug traffickers. Finally Mr. President, this legislation establishes an interagency task force to visit the growing problem of methamphetamine abuse and develop and implement a national strategy of education, prevention, and treatment. Further, the Secretary of Health and Human Services is charged with monitoring the level of methamphetamine abuse in the United States in order to assist public health officials in developing responses to this problem.

Clearly, Mr. President, the problems of drug which confront this Nation are complex and challenging. It will require a long-term commitment by all of us. We must coordinate law enforcement and tough sanctions with effective and adequately funded education, prevention and treatment initiatives. This legislation is clearly just one portion of what must be a larger approach to the issue of drug abuse, but it is, in my opinion, an important and necessary step in addressing the consequences of methamphetamine. I want to again thank the Senator from Delaware, Senator BIDEN, and Senator HATCH for their leadership on this bill. I am proud to join them in this effort and pleased that the Senate has chosen to adopt this important legislation.

Mr. HARKIN. Mr. President, as an original cosponsor of the Comprehensive Methamphetamine Control Act, I am pleased that the Senate is acting quickly to take this important step in our fight against drugs. Meth is destroying lives, families, and communities across Iowa and across the country. Just last week Des Moines police reported that marijuana use in the city is on the rise and that the increase is being driven by the popularity of methamphetamine. For Iowa, and many other States, this bill passage of this legislation can't come fast enough.

As Iowa's new drug of choice, meth has left no part of our State untouched. In a word, meth is poison. This dangerous and popular drug is cheap and easy to access. In Iowa, the street price for one gram of meth is $100, similar to that of cocaine. However, unlike cocaine whose effects last about 20 minutes, one quarter of a gram of meth will last about 12 to 14 hours. A leading Iowa doctor referred to meth as ''the most malignant, addictive drug known to mankind.''

There is no doubt that the time for this legislation is now. Federal methamphetamine investigations have doubled and meth arrests have more than tripled over the past 2 years. The Division of Iowa Narcotics Enforcement reported a nearly 400 percent increase in meth seizures in a one year period. And in our largest city, Des Moines, meth seizures increased more than 4,000 percent.

The legislation we are passing today takes bold actions to help States like Iowa fight back. The Comprehensive Methamphetamine Enforcement Act stiffens penalties for the possession and trafficking of this deadly poison and cracks down on producers and traffickers by increasing penalties for the illicit possession of the chemicals and equipment used to manufacture methamphetamine. The bill increases restrictions and reporting requirements on companies who supply the ingredients for its production and creates national working groups comprised of public health officials and local law enforcement to develop strategies to continue to fight this budding epidemic.

Iowans have worked hard to cultivate a good quality of life. They have worked hard to make their communities a place to raise a family, a safe place, a decent place. But meth producers and dealers are peddling poison and wreaking havoc on small towns and communities across our State.

I appreciate the efforts of Senators HATCH and BIDEN, the chair and ranking member of the Senate Judiciary Committee and look forward to working with them to ensure this legislation gets to the President this year.

AMENDMENTS NOS. 5365 AND 5366, EN BLOC

Mr. MCCAIN. I understand that there are two amendments at the desk, one submitted by Senator HATCH and one submitted by Senator KENNEDY.

I ask for their consideration en bloc.

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

The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona (Mr. MCCAIN), proposes amendments numbered 5365 and 5366, en bloc.

The amendments (Nos. 5365 and 5366), en bloc, are as follows:

AMENDMENT NO. 5365

(Purpose: To make certain technical and conforming amendments)

On page 9, line 2, strike ''or facilitate to manufacture'' and insert ''or to facilitate the manufacture of''.

On page 10, line 8, strike ''IMPORTATION REQUIREMENTS'' and insert ''IMPORTATION AND EXPORTATION REQUIREMENTS''.

On page 11, line 9, strike the comma after ''item''.

On page 11, line 12, strike beginning with ''For purposes'' through line 21 and insert ''For purposes of paragraph (11), there is a rebuttable presumption of reckless disregard at trial if the Attorney General notifies a firm in writing that a laboratory supply sold by the firm, or any other person or firm, has been used by a customer of the notified firm, or distributed further by that customer, for the unlawful production of controlled substances or listed chemicals a firm distributes and 2 weeks or more after the notification the notified firm distributes a laboratory supply to the customer.'.''.

On page 14, line 24, strike ''Iso safrole'' and insert ''Isosafrole''.

On page 15, between lines 5 and 6, add the following:

SEC. 210. WITHDRAWAL OF REGULATIONS.

The final rule concerning removal of exemption for certain pseudoephedrine products marketed under the Federal Food, Drug, and Cosmetic Act published in the Federal Register of August 7, 1996 (61 FR 40981–40993) is null and void and of no force or effect.

On page 21, line 23, strike beginning with '', except that'' through ''transaction'' on page 22, line 6, and insert '', except that the threshold for any sale of products containing pseudoephedrine or phenylpropanolamine products by retail distributors or by distributors required to submit reports by section 310(b)(3) of this title shall be 24 grams of pseudoephedrine or 24 grams of phenylpropanolamine in a single transaction''.

On page 22, line 8, strike ''abuse'' and insert ''offense''.

On page 23, strike lines 1 through 14 and insert the following:

''(46)(A) The term 'retail distributor' means a grocery store, general merchandise store, drug store, or other entity or person whose activities as a distributor relating to pseudoephedrine or phenylpropanolamine products are limited almost exclusively to sales for personal use, both in number of sales and volume of sales, either directly to walk-in customers or in face-to-face transactions by direct sales.

On page 24, line 12, strike ''The'' and insert the following: ''Pursuant to subsection (d)(1), the''.

On page 25, line 17, strike ''effective date of this section'' and insert ''date of enactment of this Act''.

On page 26, line 1, after ''being'' insert ''widely''.

On page 26, line 4, strike ''in bulk'' and insert ''for distribution or sale''.

On page 27, line 15, strike ''effective date of this section'' and insert ''date of enactment of this Act''.

On page 28, between lines 19 and 20, insert the following and redesignate the following paragraphs accordingly:

(3) SIGNIFICANT NUMBER OF INSTANCES.—

(A) IN GENERAL.—For purposes of this subsection, isolated or infrequent use, or use in insubstantial quantities, of ordinary over-the-counter pseudoephedrine or phenylpropanolamine, as defined in section 102(45) of the Controlled Substances Act, as added by section 401(b) of this Act, and sold at the retail level for the illicit manufacture of methamphetamine or amphetamine may not be used by the Attorney General as the basis for establishing the conditions under paragraph (1)(A)(ii) of this subsection, with respect to pseudoephedrine, and paragraph (2)(A)(ii) of this subsection, with respect to phenylpropanolamine.

(B) CONSIDERATIONS AND REPORT.—The Attorney General shall—

(i) in establishing a finding under paragraph (1)(A)(ii) or (2)(A)(ii) of this subsection, consult with the Secretary of Health and Human Services in order to consider the effects on public health that would occur from the establishment of new single transaction limits as provided in such paragraph; and

(ii) upon establishing a finding, transmit a report to the Committees on the Judiciary in both, respectively, the House of Representatives and the Senate in which the Attorney General will provide the factual basis for establishing the new single transaction limits.

On page 29, between lines 14 and 15, insert the following:

(f) COMBINATION EPHEDRINE PRODUCTS.—

(1) IN GENERAL.—For the purposes of this section, combination ephedrine products shall be treated the same as pseudoephedrine products, except that—

(A) a single transaction limit of 24 grams shall be effective as of the date of enactment of this Act and shall apply to sales of all combination ephedrine products, notwithstanding the form in which those products are packaged, made by retail distributors or distributors required to submit a report under section 310(b)(3) of the Controlled Substances Act (as added by section 402 of this Act);

(B) for regulated transactions for combination ephedrine products other than sales described in subparagraph (A), the transaction limit shall be—

(i) 1 kilogram of ephedrine base, effective on the date of enactment of this Act; or

(ii) a threshold other than the threshold described in clause (i), if established by the Attorney General not earlier than 1 year after the date of enactment of this Act; and

(C) the penalties provided in subsection (d)(1)(B) of this section shall take effect on the date of enactment of this Act for any individual or business that violates the single transaction limit of 24 grams for combination ephedrine products.

(2) DEFINITION.—For the purposes of this section, the term ''combination ephedrine product'' means a drug product containing ephedrine or its salts, optical isomers, or salts of optical isomers and therapeutically significant quantities of another active medicinal ingredient.

On page 29, line 15, strike ''(f)'' and insert ''(g)''.

On page 29, line 17, strike all beginning with ''over-the-counter'' through line 20 and insert ''pseudoephedrine or phenylpropanolamine product prior to 12 months after the date of enactment of this Act, except that, on application of a manufacturer of a particular pseudoephedrine or phenylpropanolamine drug product, the Attorney General may, in her sole discretion, extend such effective date up to an additional six months. Notwithstanding any other provision of law, the decision of the Attorney General on such an application shall not be subject to judicial review.''

On page 35, line 5, after ''funds'' insert ''or appropriations''.

AMENDMENT NO. 5366

(Purpose: To provide enhanced penalties for offenses involving certain listed chemicals)

Strike sections 301 and 302 and insert the following:

SEC. 301. PENALTY INCREASES FOR TRAFFICKING IN METHAMPHETAMINE.

(a) DIRECTIVE TO THE UNITED STATES SENTENCING COMMISSION.—Pursuant to its authority under section 994 of title 28, United States Code, the United States Sentencing Commission shall review and amend its guidelines and its policy statements to provide for increased penalties for unlawful manufacturing, importing, exporting, and trafficking of methamphetamine, and other similar offenses, including unlawful possession with intent to commit any of those offenses, and attempt and conspiracy to commit any of those offenses. The Commission shall submit to Congress explanations therefor and any additional policy recommendations for combating methamphetamine offenses.

(b) IN GENERAL.—In carrying out this section, the Commission shall ensure that the sentencing guidelines and policy statements for offenders convicted of offenses described in subsection (a) and any recommendations submitted under such subsection reflect the heinous nature of such offenses, the need for aggressive law enforcement action to fight such offenses, and the extreme dangers associated with unlawful activity involving methamphetamine, including—

(1) the rapidly growing incidence of methamphetamine abuse and the threat to public safety such abuse poses;

(2) the high risk of methamphetamine addiction;

(3) the increased risk of violence associated with methamphetamine trafficking and abuse; and

(4) the recent increase in the illegal importation of methamphetamine and precursor chemicals.

SEC. 302. ENHANCED PENALTIES FOR OFFENSES INVOLVING CERTAIN LISTED CHEMICALS.

(a) CONTROLLED SUBSTANCES ACT.—Section 401(d) of the Controlled Substances Act (21 U.S.C. 841(d)) is amended by striking ''not more than 10 years,'' and inserting ''not more than 20 years in the case of a violation of paragraph (1) or (2) involving a list I chemical or not more than 10 years in the case of a violation of this subsection other than a violation of paragraph (1) or (2) involving a list I chemical,''.

(b) CONTROLLED SUBSTANCE IMPORT AND EXPORT ACT.—Section 1010(d) of the Controlled Substance Import and Export Act (21 U.S.C. 960(d)) is amended by striking ''not more than 10 years,'' and inserting ''not more than 20 years in the case of a violation of paragraph (1) or (3) involving a list I chemical or not more than 10 years in the case of a violation of this subsection other than a violation of paragraph (1) or (3) involving a list I chemical,''.

(c) SENTENCING GUIDELINES.—

(1) IN GENERAL.—The United States Sentencing Commission shall, in accordance with the procedures set forth in section 21(a) of the Sentencing Act of 1987, as though the authority of that section had not expired, amend the sentencing guidelines to increase by at least two levels the offense level for offenses involving list I chemicals under—

(A) section 401(d) (1) and (2) of the Controlled Substances Act (21 U.S.C. 841(d) (1) and (2)); and

(B) section 1010(d) (1) and (3) of the Controlled Substance Import and Export Act (21 U.S.C. 960(d) (1) and (3)).

(2) REQUIREMENT.—In carrying out this subsection, the Commission shall ensure that the offense levels for offenses referred to in paragraph (1) are calculated proportionally on the basis of the quantity of controlled substance that reasonably could have been manufactured in a clandestine setting using the quantity of the list I chemical possessed, distributed, imported, or exported.

On page 2, strike out the items relating to sections 301 and 302 and insert the following:

Sec. 301. Penalty increases for trafficking in methamphetamine.

Sec. 302. Enhanced penalties for offenses involving certain listed chemicals.

Mr. MCCAIN. I ask unanimous consent that the amendments be considered read, and agreed to, the bill be deemed read a third time, passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be placed at the appropriate place in the RECORD.

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

The amendments (Nos. 5365 and 5366) en bloc were agreed to.

The bill (S. 1965), as amended, was deemed read a third time and passed.

(The text of the bill will be printed in a future edition of the RECORD.)

Mr. GRASSLEY. Mr. President, today I am pleased to say that S. 1965—what we call the meth bill—has finally passed. I want to thank all Members for letting this important piece of legislation get through the Senate.

S. 1965, a bipartisan bill, takes aim at a rapidly growing problem in America and in Iowa—the abuse of methamphetamine, known on the street as ''meth'' or ''crank.''

I am from Iowa—a rural state which most people do not associate with rampant crime or drug use. But in Iowa today, meth use has increased dramatically. According to a report prepared by the Governor's Alliance on Substance Abuse, seizures of meth in Des Moines increased an astounding 4,000 percent from 1993 to 1994. I repeat: meth seizures in Des Moines increased by 4,000 percent. The increase statewide was 400 percent.

These numbers are scary, Mr. President.

And according to the Iowa Department of Public Health, 7.3 percent of Iowans seeking help from substance abuse treatment centers in 1995 cited meth as their primary addiction. That's up over 5 percent from 1994, when only 2.2 percent cited meth as their primary addition.

Why has meth become such a problem? I don't think anyone knows definitively, but experts have been able to identify some of the reasons.

Meth is cheap. A meth high lasts for a very, very long time, so you get more

for your money. And perhaps most disturbingly, meth does not have the stigma associated with cocaine and crack. Kids know that crack is dangerous. But they haven't yet learned that meth is.

In Waterloo, Iowa, though, people are beginning to learn this sad and painful lesson. According to the New York Times, a 17-year-old Iowan who had been a good boy, descended into meth addiction. His behavior changed for the worse. Last October, this young man checked himself into the hospital because he believed that he had the flu. He died only days later because meth had so destroyed his immune system that he developed a form of meningitis. I'll never forget the words of this boy's mother: ''He made some wrong decisions and this drug sucked him away.'' I wonder how many more young Americans are going to be ''sucked away'' before we get a handle on the meth problem.

Mr. President, what America is facing today with the explosion in meth use is nothing short of an epidemic. Meth is cheap and easily manufactured from commonly available chemicals. Today, the Senate is striking at the root of the problem: Chemical suppliers who sell chemicals to illegal meth labs. The harder it is for criminal chemists to get the raw material to make meth, the more difficult it will be to produce. This in turn will make it more expensive. And this will reduce consumption. And that will help keep our kids alive a little longer.

Importantly, this bill preserves the flexibility of States to enact their own laws to deal with the manufacture of meth. Some very powerful chemical companies have tried to weaken this bill by preempting the States. I think that is just wrong-headed and I am pleased that the Senate has rejected this effort.

Some of the chemical companies also tried to create so-called safe harbors so large that enormous bulk purchases of meth ingredients would never have to be reported to the DEA. That means criminals could go to the corner drugstore, purchase legal products like pseudoephedrine in large quantities and make poison with no one the wiser. And then that poison is sold to our kids.

While the Senate has had to make some compromises I wouldn't have wanted to make in a perfect world—like the blister-pack exception for pseudoephedrine—I think that this bill represents a major step forward.

This is a good, strong bill and I'm proud that it has passed.

Finally, Mr. President, I especially want to take my hat off to Senator FEINSTEIN for her work on this bill. More than any other Senator, DIANNE FEINSTEIN worked tirelessly to make sure that we could get the strongest possible meth bill. I just want the American people to know what a tremendous job she's done.

Mr. President, in the 1980's, we almost lost a generation to crack and powder cocaine. Let's not get that close to the edge again. I'm proud that the Senate today has stood up to the chemical companies, stood up to the drug dealers and passed this crucial piece of legislation.

AUTHORIZING THE CAPITOL GUIDE SERVICE TO ACCEPT VOLUNTARY SERVICES

Mr. MCCAIN. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. 2085 introduced earlier by Senators WARNER and FORD.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 2085) to authorize the Capitol Guide Service to accept voluntary services.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. MCCAIN. I ask unanimous consent that the bill be deemed read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill appear at this point in the RECORD.

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

The bill (S. 2085) was deemed read a third time and passed, as follows:

S. 2085

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

That section 441 of the Legislative Reorganization Act of 1970 (40 U.S.C. 851) is amended by striking subsection (j) and inserting the following:

''(j)(1) Notwithstanding section 1342 of title 31, United States Code, the Capitol Guide Service is authorized to accept voluntary personal services.

''(2) No person shall be permitted to donate personal services under this subsection unless the person has first agreed, in writing, to waive any claim against the United States arising out of or in connection with such services, other than a claim under chapter 81 of title 5, United States Code.

''(3) No person donating personal services under this section shall be considered an employee of the United States for any purpose other than for purposes of chapter 81 of title 5, United States Code.

''(4) In no case shall the acceptance of personal services under this section result in the reduction of pay or displacement of any employee of the Capitol Guide Service.''.

PRINTING OF THE REPORT OF THE COMMISSION ON PROTECTING AND REDUCING GOVERNMENT SECRECY

Mr. MCCAIN. Mr. President, I ask unanimous consent that the Rules Committee be discharged from S. Con. Res. 67 and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 67) to authorize printing of the report of the Commission on Protecting and Reducing Government Secrecy.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. MCCAIN. Mr. President, I ask unanimous consent that the resolution be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the resolution appear at this point in the RECORD.

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

The concurrent resolution (S. Con. Res. 67) was agreed to, as follows:

S. CON. RES. 67

Resolved by the Senate (the House of Representatives concurring), That there shall be printed as a Senate document the report of the Commission on Protecting and Reducing Government Secrecy.

SEC. 2. The document referred to in the first section shall be—

(1) published under the supervision of the Secretary of the Senate; and

(2) in such style, form, manner, and binding as directed by the Joint Committee on Printing, after consultation with the Secretary of the Senate.

The document shall include illustrations.

SEC. 3. In addition to the usual number of copies of the document, there shall be printed the lesser of—

(1) 5,000 copies for the use of the Secretary of Senate; or

(2) such number of copies as does not exceed a total production and printing cost of $45,000.

DISAPPROVAL OF THE RULE SUBMITTED BY THE HEALTH CARE FINANCING ADMINISTRATION

Mr. MCCAIN. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Senate Joint Resolution 60 introduced earlier today by Senator LOTT.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 60) to disapprove the rule submitted by the Health Care Financing Administration on August 30 relating to hospital reimbursement under the Medicare program.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. MCCAIN. Mr. President, I ask unanimous consent that the joint resolution be deemed not passed, the motion to reconsider be laid upon the table, and that any statements relating to the joint resolution be printed in the RECORD.

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

The joint resolution (S.J. Res. 60) was deemed not passed.

CONDEMNING HUMAN RIGHTS ABUSES AND DENIALS OF RELIGIOUS LIBERTY

Mr. MCCAIN. Mr. President, I ask unanimous consent that the Senate

proceed to the immediate consideration of Senate Concurrent Resolution 71, submitted earlier today by Senator NICKLES.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 71) condemning human rights abuses and denials of religious liberty to Christians around the world.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. MCCAIN. I ask unanimous consent that the concurrent resolution be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the resolution be placed at the appropriate place in the RECORD.

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

Without objection, the preamble is agreed to.

The concurrent resolution (S. Con. Res. 71) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, is as follows:

S. CON. RES. 71

Whereas oppression and persecution of religious minorities around the world has emerged as one of the most compelling human rights issues of the day. In particular, the worldwide persecution and martyrdom of Christians persists at alarming levels. This is an affront to the international moral community and to all people of conscience.

Whereas in many places throughout the world, Christians are restricted in or forbidden from practicing their faith, victimized by a ''religious apartheid'' that subjects them to inhumane, humiliating treatment, and in certain cases are imprisoned, tortured, enslaved, or killed;

Whereas severe persecution of Christians is also occurring in such countries as Sudan, Cuba, Morocco, Saudi Arabia, China, Pakistan, North Korea, Egypt, Laos, Vietnam, and certain countries in the former Soviet Union, to name merely a few;

Whereas religious liberty is a universal right explicitly recognized in numerous international agreements, including the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights;

Whereas Pope John Paul II recently sounded a call against regimes that ''practice discrimination against Jews, Christians, and other religious groups, going even so far as to refuse them the right to meet in private for prayer,'' declaring that ''this is an intolerable and unjustifiable violation not only of all the norms of current international law, but of the most fundamental human freedom, that of practicing one's faith openly,'' stating that this is for human beings ''their reason for living'';

Whereas the National Association of Evangelicals in January 1996 issued a ''Statement of Conscience and Call to Action,'' subsequently commended or endorsed by the Southern Baptist Convention, the Executive Council of the Episcopal Church, and the General Assembly of the Presbyterian Church, U.S.A. They pledged to end their ''silence in the face of the suffering of all those persecuted for their religious faith'' and ''to do what is in our power to the end that the government of the United States will take appropriate action to combat the intolerable religious persecution now victimizing fellow believers and those of other faiths'';

Whereas the World Evangelical Fellowship has declared September 29, 1996, and each annual last Sunday in September, as an international day of prayer on behalf of persecuted Christians. That day will be observed by numerous churches and human rights groups around the world;

Whereas the United States of America since its founding has been a harbor of refuge and freedom to worship for believers from John Winthrop to Roger Williams to William Penn, and a haven for the oppressed. To this day, the United States continues to guarantee freedom of worship in this country for people of all faiths;

Whereas as a part of its commitment to human rights around the world, in the past the United States has used its international leadership to vigorously take up the case of other persecuted religious minorities. Unfortunately, the United States has in many instances failed to raise forcefully the issue of anti-Christian persecution at international conventions and in bilateral relations with offending countries; now, therefore, be it

Resolved, That the Senate, the House of Representatives concurring—

(1) unequivocally condemns the egregious human rights abuses and denials of religious liberty to Christians around the world, and calls upon the responsible regimes to cease such abuses; and

(2) strongly recommends that the President expand and invigorate the United States' international advocacy on behalf of persecuted Christians, and initiate a thorough examination of all United States' policies that affect persecuted Christians; and

(3) encourages the President to proceed forward as expeditiously as possible in appointing a White House Special Advisor on religious persecution; and

(4) recognizes and applauds a day of prayer on Sunday, September 29, 1996, recognizing the plight of persecuted Christians worldwide.

THRIFT SAVINGS INVESTMENT FUNDS ACT OF 1996

Mr. MCCAIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 412, S. 1080.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 1080) to amend Chapter 84 of Title 5, United States Code, to provide additional investment funds for the Thrift Savings Plan.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Governmental Affairs, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

TITLE I—ADDITIONAL INVESTMENT FUNDS FOR THE THRIFT SAVINGS PLAN

SEC. 101. SHORT TITLE.

This title may be cited as the ''Thrift Savings Investment Funds Act of 1996''.

SEC. 102. ADDITIONAL INVESTMENT FUNDS FOR THE THRIFT SAVINGS PLAN.

Section 8438 of title 5, United States Code, is amended—

(1) in subsection (a)—

(A) by redesignating paragraphs (5) through (8) as paragraphs (6) through (9), respectively;

(B) by inserting after paragraph (4) the following new paragraph:

''(5) the term 'International Stock Index Investment Fund' means the International Stock Index Investment Fund established under subsection (b)(1)(E);'';

(C) in paragraph (8) (as redesignated by subparagraph (A) of this paragraph) by striking out ''and'' at the end thereof;

(D) in paragraph (9) (as redesignated by subparagraph (A) of this paragraph)—

(i) by striking out ''paragraph (7)(D)'' in each place it appears and inserting in each such place ''paragraph (8)(D)''; and

(ii) by striking out the period and inserting in lieu thereof a semicolon and ''and''; and

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

''(10) the term 'Small Capitalization Stock Index Investment Fund' means the Small Capitalization Stock Index Investment Fund established under subsection (b)(1)(D).''; and

(2) in subsection (b)—

(A) in paragraph (1)—

(i) in subparagraph (B) by striking out ''and'' at the end thereof;

(ii) in subparagraph (C) by striking out the period and inserting in lieu thereof a semicolon; and

(iii) by adding at the end thereof the following new subparagraphs:

''(D) a Small Capitalization Stock Index Investment Fund as provided in paragraph (3); and

''(E) an International Stock Index Investment Fund as provided in paragraph (4).''; and

(B) by adding at the end thereof the following new paragraphs:

''(3)(A) The Board shall select an index which is a commonly recognized index comprised of common stock the aggregate market value of which represents the United States equity markets excluding the common stocks included in the Common Stock Index Investment Fund.

''(B) The Small Capitalization Stock Index Investment Fund shall be invested in a portfolio designed to replicate the performance of the index in subparagraph (A). The portfolio shall be designed such that, to the extent practicable, the percentage of the Small Capitalization Stock Index Investment Fund that is invested in each stock is the same as the percentage determined by dividing the aggregate market value of all shares of that stock by the aggregate market value of all shares of all stocks included in such index.

''(4)(A) The Board shall select an index which is a commonly recognized index comprised of stock the aggregate market value of which is a reasonably complete representation of the international equity markets excluding the United States equity markets.

''(B) The International Stock Index Investment Fund shall be invested in a portfolio designed to replicate the performance of the index in subparagraph (A). The portfolio shall be designed such that, to the extent practicable, the percentage of the International Stock Index Investment Fund that is invested in each stock is the same as the percentage determined by dividing the aggregate market value of all shares of that stock by the aggregate market value of all shares of all stocks included in such index.''.

SEC. 103. ACKNOWLEDGEMENT OF INVESTMENT RISK.

Section 8439(d) of title 5, United States Code, is amended by striking out ''Each employee, Member, former employee, or former Member who elects to invest in the Common Stock Index Investment Fund or the Fixed Income Investment Fund described in paragraphs (1) and

(3),'' and inserting in lieu thereof ''Each employee, Member, former employee, or former Member who elects to invest in the Common Stock Index Investment Fund, the Fixed Income Investment Fund, the International Stock Index Investment Fund, or the Small Capitalization Stock Index Investment Fund, defined in paragraphs (1), (3), (5), and (10),''.

SEC. 104. EFFECTIVE DATE.

This title shall take effect on the date of enactment of this Act, and the Funds established under this title shall be offered for investment at the earliest practicable election period (described in section 8432(b) of title 5, United States Code) as determined by the Executive Director in regulations.

TITLE II—THRIFT SAVINGS ACCOUNTS LIQUIDITY

SEC. 201. SHORT TITLE.

This title may be cited as the ''Thrift Savings Plan Act of 1996''.

SEC. 202. NOTICE TO SPOUSES FOR IN-SERVICE WITHDRAWALS; DE MINIMUS ACCOUNTS; CIVIL SERVICE RETIREMENT SYSTEM PARTICIPANTS.

Section 8351(b) of title 5, United States Code, is amended—

(1) in paragraph (5)—

(A) in subparagraph (B)—

(i) by striking out ''An election, change of election, or modification (relating to the commencement date of a deferred annuity)'' and inserting in lieu thereof ''An election or change of election'';

(ii) by inserting ''or withdrawal'' after ''and a loan'';

(iii) by inserting ''and (h)'' after ''8433(g)'';

(iv) by striking out ''the election, change of election, or modification'' and inserting in lieu thereof ''the election or change of election''; and

(v) by inserting ''or withdrawal'' after ''for such loan''; and

(B) in subparagraph (D)—

(i) by inserting ''or withdrawals'' after ''of loans''; and

(ii) by inserting ''or (h)'' after ''8433(g)''; and

(2) in paragraph (6)—

(A) by striking out ''$3,500 or less'' and inserting in lieu thereof ''less than an amount that the Executive Director prescribes by regulation''; and

(B) by striking out ''unless the employee or Member elects, at such time and otherwise in such manner as the Executive Director prescribes, one of the options available under subsection (b)''.

SEC. 203. IN-SERVICE WITHDRAWALS; WITHDRAWAL ELECTIONS, FEDERAL EMPLOYEES RETIREMENT SYSTEM PARTICIPANTS.

(a) IN GENERAL.—Section 8433 of title 5, United States Code, is amended—

(1) by striking out subsections (b) and (c) and inserting in lieu thereof the following:

''(b) Subject to section 8435 of this title, any employee or Member who separates from Government employment is entitled and may elect to withdraw from the Thrift Savings Fund the balance of the employee's or Member's account as—

''(1) an annuity;

''(2) a single payment;

''(3) 2 or more substantially equal payments to be made not less frequently than annually; or

''(4) any combination of payments as provided under paragraphs (1) through (3) as the Executive Director may prescribe by regulation.

''(c)(1) In addition to the right provided under subsection (b) to withdraw the balance of the account, an employee or Member who separates from Government service and who has not made a withdrawal under subsection (h)(1)(A) may make one withdrawal of any amount as a single payment in accordance with subsection (b)(2) from the employee's or Member's account.

''(2) An employee or Member may request that the amount withdrawn from the Thrift Savings Fund in accordance with subsection (b)(2) be transferred to an eligible retirement plan.

''(3) The Executive Director shall make each transfer elected under paragraph (2) directly to an eligible retirement plan or plans (as defined in section 402(c)(8) of the Internal Revenue Code of 1986) identified by the employee, Member, former employee, or former Member for whom the transfer is made.

''(4) A transfer may not be made for an employee, Member, former employee, or former Member under paragraph (2) until the Executive Director receives from that individual the information required by the Executive Director specifically to identify the eligible retirement plan or plans to which the transfer is to be made.'';

(2) in subsection (d)—

(A) in paragraph (1) by striking out ''Subject to paragraph (3)(A)'' and inserting in lieu thereof ''Subject to paragraph (3)'';

(B) by striking out paragraph (2) and redesignating paragraph (3) as paragraph (2); and

(C) in paragraph (2) (as redesignated under subparagraph (B) of this paragraph)—

(i) in subparagraph (A) by striking out ''(A)''; and

(ii) by striking out subparagraph (B);

(3) in subsection (f)(1)—

(A) by striking out ''$3,500 or less'' and inserting in lieu thereof ''less than an amount that the Executive Director prescribes by regulation; and

(B) by striking out ''unless the employee or Member elects, at such time and otherwise in such manner as the Executive Director prescribes, one of the options available under subsection (b), or'' and inserting a comma;

(4) in subsection (f)(2)—

(A) by striking out ''February 1'' and inserting in lieu thereof ''April 1'';

(B) in subparagraph (A)—

(i) by striking out ''65'' and inserting in lieu thereof ''70½''; and

(ii) by inserting ''or'' after the semicolon;

(C) by striking out subparagraph (B); and

(D) by redesignating subparagraph (C) as subparagraph (B);

(5) in subsection (g)—

(A) in paragraph (1) by striking out ''after December 31, 1987, and''; and

(B) by striking out paragraph (2) and redesignating paragraphs (3) through (5) as paragraphs (2) through (4), respectively; and

(6) by adding after subsection (g) the following new subsection:

''(h)(1) An employee or Member may apply, before separation, to the Board for permission to withdraw an amount from the employee's or Member's account based upon—

''(A) the employee or Member having attained age 59½; or

''(B) financial hardship.

''(2) A withdrawal under paragraph (1)(A) shall be available to each eligible participant one time only.

''(3) A withdrawal under paragraph (1)(B) shall be available only for an amount not exceeding the value of that portion of such account which is attributable to contributions made by the employee or Member under section 8432(a) of this title.

''(4) Withdrawals under paragraph (1) shall be subject to such other conditions as the Executive Director may prescribe by regulation.

''(5) A withdrawal may not be made under this subsection unless the requirements of section 8435(e) of this title are satisfied.''.

(b) INVALIDITY OF CERTAIN PRIOR ELECTIONS.—Any election made under section 8433(b)(2) of title 5, United States Code (as in effect before the effective date of this title), with respect to an annuity which has not commenced before the implementation date of this title as provided by regulation by the Executive Director in accordance with section 207 of this title, shall be invalid.

SEC. 204. SURVIVOR ANNUITIES FOR FORMER SPOUSES; NOTICE TO FEDERAL EMPLOYEES RETIREMENT SYSTEM SPOUSES FOR IN-SERVICE WITHDRAWALS.

Section 8435 of title 5, United States Code, is amended—

(1) in subsection (a)(1)(A)—

(A) by striking out ''may make an election under subsection (b)(3) or (b)(4) of section 8433 of this title or change an election previously made under subsection (b)(1) or (b)(2) of such section'' and inserting in lieu thereof ''may withdraw all or part of a Thrift Savings Fund account under subsection (b) (2), (3), or (4) of section 8433 of this title or change a withdrawal election''; and

(B) by adding at the end thereof ''A married employee or Member (or former employee or Member) may make a withdrawal from a Thrift Savings Fund account under subsection (c)(1) of section 8433 of this title only if the employee or Member (or former employee or Member) satisfies the requirements of subparagraph (B).'';

(2) in subsection (c)—

(A) in paragraph (1)—

(i) by striking out ''An election, change of election, or modification of the commencement date of a deferred annuity'' and inserting in lieu thereof ''An election or change of election''; and

(ii) by striking out ''modification, or transfer'' and inserting in lieu thereof ''or transfer''; and

(B) in paragraph (2) in the matter following subparagraph (B)(ii) by striking out ''modification,'';

(3) in subsection (e)—

(A) in paragraph (1)—

(i) in subparagraph (A)—

(I) by inserting ''or withdrawal'' after ''A loan'';

(II) by inserting ''and (h)'' after ''8433(g)''; and

(III) by inserting ''or withdrawal'' after ''such loan'';

(ii) in subparagraph (B) by inserting ''or withdrawal'' after ''loan''; and

(iii) in subparagraph (C)—

(I) by inserting ''or withdrawal'' after ''to a loan''; and

(II) by inserting ''or withdrawal'' after ''for such loan''; and

(B) in paragraph (2)—

(i) by inserting ''or withdrawal'' after ''loan''; and

(ii) by inserting ''and (h)'' after ''8344(g)''; and

(4) in subsection (g)—

(A) by inserting ''or withdrawals'' after ''loans''; and

(B) by inserting ''and (h)'' after ''8344(g)''.

SEC. 205. DE MINIMUS ACCOUNTS RELATING TO THE JUDICIARY.

(a) JUSTICES AND JUDGES.—Section 8440a(b)(7) of title 5, United States Code, is amended—

(1) by striking out ''$3,500 or less'' and inserting in lieu thereof ''less than an amount that the Executive Director prescribes by regulation''; and

(2) by striking out ''unless the justice or judge elects, at such time and otherwise in such manner as the Executive Director prescribes, one of the options available under section 8433(b)''.

(b) BANKRUPTCY JUDGES AND MAGISTRATES.—Section 8440b(b) of title 5, United States Code, is amended—

(1) in paragraph (7) in the first sentence by inserting ''of the distribution'' after ''equal to the amount''; and

(2) in paragraph (8)—

(A) by striking out ''$3,500 or less'' and inserting in lieu thereof ''less than an amount that the Executive Director prescribes by regulation''; and

(B) by striking out ''unless the bankruptcy judge or magistrate elects, at such time and otherwise in such manner as the Executive Director prescribes, one of the options available under subsection (b)''.

(c) FEDERAL CLAIMS JUDGES.—Section 8440c(b) of title 5, United States Code, is amended—

(1) in paragraph (7) in the first sentence by inserting ''of the distribution'' after ''equal to the amount''; and

(2) in paragraph (8)—

(A) by striking out ''$3,500 or less'' and inserting in lieu thereof ''less than an amount that the Executive Director prescribes by regulation''; and

(B) by striking out ''unless the judge elects, at such time and otherwise in such manner as the Executive Director prescribes, one of the options available under section 8433(b)''.

SEC. 206. DEFINITION OF BASIC PAY.

(a) IN GENERAL.—(1) Section 8401(4) of title 5, United States Code, is amended by striking out ''except as provided in subchapter III of this chapter,''.

(2) Section 8431 of title 5, United States Code, is repealed.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—(1) The table of sections for chapter 84 of title 5, United States Code, is amended by striking out the item relating to section 8431.

(2) Section 5545a(h)(2)(A) of title 5, United States Code, is amended by striking out ''8431,''.

(3) Section 615(f) of the Treasury, Postal Service, and General Government Appropriations Act, 1996 (Public Law 104–52; 109 Stat. 500; 5 U.S.C. 5343 note) is amended by striking out ''section 8431 of title 5, United States Code,''.

SEC. 207. EFFECTIVE DATE.

This title shall take effect on the date of the enactment of this Act and withdrawals and elections as provided under the amendments made by this title shall be made at the earliest practicable date as determined by the Executive Director in regulations.

AMENDMENT NO. 5367

Mr. MCCAIN. I understand that there is an amendment submitted by Senators KERREY and PRYOR, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. MCCAIN], for Mr. KERREY, for himself and Mr. PRYOR, proposes an amendment numbered 5367.

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

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

The amendment is as follows:

On page 15, line 2 of the bill, change the ''.'' to an ''.'' and add the following: ''and by adding at the end of the paragraph the following sentence:

'' 'Before a loan is issued, the Executive Director shall provide in writing the employee or Member with appropriate information concerning the cost of the loan relative to other sources of financing, as well as the lifetime cost of the loan, including the difference in interest rates between the funds offered by the Thrift Savings Fund, and any other effect of such loan on the employee's or Members's final account balance.' ''

Mr. MCCAIN. I ask unanimous consent that the amendment be agreed to, the committee amendment, as amended, be agreed to, the bill then be deemed read a third time, passed, the amendment to the title be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the bill be placed at appropriate place in the RECORD.

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

The amendment (No. 5367) was agreed to.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The bill was deemed read the third time, and passed, as follows:

S. 1080

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

TITLE I—ADDITIONAL INVESTMENT FUNDS FOR THE THRIFT SAVINGS PLAN

SEC. 101. SHORT TITLE.

This title may be cited as the ''Thrift Savings Investment Funds Act of 1996''.

SEC. 102. ADDITIONAL INVESTMENT FUNDS FOR THE THRIFT SAVINGS PLAN.

Section 8438 of title 5, United States Code, is amended—

(1) in subsection (a)—

(A) by redesignating paragraphs (5) through (8) as paragraphs (6) through (9), respectively;

(B) by inserting after paragraph (4) the following new paragraph:

''(5) the term 'International Stock Index Investment Fund' means the International Stock Index Investment Fund established under subsection (b)(1)(E);'';

(C) in paragraph (8) (as redesignated by subparagraph (A) of this paragraph) by striking out ''and'' at the end thereof;

(D) in paragraph (9) (as redesignated by subparagraph (A) of this paragraph)—

(i) by striking out ''paragraph (7)(D)'' in each place it appears and inserting in each such place ''paragraph (8)(D)''; and

(ii) by striking out the period and inserting in lieu thereof a semicolon and ''and''; and

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

''(10) the term 'Small Capitalization Stock Index Investment Fund' means the Small Capitalization Stock Index Investment Fund established under subsection (b)(1)(D).''; and

(2) in subsection (b)—

(A) in paragraph (1)—

(i) in subparagraph (B) by striking out ''and'' at the end thereof;

(ii) in subparagraph (C) by striking out the period and inserting in lieu thereof a semicolon; and

(iii) by adding at the end thereof the following new subparagraphs:

''(D) a Small Capitalization Stock Index Investment Fund as provided in paragraph (3); and

''(E) an International Stock Index Investment Fund as provided in paragraph (4).''; and

(B) by adding at the end thereof the following new paragraphs:

''(3)(A) The Board shall select an index which is a commonly recognized index comprised of common stock the aggregate market value of which represents the United States equity markets excluding the common stocks included in the Common Stock Index Investment Fund.

''(B) The Small Capitalization Stock Index Investment Fund shall be invested in a portfolio designed to replicate the performance of the index in subparagraph (A). The portfolio shall be designed such that, to the extent practicable, the percentage of the Small Capitalization Stock Index Investment Fund that is invested in each stock is the same as the percentage determined by dividing the aggregate market value of all shares of that stock by the aggregate market value of all shares of all stocks included in such index.

''(4)(A) The Board shall select an index which is a commonly recognized index comprised of stock the aggregate market value of which is a reasonably complete representation of the international equity markets excluding the United States equity markets.

''(B) The International Stock Index Investment Fund shall be invested in a portfolio designed to replicate the performance of the index in subparagraph (A). The portfolio shall be designed such that, to the extent practicable, the percentage of the International Stock Index Investment Fund that is invested in each stock is the same as the percentage determined by dividing the aggregate market value of all shares of that stock by the aggregate market value of all shares of all stocks included in such index.''.

SEC. 103. ACKNOWLEDGEMENT OF INVESTMENT RISK.

Section 8439(d) of title 5, United States Code, is amended by striking out ''Each employee, Member, former employee, or former Member who elects to invest in the Common Stock Index Investment Fund or the Fixed Income Investment Fund described in paragraphs (1) and (3),'' and inserting in lieu thereof ''Each employee, Member, former employee, or former Member who elects to invest in the Common Stock Index Investment Fund, the Fixed Income Investment Fund, the International Stock Index Investment Fund, or the Small Capitalization Stock Index Investment Fund, defined in paragraphs (1), (3), (5), and (10),''.

SEC. 104. EFFECTIVE DATE.

This title shall take effect on the date of enactment of this Act, and the Funds established under this title shall be offered for investment at the earliest practicable election period (described in section 8432(b) of title 5, United States Code) as determined by the Executive Director in regulations.

TITLE II—THRIFT SAVINGS ACCOUNTS LIQUIDITY

SEC. 201. SHORT TITLE.

This title may be cited as the ''Thrift Savings Plan Act of 1996''.

SEC. 202. NOTICE TO SPOUSES FOR IN-SERVICE WITHDRAWALS; DE MINIMUS ACCOUNTS; CIVIL SERVICE RETIREMENT SYSTEM PARTICIPANTS.

Section 8351(b) of title 5, United States Code, is amended—

(1) in paragraph (5)—

(A) in subparagraph (B)—

(i) by striking out ''An election, change of election, or modification (relating to the commencement date of a deferred annuity)'' and inserting in lieu thereof ''An election or change of election'';

(ii) by inserting ''or withdrawal'' after ''and a loan'';

(iii) by inserting ''and (h)'' after ''8433(g)'';

(iv) by striking out ''the election, change of election, or modification'' and inserting in lieu thereof ''the election or change of election''; and

(v) by inserting ''or withdrawal'' after ''for such loan''; and

(B) in subparagraph (D)—

(i) by inserting ''or withdrawals'' after ''of loans''; and

(ii) by inserting ''or (h)'' after ''8433(g)''; and

(2) in paragraph (6)—

(A) by striking out ''$3,500 or less'' and inserting in lieu thereof ''less than an amount that the Executive Director prescribes by regulation''; and

(B) by striking out ''unless the employee or Member elects, at such time and otherwise in such manner as the Executive Director prescribes, one of the options available under subsection (b)''.

SEC. 203. IN-SERVICE WITHDRAWALS; WITHDRAWAL ELECTIONS, FEDERAL EMPLOYEES RETIREMENT SYSTEM PARTICIPANTS.

(a) IN GENERAL.—Section 8433 of title 5, United States Code, is amended—

(1) by striking out subsections (b) and (c) and inserting in lieu thereof the following:

''(b) Subject to section 8435 of this title, any employee or Member who separates from Government employment is entitled and may elect to withdraw from the Thrift Savings Fund the balance of the employee's or Member's account as—

''(1) an annuity;

''(2) a single payment;

''(3) 2 or more substantially equal payments to be made not less frequently than annually; or

''(4) any combination of payments as provided under paragraphs (1) through (3) as the Executive Director may prescribe by regulation.

''(c)(1) In addition to the right provided under subsection (b) to withdraw the balance of the account, an employee or Member who separates from Government service and who has not made a withdrawal under subsection (h)(1)(A) may make one withdrawal of any amount as a single payment in accordance with subsection (b)(2) from the employee's or Member's account.

''(2) An employee or Member may request that the amount withdrawn from the Thrift Savings Fund in accordance with subsection (b)(2) be transferred to an eligible retirement plan.

''(3) The Executive Director shall make each transfer elected under paragraph (2) directly to an eligible retirement plan or plans (as defined in section 402(c)(8) of the Internal Revenue Code of 1986) identified by the employee, Member, former employee, or former Member for whom the transfer is made.

''(4) A transfer may not be made for an employee, Member, former employee, or former Member under paragraph (2) until the Executive Director receives from that individual the information required by the Executive Director specifically to identify the eligible retirement plan or plans to which the transfer is to be made.'';

(2) in subsection (d)—

(A) in paragraph (1) by striking out ''Subject to paragraph (3)(A)'' and inserting in lieu thereof ''Subject to paragraph (3)'';

(B) by striking out paragraph (2) and redesignating paragraph (3) as paragraph (2); and

(C) in paragraph (2) (as redesignated under subparagraph (B) of this paragraph)—

(i) in subparagraph (A) by striking out ''(A)''; and

(ii) by striking out subparagraph (B);

(3) in subsection (f)(1)—

(A) by striking out ''$3,500 or less'' and inserting in lieu thereof ''less than an amount that the Executive Director prescribes by regulation; and

(B) by striking out ''unless the employee or Member elects, at such time and otherwise in such manner as the Executive Director prescribes, one of the options available under subsection (b), or'' and inserting a comma;

(4) in subsection (f)(2)—

(A) by striking out ''February 1'' and inserting in lieu thereof ''April 1'';

(B) in subparagraph (A)—

(i) by striking out ''65'' and inserting in lieu thereof ''70½''; and

(ii) by inserting ''or'' after the semicolon;

(C) by striking out subparagraph (B); and

(D) by redesignating subparagraph (C) as subparagraph (B);

(5) in subsection (g)—

(A) in paragraph (1) by striking out ''after December 31, 1987, and'', and by adding at the end of the paragraph the following sentence: ''Before a loan is issued, the Executive Director shall provide in writing the employee or Member with appropriate information concerning the cost of the loan relative to other sources of financing, as well as the lifetime cost of the loan, including the difference in interest rates between the funds offered by the Thrift Savings Fund, and any other effect of such loan on the employee's or Member's final account balance.''; and

(B) by striking out paragraph (2) and redesignating paragraphs (3) through (5) as paragraphs (2) through (4), respectively; and

(6) by adding after subsection (g) the following new subsection:

''(h)(1) An employee or Member may apply, before separation, to the Board for permission to withdraw an amount from the employee's or Member's account based upon—

''(A) the employee or Member having attained age 59½; or

''(B) financial hardship.

''(2) A withdrawal under paragraph (1)(A) shall be available to each eligible participant one time only.

''(3) A withdrawal under paragraph (1)(B) shall be available only for an amount not exceeding the value of that portion of such account which is attributable to contributions made by the employee or Member under section 8432(a) of this title.

''(4) Withdrawals under paragraph (1) shall be subject to such other conditions as the Executive Director may prescribe by regulation.

''(5) A withdrawal may not be made under this subsection unless the requirements of section 8435(e) of this title are satisfied.''.

(b) INVALIDITY OF CERTAIN PRIOR ELECTIONS.—Any election made under section 8433(b)(2) of title 5, United States Code (as in effect before the effective date of this title), with respect to an annuity which has not commenced before the implementation date of this title as provided by regulation by the Executive Director in accordance with section 207 of this title, shall be invalid.

SEC. 204. SURVIVOR ANNUITIES FOR FORMER SPOUSES; NOTICE TO FEDERAL EMPLOYEES RETIREMENT SYSTEM SPOUSES FOR IN-SERVICE WITHDRAWALS.

Section 8435 of title 5, United States Code, is amended—

(1) in subsection (a)(1)(A)—

(A) by striking out ''may make an election under subsection (b)(3) or (b)(4) of section 8433 of this title or change an election previously made under subsection (b)(1) or (b)(2) of such section'' and inserting in lieu thereof ''may withdraw all or part of a Thrift Savings Fund account under subsection (b) (2), (3), or (4) of section 8433 of this title or change a withdrawal election''; and

(B) by adding at the end thereof ''A married employee or Member (or former employee or Member) may make a withdrawal from a Thrift Savings Fund account under subsection (c)(1) of section 8433 of this title only if the employee or Member (or former employee or Member) satisfies the requirements of subparagraph (B).'';

(2) in subsection (c)—

(A) in paragraph (1)—

(i) by striking out ''An election, change of election, or modification of the commencement date of a deferred annuity'' and inserting in lieu thereof ''An election or change of election''; and

(ii) by striking out ''modification, or transfer'' and inserting in lieu thereof ''or transfer''; and

(B) in paragraph (2) in the matter following subparagraph (B)(ii) by striking out ''modification,'';

(3) in subsection (e)—

(A) in paragraph (1)—

(i) in subparagraph (A)—

(I) by inserting ''or withdrawal'' after ''A loan'';

(II) by inserting ''and (h)'' after ''8433(g)''; and

(III) by inserting ''or withdrawal'' after ''such loan'';

(ii) in subparagraph (B) by inserting ''or withdrawal'' after ''loan''; and

(iii) in subparagraph (C)—

(I) by inserting ''or withdrawal'' after ''to a loan''; and

(II) by inserting ''or withdrawal'' after ''for such loan''; and

(B) in paragraph (2)—

(i) by inserting ''or withdrawal'' after ''loan''; and

(ii) by inserting ''and (h)'' after ''8344(g)''; and

(4) in subsection (g)—

(A) by inserting ''or withdrawals'' after ''loans''; and

(B) by inserting ''and (h)'' after ''8344(g)''.

SEC. 205. DE MINIMUS ACCOUNTS RELATING TO THE JUDICIARY.

(a) JUSTICES AND JUDGES.—Section 8440a(b)(7) of title 5, United States Code, is amended—

(1) by striking out ''$3,500 or less'' and inserting in lieu thereof ''less than an amount that the Executive Director prescribes by regulation''; and

(2) by striking out ''unless the justice or judge elects, at such time and otherwise in such manner as the Executive Director prescribes, one of the options available under section 8433(b)''.

(b) BANKRUPTCY JUDGES AND MAGISTRATES.—Section 8440b(b) of title 5, United States Code, is amended—

(1) in paragraph (7) in the first sentence by inserting ''of the distribution'' after ''equal to the amount''; and

(2) in paragraph (8)—

(A) by striking out ''$3,500 or less'' and inserting in lieu thereof ''less than an amount that the Executive Director prescribes by regulation''; and

(B) by striking out ''unless the bankruptcy judge or magistrate elects, at such time and otherwise in such manner as the Executive Director prescribes, one of the options available under subsection (b)''.

(c) FEDERAL CLAIMS JUDGES.—Section 8440c(b) of title 5, United States Code, is amended—

(1) in paragraph (7) in the first sentence by inserting ''of the distribution'' after ''equal to the amount''; and

(2) in paragraph (8)—

(A) by striking out ''$3,500 or less'' and inserting in lieu thereof ''less than an amount that the Executive Director prescribes by regulation''; and

(B) by striking out ''unless the judge elects, at such time and otherwise in such manner as the Executive Director prescribes, one of the options available under section 8433(b)''.

SEC. 206. DEFINITION OF BASIC PAY.

(a) IN GENERAL.—(1) Section 8401(4) of title 5, United States Code, is amended by striking out ''except as provided in subchapter III of this chapter,''.

(2) Section 8431 of title 5, United States Code, is repealed.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—(1) The table of sections for chapter 84 of title 5, United States Code, is amended by striking out the item relating to section 8431.

(2) Section 5545a(h)(2)(A) of title 5, United States Code, is amended by striking out ''8431,''.

(3) Section 615(f) of the Treasury, Postal Service, and General Government Appropriations Act, 1996 (Public Law 104–52; 109 Stat. 500; 5 U.S.C. 5343 note) is amended by striking out ''section 8431 of title 5, United States Code,''.

SEC. 207. EFFECTIVE DATE.

This title shall take effect on the date of the enactment of this Act and withdrawals and elections as provided under the amendments made by this title shall be made at the earliest practicable date as determined by the Executive Director in regulations.

The title was amended so as to read:

A bill to amend chapters 83 and 84 of title 5, United States Code, to provide additional investment funds for the Thrift Savings Plan, to permit employees to gain additional liquidity in their Thrift Savings Accounts, and for other purposes.

TECHNICAL CORRECTION IN THE ENROLLMENT OF H.R. 3060

Mr. McCAIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of House Concurrent Resolution 211 which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 211) directing the Clerk of the House of Representatives to make a technical correction in the enrollment of the bill H.R. 3060.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. McCAIN. I ask unanimous consent the resolution be agreed to, the motion to reconsider be laid on the table, and any statements relating to the resolution be placed at the appropriate place in the RECORD.

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

The concurrent resolution (H. Con. Res. 211) was agreed to.

ORDERS FOR WEDNESDAY, SEPTEMBER 18, 1996

Mr. McCAIN. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 9:30 a.m. on Wednesday, September 18; further, that immediately following the prayer, the Journal of proceedings be deemed approved to date, the morning hour be deemed to have expired, and the time for the two leaders be reserved for their use later in the day, and that there then be a period for morning business until the hour of 11 a.m., with the first 45 minutes under the control of Senator HUTCHISON and the last 45 minutes under the control of Senator DASCHLE or his designee.

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

PROGRAM

Mr. McCAIN. On Wednesday, following morning business, the Senate will resume the FAA bill and the pending Chafee amendment. A vote is expected after a brief period of debate in relation to the Chafee amendment. Following the passage of the FAA bill, it will be the intention of the majority leader to turn to the Transportation appropriations conference report. Also, the Senate can be expected to turn to the Magnuson Fisheries Act under a previous unanimous consent agreement. Therefore, votes can be expected to occur after the hour of 11 a.m. on Wednesday and throughout the day.

Mr. President, I would like to inform my colleague from Kentucky, I did get a time agreement from Senator CHAFEE on his amendment. I forgot to mention it to him. And Senator CHAFEE said he would need 15 minutes. I told him that we would probably only need 5.

Is that agreeable to the Senator from Kentucky or will we need more?

Mr. FORD. I do not need any personally. There will be opposition to the Senator, and I have not gotten a time agreement on that. I am sure we can work out something equally divided here, but I am not in a position to agree.

Mr. McCAIN. I understand. I thank my colleague from Kentucky.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate will stand adjourned until 9:30 a.m., September 18, 1996.

Thereupon, the Senate, at 9:35 p.m., adjourned until Wednesday, September 18, 1996, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate September 17, 1996:

EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT

KAREN SHEPHERD, OF UTAH, TO BE U.S. DIRECTOR OF THE EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT, VICE LEE F. JACKSON.

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

LORRAINE WEISS FRANK, OF ARIZONA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2002, VICE MARGARET P. DUCKETT, TERM EXPIRED.

MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY FOUNDATION

D. MICHAEL RAPPOPORT, OF ARIZONA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY FOUNDATION FOR A TERM EXPIRING OCTOBER 6, 2002. (REAPPOINTMENT)

RONALD KENT BURTON, OF VIRGINIA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY FOUNDATION FOR A TERM EXPIRING OCTOBER 6, 2002. (REAPPOINTMENT)