

amounts used to calculate the individual alternative minimum tax for inflation since 1993; to the Committee on Finance.

By Mr. ASHCROFT:

S. 538. A bill to provide for violent and repeat juvenile offender accountability, and for other purposes; to the Committee on the Judiciary.

By Mr. BROWNBACK:

S. 539. A bill to amend the Internal Revenue Code of 1986 to increase the maximum taxable income for the 15 percent rate bracket, to replace the Consumer Price Index with the national average wage index for purposes of cost-of-living adjustments, to lessen the impact of the noncorporate alternative minimum tax, and for other purposes; to the Committee on Finance.

By Mr. JOHNSON (for himself, Mr. INHOFE, Mr. CONRAD, Mr. KERRY, Mr. DASCHLE, Mr. INOUE, Mr. WELLSTONE, Mr. SARBANES, Mr. KERREY, Mr. KENNEDY, Mr. DORGAN, Mr. REID, Mr. BAUCUS, Mr. BRYAN, and Mrs. BOXER):

S. 540. A bill to amend the Internal Revenue Code of 1986 to provide that housing assistance provided under the Native American Housing Assistance and Self-Determination Act of 1996 be treated for purposes of the low-income housing credit in the same manner as comparable assistance; to the Committee on Finance.

By Ms. COLLINS (for herself, Mr. MURKOWSKI, and Mr. ROBERTS):

S. 541. A bill to amend title XVIII of the Social Security Act to make certain changes related to payments for graduate medical education under the medicare program; to the Committee on Finance.

By Mr. ABRAHAM (for himself, Mr. WYDEN, Mr. HATCH, Mr. KERREY, Mr. COVERDELL, Mr. DASCHLE, Mr. JEFFORDS, Mr. LIEBERMAN, Mr. ALLARD, Mr. GORTON, Mr. BURNS, and Mr. MCCONNELL):

S. 542. A bill to amend the Internal Revenue Code of 1986 to expand the deduction for computer donations to schools and allow a tax credit for donated computers; to the Committee on Finance.

By Ms. SNOWE (for herself, Mr. FRIST, Mr. JEFFORDS, Mr. HAGEL, Ms. COLLINS, Mr. ENZI, and Mr. HUTCHINSON):

S. 543. A bill to prohibit discrimination on the basis of genetic information with respect to health insurance; to the Committee on Health, Education, Labor, and Pensions.

By Mr. STEVENS:

S. 544. An original bill making emergency supplemental appropriations and rescissions for recovery from natural disasters, and foreign assistance, for the fiscal year ending September 30, 1999, and for other purposes; from the Committee on Appropriations; placed on the calendar.

By Mr. HOLLINGS (for himself and Mr. ROCKEFELLER) (by request):

S. 545. A bill to amend title 49, United States Code, to authorize appropriations for the Federal Aviation Administration for fiscal years 1999, 2000, 2001, 2002, 2003, and 2004, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. DORGAN:

S. 546. A bill to amend the Internal Revenue Code of 1986 to allow a deduction for 100 percent of the health insurance costs of self-employed individuals; to the Committee on Finance.

By Mr. CHAFEE (for himself, Mr. MACK, Mr. LIEBERMAN, Mr. WARNER, Mr. MOYNIHAN, Mr. REID, Mr. JEFFORDS, Mr. WYDEN, Mr. BIDEN, Ms. COLLINS, Mr. BAUCUS, and Mr. VOINOVICH):

S. 547. A bill to authorize the President to enter into agreements to provide regulatory

credit for voluntary early action to mitigate potential environmental impacts from greenhouse gas emissions; to the Committee on Environment and Public Works.

By Mr. DEWINE:

S. 548. A bill to establish the Fallen Timbers Battlefield and Fort Miamis National Historical Site in the State of Ohio; to the Committee on Energy and Natural Resources.

By Mr. MCCAIN:

S. 549. A bill to redesignate the Coronado National Forest in honor of Morris K. Udall, a former Member of the House of Representatives; to the Committee on Energy and Natural Resources.

By Mr. GORTON:

S. 550. A bill to provide for the collection of certain State taxes from an individual who is who is not a member of an Indian tribe; to the Committee on Indian Affairs.

By Mrs. FEINSTEIN:

S. 551. A bill to amend the Internal Revenue Code of 1986 to encourage school construction and rehabilitation through the creation of a new class of bond, and for other purposes; to the Committee on Finance.

#### SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. GRAHAM (for himself, Mr. MACK, Mr. TORRICELLI, Mr. HELMS, Mr. DEWINE, Mr. ROBB, and Mr. SMITH of New Hampshire):

S. Res. 57. A resolution expressing the sense of the Senate regarding the human rights situation in Cuba; to the Committee on Foreign Relations.

By Mr. LOTT (for himself and Mr. DASCHLE):

S. Res. 58. A resolution relating to the retirement of Barry J. Wolk; considered and agreed to.

By Mr. BROWNBACK (for himself, Mr. WELLSTONE, Mr. SMITH of Oregon, Mr. THOMAS, Mr. TORRICELLI, and Mr. GRAMS):

S. Con. Res. 14. A concurrent resolution congratulating the state of Qatar and its citizens for their commitment to democratic ideals and women's suffrage on the occasion of Qatar's historic elections of a central municipal council on March 8, 1999; to the Committee on Foreign Relations.

By Mr. MCCAIN (for himself, Mr. KENNEDY, Mr. KYL, Mr. FEINGOLD, Mr. HAGEL, Mr. LEAHY, Mr. SMITH of Oregon, Mr. LAUTENBERG, Mr. CAMPBELL, Mr. INOUE, Ms. SNOWE, Mr. LEVIN, Mr. STEVENS, Mr. SARBANES, Mr. SPECTER, Mr. DODD, Mr. DOMENICI, Mr. DORGAN, Mr. DEWINE, Mr. KOHL, Mr. COCHRAN, Mr. BINGAMAN, Mr. ALLARD, Mrs. BOXER, Mr. BENNETT, Mr. KERREY, Mr. CRAIG, Mr. REID, Mr. WELLSTONE, Mr. MOYNIHAN, Mr. AKAKA, Mr. DASCHLE, Mr. KERRY, Mr. LIEBERMAN, Mr. BAUCUS, Mr. DURBIN, Mr. ROCKEFELLER, Mr. HARKIN, Mr. SCHUMER, Mrs. FEINSTEIN, Mr. WYDEN, Mr. BYRD, Mr. HOLLINGS, Mrs. MURRAY, Mr. TORRICELLI, and Mr. GRAMS):

S. Con. Res. 15. A concurrent resolution honoring Morris King Udall, former United States Representative from Arizona, and extending the condolences of the Congress on his death; considered and agreed to.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ROBERTS (for himself, Mr. KERREY, Mr. CRAIG, Mr. BURNS, Mr. HAGEL, Mr. DASCHLE, Mr. CONRAD, and Mr. BAUCUS):

S. 529. A bill to amend the Federal Crop Insurance Act to improve crop insurance coverage, to make structural changes to the Federal Crop Insurance Corporation and the Risk Management Agency, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

CROP INSURANCE FOR THE 21ST CENTURY ACT

Mr. ROBERTS. Mr. President, I rise today, along with my colleague, Mr. KERREY of Nebraska, to introduce a bill that we call the Crop Insurance for the 21st Century Act. We believe this bill represents an important step in improving the Federal Crop Insurance Program, and in creating greater access to the risk management tools that our farmers and ranchers simply must have.

Senator KERREY and I, and many others who are privileged to represent the agriculture community, have long discussed the need to address reforms to the Crop Insurance Program. However, the necessary demands from the agriculture community and the Congress to successfully reform this program, in my personal opinion at least, did not reach a crescendo until last fall when we approved something called the omnibus appropriations bill, and that contained approximately \$6 billion in disaster assistance for our farmers and ranchers.

I am sure, while Republicans and Democrats and individual agricultural groups were unable to agree on the necessary size and scope of the disaster package, one thing became abundantly clear to all involved—if we had a Crop Insurance Program that worked, without question, the situation would not have been so serious.

This has been a longstanding effort. I can remember well, back in 1978, when I was a staff member in the House of Representatives to my predecessor, that was when the Crop Insurance Program was first established. It has been 20 years, and we still have an obligation to reform the program and make sure that it works for all regions, all farmers, all commodities.

In response to the demands for the improved risk management tools, Senator KERREY and I committed to pursuing major crop insurance reforms in this Congress. To aid us in this task, last November we contacted all of the major farm organizations and all of the commodity groups, all of the crop insurance companies, all of the agricultural lending groups, and requested their guidance on these issues. We were listening. We wanted to find out their advice in regard to what do we need to pay attention to, what is the most serious issue that we need to address in the Crop Insurance Program. We received feedback from over 20 of these major organizations.

These comments we received served as a guidepost in developing this legislation. And, while the comments received were wide ranging, there was near consensus in several areas.

These included as follows: First, the need for increased levels of coverage at affordable prices to all producers. Second, we need expanded availability of revenue-based insurance products. Third, program changes to address the needs of producers suffering multiple crop failures. Fourth, structural changes to the Risk Management Agency—the acronym for that is RMA, and that is what I will call it from now on, but it is the Risk Management Agency—that will allow for increased access to new and improved crop insurance policies.

Senator KERRY and I took these comments to heart, and the legislation we are introducing today has been developed in large part by really trying to work to incorporate these comments into legislative language.

Our bill inverts this existing subsidy structure. Currently, many producers do not purchase the highest levels of coverage because the greatest level of Government assistance simply occurs at the lowest levels of coverage. This often makes the higher levels of coverage simply unaffordable. It causes many producers to have insufficient coverage, which eventually leads to calls for the ad hoc disaster bills that are so expensive. We cannot continue to pass a disaster package every year.

I tell the Presiding Officer, we were just discussing this in a previous meeting, it costs the Federal Government about \$1.5 billion on average in regard to the disaster bills. They seem to occur on even numbered years. I think the Presiding Officer knows what I am talking about. We cannot afford that.

Therefore, under our legislation, the highest level of subsidy will occur at the 75/100 coverage levels. While the inversion of subsidies will be the most important change for many producers, we have included several changes that we believe will benefit America's farmers and ranchers. These include, first, the average production history—that is called APH in the crop insurance acronym world—APH adjustments for producers that have no production history because they are beginning farmers or they are farming new land or they are rotating crops.

Let me add, at this juncture, that is exceedingly important, because under the farm bill that now exists, farmers have a lot more flexibility, and when they move to a new crop, obviously, they ought to be able to simply insure that crop.

Second, mandating APH adjustments for producers suffering from crop losses in multiple years. Third, requiring the RMA to work to undertake a pilot project to develop new rating structures for undeserved areas of the country, and particularly the southern part of the United States, with the intention it will eventually become a permanent change in the program.

Here is a suggestion or a part of the bill that will be of interest to Senator THOMAS—removing the prohibition on coverages for livestock. I just indicated that we had a good visit this morning about this very subject. The livestock sector is going through a very difficult time in our country today. We need to address this problem with regard to insurance and how it would dovetail into the livestock industry and give our stockmen and our ranchers some protection.

In addition, the legislation provides for major changes in the structure of the RMA, the FCIC, that will allow for accelerated product approval and the development of improved crop insurance policies. Many people understand the Risk Management Agency serves as a regulator over the crop insurance industry. What many do not know is that this same outfit, the RMA, also serves as a developer for products that are then sold in direct competition with privately developed products. Thus, the RMA serves as a competitor with the industry it is supposed to regulate.

I am aware of no other private industry that faces these same hurdles. Senator KERREY and I believe it is time to change this culture that has often served as a roadblock to producer access to new and improved products. Our legislation will, first, change the structure of the FCIC board of directors to bring reinsurance and expertise in the agriculture economy to the board. Second, make the FCIC the overseer of the RMA. Third, allow the RMA to continue to develop policies for specialty crops and underserved areas.

Fourth, to create an Office of Private Sector Partnership to serve as a liaison between private sector companies and the FCIC board of directors. Fifth, to leave the final approval or disapproval of all policies in the hands of the board. And, finally, allow companies to charge a minimal fee on each policy when one company decides to sell another company's product. Hopefully, Mr. President, this will allow the companies to recover the research and development costs and will encourage the creation of new policies.

While these steps will not be the answer to solving all of the problems in the Crop Insurance Program, we believe they will be an important step. Each year our producers put the seed in the ground with great faith and optimism and believe that, with a little faith and a little luck and the good Lord willing and the creeks not rising, they will produce a crop. But the task is not easy. Between the multiple risks of drought and flood and fire and hail and blizzard and disease and insects and also a little market interference in regard to the Federal Government, it often seems the deck is stacked against them. If producers do survive these risks, they are often still at the mercy of weakened exports, and Asian flu or the global contagion, as we call it, caused by a global financial crisis and inadequate access to foreign markets.

I will be the first to admit that reforming this program cannot come without budgetary costs. At the same time, I can think of no other industry that faces the number of multiple risks that must be addressed on an annual basis by those in production agriculture.

Congress must not and cannot be forced to pass these ad hoc disaster bills every year. We must give our producers the risk management tools that they need. I believe this legislation is an important first step, and I ask our colleagues to join Senator KERREY and myself in this difficult but absolutely vital task.

I yield the remainder of my time to my good friend and colleague, the Senator from Nebraska.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. Mr. President, I rise today to introduce with Senator ROBERTS the Crop Insurance for the 21st Century Act.

This bill will make crop insurance more affordable, more flexible, and more responsive to the changing needs of farmers.

That has been our goal from the start, when we asked for help from farmers in Nebraska, in Kansas, and from the many farm, commodity, banking and crop insurance interests that work with producers. They responded with a multitude of ideas, and those ideas form the basis for this bill.

The basic structure of the crop insurance program was set out in 1980, and much of that structure remains in place today.

Congress last reformed the crop insurance program in 1994, when we created new opportunities for private sector delivery of policies and risk sharing. And our success has been greater—more than 181 million acres are enrolled in the program today, up almost 100 million acres since 1993.

But we are now seeing participation on the decline. That is cause for concern.

And last year, we discovered more cause for concern. Farmers in the northern plains who had been reliable buyers of crop insurance found that it was no longer offering much protection, after repeated years of weather-related disasters.

Other farmers across the country made the seemingly improbable decision not to buy a 100 percent subsidized catastrophic policy because they found it worthless—so worthless they wouldn't spend even \$50 for the administrative fee. And they then chose not to purchase a buy-up policy, either.

And of greatest concern was the inevitable ad hoc disaster program, which Congress had theoretically eliminated in 1994. We spent an additional \$6 billion on disaster aid last year in part to make up for these problems. And there are no substantive changes in the program to ward off another disaster bill this year.

We will spend at least \$18 billion this fiscal year to support agriculture. And the crisis is only deepening.

Will this bill fix that crisis? No. Crop insurance does not and can not provide income. If you're getting a check from your insurance company—for your car, or your house, or your farm—you've lost money.

But the program today no longer provides even enough support to keep most farmers in business after a couple of loss years. How can it, when most of them have a 35 percent deductible? For a farm operation with \$500,000 worth of production, that means the farmer absorbs the first \$175,000 of loss.

Let me give you an example of how the economics of crop insurance work today. Doug Schmale of Lodgepole, NE, grows about 1,500 acres of wheat on his farm. He's a believer in crop insurance and buys it every year. And now he buys CRC, because he understands that covering revenue is an improvement over just covering yields.

Doug says the reason he only buys 65 percent coverage is because, "That's where it makes the most sense, because that's where the government puts the money. But it's still not adequate."

Doug is insuring 26 bushels of wheat per acre, which he admits is nowhere close to what he can live on. And since 1987 he's only collected on his insurance policy twice. And he pays about \$8,000 a year to buy it, every year.

What Doug wants is to buy a 75 percent CRC policy. But if he does that today, his costs will more than double. He'll go from \$4.72 an acre to \$9.75. And that's not even an option when wheat is only worth \$3.00.

Doug says that this bill will finally make coverage affordable for him. He'll get enough coverage—at a price he can afford—to stay in business if he has two bad years in a row.

There's been a lot of talk about "safety nets" over the past few years. And we all know that we wouldn't insure our houses with a 35 percent deductible. But the economics of agriculture say to farmers, "Underinsure," especially now, when every dollar per acre makes an enormous difference.

Congress must help change that message. Our message to farmers must be, "We want you to insure your farm operation for enough coverage that your policy has some value. We want you to be able to take into account crop rotation, new crops and new land. If you have an unbelievable run of bad luck with the weather, we want crop insurance to help you stay in business.

"And we will help you do it."

Additionally, this bill recognizes that many farmers are trying new crops and in fact other government policies have encouraged them to do so. The crop insurance program offers little option but to underinsure or go without coverage. This bill would required changes in the program to take that into account.

And just as importantly, this bill takes a big step toward restructuring the agency that oversees the program. Unbelievably, the statute now makes the board of directors responsible for

reporting to the government agency, instead of having the agency report to the Board. We'll put the board of directors at the top of the hierarchy where they belong.

By making changes in the administration of the program, we'll come closer to the flexible and responsive risk management program that farmers expect. That may be the most important thing we accomplish.

Senator ROBERTS and I have worked together on crop insurance in the past, and we are happy to take the lead again. And I reiterate: this is not the panacea to the financial crisis in rural America, but it is a worthwhile first step.

I look forward to a renewed spirit of bipartisanship on ag issues, and we are starting here today.

Mr. President, quite simply, this piece of legislation will make crop insurance more affordable, more flexible and more responsive to the changing needs of farmers. That has been our goal from the start, for farmers in Nebraska, farmers in Kansas and farmers throughout the country.

The basic structure of the Crop Insurance Program was set in place in 1980. Much of that structure remains in place today. The last time Congress changed the law was in 1994, and at that time we created new opportunities for private sector delivery of policies and risk sharing. It is a model, in my judgment, Mr. President, that has worked.

The taxpayers take half the risk; the private sector takes half the risk. They are the ones out selling the product and, as a consequence, there is far less taxpayer exposure than there would be otherwise. Senator ROBERTS just alluded to it. In fact, I think he did more than just allude to it. He said it directly.

The ad hoc disaster program we believed we were ending in 1994, when we passed the crop insurance bill, well, it came back last year with a vengeance for \$6 billion. It is not a very efficient way of helping businesspeople, family-operated farms that suffer losses. It is a very inefficient way. Typically it costs us a great deal more money and typically it does not benefit the people who need it the most.

What crop insurance gives the farmer is a management tool that they can use to manage risk. It is not a replacement for other programs. It is not a replacement for income. It is a tool that they can use to manage the considerable risk of manufacturing a product outside.

In 1994, after we created the program, we met with considerable success. We had 181 million acres that were enrolled in the program—that is up from 100 million acres enrolled in 1993—but we are seeing participation rates decline. Last year we discovered more cause for concern when farmers in the northern plains who had been reliable buyers of crop insurance found that it was no longer offering much protec-

tion. They were unwilling to buy a 100-percent subsidized catastrophic policy because they found it was worthless. It is only 50 bucks, but they are telling us that it is worthless.

Other concerns were expressed by farmers, to both Senator ROBERTS and I, and many other Members of Congress, about how to make this Crop Insurance Program work. We have tried, with this piece of legislation, to do that, by inverting the subsidies, by equalizing the subsidies for revenue insurance, by allowing revenue insurance to be offered for price as well as for yields, by changing the APH for multiyear losses, as well as making changes for farmers that are coming on line for the first time, by allowing livestock to be covered for the first time, a permissive piece, and, most importantly for me, by restructuring the Risk Management Agency itself, making the Risk Management Agency director responsive to the board and bringing on a new private sector entity to evaluate reinsurance and evaluate what, indeed, the market itself wanted to do.

Mr. President, I would like to talk specifically about one individual, a man by the name of Doug Schmale from Lodgepole, NE. He grows about 1,500 acres of wheat on his farm. He likes crop insurance. He buys it every year and has bought it since 1987. He has collected but twice.

I talked to him about the details. Listen to his details. It is the same thing we are hearing from farmers throughout the country. He buys 65 percent coverage, he said, because "that's where it makes the most sense, because that's where the Government puts the money. But it's not adequate."

It doesn't provide him with the protection he needs. That means he will be insuring about 26 bushels an acre, which he admits is nowhere close to what he can produce, nowhere near the kind of losses he would expect if he were to suffer a loss on that crop.

What he would like to do is buy a 75 percent crop recovery policy. If he does that, the premiums are so high that, given the price of wheat, he cannot afford to buy it.

Again, Mr. President, we are not talking about throwing a bunch of money out here. We are talking about allowing these subsidies to change so the private sector can sell the product easier. I must emphasize this over and over, that what crop insurance represents for the taxpayer is a terrific way to put a product out there to manage risk, because the private sector assumes half the loss. The private sector will suffer a significant loss if there are losses. So they are not going to be out there underwriting policies for things that they consider to be too risky, because they are on the line for half the loss.

This piece of legislation represents a substantial step forward. We have pilot projects in there for beginning farmers.

We have pilot projects in there, as well, for many of our southern friends who are concerned that cotton, because it is a lower-cost product, has not been able to get good underwriting. We have tried to accommodate concerns for many other crops as well.

We believe that if we can get this legislation passed this year, it will be a giant step forward from what we had in 1994 and will continue us in the direction of saying that we are not going to have ad hoc disaster programs. We are going to allow the farmer himself to have a product that enables him to manage that risk and reduce the risk associated with a rather risky endeavor of production agriculture.

I don't know if the Senator from Kansas has anymore enlightened, humorous remarks to make. I wonder if the Senator from Kansas will agree that what we saw after we passed the law in 1994 was a substantial increase in the number of acres that are covered, and the program is working, but we have kind of hit a wall. We reformed it considerably. We are moving more toward the market, but we have hit a wall.

The market is basically saying, "We have products that we can sell; our farmers will buy the products." But here are changes we need to make in this law and if you make these changes, we think you will find more acreage is underwritten, more satisfied customers and less need for ad hoc disaster, as a consequence.

Mr. ROBERTS. Mr. President, if I may respond to my distinguished friend, the whole goal of this is to provide the farmer and rancher with the risk management tools to enable that decisionmaking to be made by the individual producer as opposed to those of us in Washington who respond, as I indicated before, it seems like almost even numbered years to the plight of those who are experiencing disasters. We think this program or this reform will certainly represent a lot more consistencies.

Yes, it will cost money, but if you add up the average \$1.5 billion that we have paid in disaster programs, not to mention the \$6 billion emergency bill as of last year, of course that is reflective of the loss of export demand we have seen because of the economic problems all over the world. But I certainly agree with my colleague and my cosponsor.

Mr. President, I have several unanimous consent requests, I tell my colleague, if I may offer them at this point.

Mr. President, I ask unanimous consent that Senators CRAIG, BURNS, HAGEL, DASCHLE, CONRAD, and BAUCUS be added as original cosponsors on the bill just introduced by Senator KERREY and myself.

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

Mr. ROBERTS. Mr. President, I further ask unanimous consent that any Senator wishing to be added to this

legislation as an original cosponsor be allowed to do so prior to the close of business today.

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

Mr. ROBERTS. I yield the floor.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. Mr. President, I appreciate that growing list of cosponsors. I hope this is a piece of legislation which we can persuade our friends on the Budget Committee to make room for. It will save us money in the long term. It will save us and prevent us from spending multibillions of dollars a year on ad hoc disaster assistance in some kind of a supplemental appropriation. I hope very much that we are able to get some additional room.

I was disappointed we did not see it in the President's budget. He has a lot of new spending priorities. I think if we put this a bit ahead of some of the spending priorities, we ought to make room for it.

I promise my colleagues, if we do that, if we change the law in this way, you will find we will be saving money in the long term trying to make certain that family-based agriculture, one of the most important parts of our economy, still producing this year at least \$20 billion worth of surplus in trade—it is going to be down a bit in 1999, but it is still an enormously important part of our economy—I assure my colleagues if we get room in our budget to include the cost of this expansion of crop insurance that it will save us money in the long term.

Mr. CRAIG. Mr. President, I rise today to join my good friends and colleagues Senators ROBERTS and KERREY as a cosponsor of legislation being introduced today to reform the Federal agricultural crop insurance program. I am proud to stand with these leaders in purposing sweeping legislation to bring back some normalcy to our Nation's farm economy and expand the risk management tools available to our farm and ranch families.

The bill addresses several concerns farmers from my state and I have about the current crop insurance program. Specifically, I am pleased that the legislation includes provisions to establish an APH history adjustment for beginning farmers and multi-year disasters. In addition, removing the exclusion for livestock coverage is long overdue.

By cosponsoring this legislation today, I do not wish to imply that our search for meaningful crop insurance reform ideas has been completed. Just the contrary—I see this bill as a reasonable and appropriate first step toward our long-term goal of providing real risk management tools to our farmers and ranchers.

While I am pleased that the bill includes provisions that allow the Risk Management Agency to develop policies for "speciality" or "minor" crops and for crops in under-served areas, I

look forward to working with my colleagues to develop even stronger and more beneficial risk management tools for these producers. Idaho's great agricultural economy is based on minor and nontraditional crops. We lead the nation in the production of such crops as potatoes, winter peas, and trout. Idaho is second in the production of seed peas, lentils, sugar beets, barley and mint. Furthermore, we are in the top five states in the production of hops, onions, plums, sweet cherries, alfalfa, and American cheese.

The needs of these producers are just as important as those of more traditional farm commodities. I want to assure my colleagues that I will continue to work for the resolution of this and other matters as our effort to reform Federal crop insurance progresses.

By Mr. GORTON (for himself and Mr. SMITH of Oregon):

S. 530. A bill to amend the Act commonly known as the Expert Apple and Pear Act to limit the applicability of that act to apples; to the Committee on Banking, Housing, and Urban Affairs.

#### EXPERT APPLE AND PEAR ACT AMENDMENTS

Mr. GORTON. Mr. President, I rise today to introduce legislation amending the 1933 Export Apple and Pear Act to provide for the expansion of pear exports.

Currently, all apple and pear exporters must follow the guidelines set forth in the Act when negotiating overseas sales of these commodities. According to the Act, only high grade apples and pears are to be sold in foreign markets. Should an exporter decide to broker a deal with another country involving lower grade apple and pears, the U.S. Department of Agriculture must provide a waiver to farmers allowing them to do so.

While growers have prospered under the 1933 Export Apple and Pear Act, more and more countries have requested to purchase lower grade pears. The purpose of this legislation is to eliminate pears from the Export Apple and Pear Act allowing growers and exporters the ability to expand the market for low grade pears without having to approach USDA in each instance for a waiver.

There is no doubt that the Pacific Northwest fruit industry is facing a difficult year financially. I believe this bill provides one additional mechanism necessary for an economically strapped industry to access additional markets while still promoting a quality U.S. product.

Mr. SMITH of Oregon. Mr. President, I rise to comment on a bill I have introduced today that will provide Oregon pear producers the flexibility they need to meet the demands of their foreign customers.

With continued low commodity prices in nearly all sectors of American agriculture, and with financial uncertainty in many of our export markets, now is the time for the Congress to do

all it can to remove unnecessary hindrances to sales of farm products abroad. The legislation which I have introduced today with my colleague, the senior senator from the state of Washington, would delete references to pears in the Export Apple and Pear Act. Under the Export Apple and Pear Act, only pears meeting Federal high quality standards are allowed to be exported. Although this standard served the purposes of the pear industry when the Export Apple and Pear Act was originally enacted in 1933, it has increasingly become an obstacle to U.S. pear producers who desire to enter new markets through the export of lower grade pears. In recent years, pear producers have had to obtain special waivers from USDA in order to sell lower grade pears to the emerging markets of Russia and Latin America. With American agriculture increasingly a part of a larger, global economy, U.S. pear producers need the Congress to remove this antiquated regulatory hurdle to expanded pear exports.

Perhaps my colleagues noted that the companion bill to this legislation, H.R. 609, was adopted unanimously by the House of Representatives earlier this week. The swift passage of this legislation in the House is the result of the clear consensus of both the pear industry and the Department of Agriculture that the inclusion of pears in the Export Apple and Pear Act is no longer necessary.

Mr. President, from Hood River, in the shadow of Mount Hood, to the Rogue Valley, just north of California, the pear industry has long been a key part of the success of Oregon agriculture. With the regulatory relief provided by this bill, I believe that pear producers in Oregon and around the country will have the ability to continue to compete effectively overseas and prosper at home. I urge my colleagues to join Senator GORTON and myself in support of early adoption of this legislation.

By Mr. ABRAHAM (for himself, Mr. SESSIONS, Mr. LEVIN, Mr. KENNEDY, and Mr. HARKIN):

S. 531. A bill to authorize the President to award a gold medal on behalf of the Congress to Rosa Parks in recognition of her contributions to the Nation; to the Committee on Banking, Housing, and Urban Affairs.

LEGISLATION TO AUTHORIZE THE PRESIDENT TO AWARD A GOLD MEDAL ON BEHALF OF THE CONGRESS TO ROSA PARKS.

Mr. ABRAHAM. Mr. President, I rise today along with Senators SESSIONS, LEVIN, KENNEDY and HARKIN to introduce an important piece of legislation that will honor one of the most important figures in the American civil rights movement, Rosa Parks.

Given her immense contributions to our Nation, we believe it is only fitting that she be honored with a Congressional Gold Medal.

For decades, Mr. President, African-Americans in this country, this birth

place of freedom, were treated as second class citizens, or less.

Even after the moral enormity of slavery had finally been ended, African-Americans were subjected to discrimination, segregation and, if they resisted, prosecution and even lynching.

Rosa Parks set in motion the events that brought to an end the shameful history of Jim Crow.

Rosa Parks refused to obey the segregation laws in her home city of Montgomery, AL, and go to the back of the bus.

When confronted, she refused give up her seat on that bus to a white man, even when threatened with jail.

She was arrested, and the reaction would change the face of this Nation.

Over 40,000 people boycotted Montgomery buses for 381 days.

Faced with official condemnation and violence, these brave men and women maintained their unity until the bus segregation laws were finally changed.

Their actions brought about the 1956 Supreme Court decision declaring the Montgomery segregation law unconstitutional and spurred the civil rights movement to further action; action which produced the Civil Rights Act of 1964, breaking down the barriers of legal discrimination against African-Americans and establishing equality before the law as a reality for all Americans.

Rosa Parks set these historic events in motion.

She was the first woman to join the Montgomery chapter of the NAACP and served as an active volunteer for the Montgomery Voters League.

Because of her strength, perseverance and quiet dignity, all Americans have been freed from the moral stain of segregation.

And this mother of the civil rights movement continues to be active in the struggle for equality and the empowerment of the disenfranchised.

Ms. Parks has received many awards in recognition of her efforts for racial harmony, including the NAACP's highest honor for civil rights contributions, the Presidential Medal of Freedom, the Nation's highest civilian honor, and the first International Freedom Conductor Award from the National Underground Railroad Freedom Center.

Throughout her life, Rosa Parks has been an example of the power of conviction and quiet dignity in pursuit of justice and empowerment. Mr. President, I urge my colleagues to join us in supporting legislation to bestow upon her the Congressional Gold Medal she so well deserves.

Mr. President, I remember as a young student in grade school being told the story of the woman who said she would not move to the back of the bus. I did not know who that was by name. I just remember being so struck and touched by that story. I did not realize someday I would have the opportunity to meet that lady. She lives in my State of

Michigan today. I have had a chance to get to know her a bit, but, more importantly, to work with her organizations there which do fine work for our communities and for our country.

So Mr. President, I am very proud to be here today to offer this Congressional Gold Medal proposal. I want to thank our cosponsors. We are very hopeful that others will join us so we can pass this proposal as soon as possible.

At this time, Mr. President, I yield the floor to the Senator from Alabama.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I want to say how much I appreciate the courtesies of Senator ABRAHAM and Senator LEVIN as we work through this effort to achieve this Gold Medal for Ms. Rosa Parks. I think it is a very fitting and appropriate thing that we do so.

So I rise today to recognize Ms. Parks, a native Alabamian, who through her life and example has touched both the heart and the conscience of an entire Nation. She is a native of Tuskegee, and a former resident of Montgomery, AL. Her dignity in the face of discrimination helped spark a movement to ensure that all citizens were treated equally under the law.

Equal treatment under the law is a fundamental pillar upon which our Republic rests. In fact, over the first 2 months of this year this Senate has discussed that very issue in some detail. As legislators, we should work to strengthen the appreciation for this fundamental governing principle and recognize those who have made extraordinary contributions toward ensuring that all American citizens have the same opportunities, regardless of their race, sex, creed, or national origin, to enjoy the freedoms this country has to offer.

Through her efforts, Ms. Parks has become a living embodiment of this principle. And it is entirely appropriate that this Congress takes the opportunity to acknowledge her contribution by authorizing the award of a Congressional Gold Medal to her. Her courage, what we in Alabama might call "gumption", at a critical juncture resulted in historic change.

Certainly, there is much still to be done. True equality, the total elimination of discrimination, and a real sense of ease and acceptance among the races has not been fully reached. But it is fair to say that in the history of this effort, the most dramatic and productive chapter was ignited by the lady we honor today.

Ms. Parks' story is well known, but it bears repeating. She was born on February 4, 1913, in the small town of Tuskegee AL to Mr. James and Leona McCauley. As a young child, she moved to Montgomery with her mother, who was a local schoolteacher. Like many Southern cities, the Montgomery of Ms. Parks' youth was a segregated city with numerous laws mandating the unequal treatment of people based on the

color of their skin. These laws were discriminatory in their intent, and divisive, unfair, and humiliating in their application, but for years Ms. Parks had suffered with them until the fateful day of December 1, 1955, when her pride and her dignity would allow her to obey them no more. On this day Ms. Parks, a 42-year-old seamstress, boarded a city bus after a long, hard day at work. Like other public accommodations, this bus contained separate sections for white and black passengers, with white passengers allocated the front rows, and black passengers given the back. This bus was particularly crowded that evening. At one of the stops, a white passenger boarded, and the bus driver, seeing Ms. Parks, requested that she give up her seat and move to the back of the bus, even though this meant that she would be forced to stand. Ms. Parks refused to give up her seat and was arrested for disobeying that order.

For this act of civic defiance, Ms. Parks set off a chain of events that have led some to refer to her as the "Mother of the Civil Rights Movement." Her arrest led to the Montgomery bus boycott, and organized movement led by a young minister, then unknown, named Martin Luther King, Jr., who had been preaching at the historic Baptist church located on Montgomery's Dexter Avenue. The bus boycott lasted 382 days, and its impact directly led to the integration of the bus lines while the attention generated helped lift Dr. King to national prominence. Ultimately, the U.S. Supreme Court was asked to rule on the constitutionality of the Montgomery law which Ms. Parks had defied and the court struck it down.

This powerful image, that of a hard working American ordered to the back of the bus, simply because of her race, was a catalytic event. It was the spark that caused a nation to stop accepting things as they had been and focused everyone on the fundamental issue—whether we could continue as a segregated society. As a result of the movement Ms. Parks helped start, today's Montgomery is very different from the Montgomery of Ms. Parks' youth. Today, the citizens of Montgomery look with a great deal of historical pride upon the Dexter Avenue Baptist Church. Today's Montgomery is home to the Southern Poverty Law Center, an organization devoted to the cause of civil rights and also the Civil Rights Memorial, a striking monument of black granite and cascading water which memorializes the individuals who gave their lives in the pursuit of equal justice. Today's Montgomery is a city in which its history as the "Capital of the Confederacy" and its history as the "Birthplace of the Civil Rights Movement" are both recognized, understood and reconciled. But Montgomery is not alone in this development. Many American cities owe the same debt of gratitude to Ms. Parks that Montgomery does. In fact, Ms. Parks' contribu-

tions may extend beyond even the borders of our nation. In the book "Bus Ride to Justice," Mr. Fred Gray, who gained fame while in his 20's as Ms. Parks' attorney in the bus desegregation case and as the lead attorney in many of Alabama's and the Nation's most important civil rights cases, wrote these words, and I don't think they are an exaggeration:

Little did we know that we had set in motion a force that would ripple throughout Alabama, the South, the nation, and even the world. But from the vantage point of almost 40 years later, there is a direct correlation between what we started in Montgomery and what has subsequently happened in China, eastern Europe, South Africa, and even more recently, in Russia. While it is inaccurate to say that we all sat down and deliberately planned a movement that would echo and reverberate around the world, we did work around the clock, planning strategy and creating an atmosphere that gave strength, courage, faith and hope to people of all races, creeds, colors and religions around the world. And it all started on a bus in Montgomery, Alabama, with Rosa Parks on December 1, 1955.

For her courage and her conviction, and for her role in changing Alabama, the South, the nation and the world for the better, our Nation owes thanks to Ms. Parks. I hope that this body will extend its thanks and recognition to her by awarding her the Congressional Gold Medal.

Mr. LEVIN. Mr. President, Rosa Parks is truly one of this Nation's greatest heroes. Her personal bravery and self-sacrifice have shaped our Nation's history and are remembered with respect and with reverence by us all.

Forty three years ago—December 1955—in Montgomery, Alabama the modern civil rights movement began. Rosa Parks refused to give up her seat and move to the back of the bus. The strength and spirit of this courageous woman captured the consciousness of not only the American people but the entire world.

My home state of Michigan proudly claims Rosa Parks as one of our own. Rosa Parks and her husband made the journey to Michigan in 1957. Unceasing threats on their lives and persistent harassment by phone prompted the move to Detroit where Rosa Park's brother resided.

Rosa Park's arrest for violating the city's segregation laws was the catalyst for the Montgomery bus boycott. Her stand on that December day in 1955 was not an isolated incident but part of a lifetime of struggle for equality and justice. For instance, twelve years earlier, in 1943, Rosa Parks had been arrested for violating another one of the city's bus related segregation laws, which required African Americans to pay their fares at the front of the bus then get off of the bus and re-board from the bus at the rear. The driver of that bus was the same driver with whom Rosa Parks would have her confrontation 12 years later.

The rest is history—the boycott which Rosa Parks began was the beginning of an American revolution that

elevated the status of African Americans nationwide and introduced to the world a young leader who would one day have a national holiday declared in his honor, the Reverend Martin Luther King Jr.

The Congressional Gold Medal is a fitting tribute to Rosa Parks—the gentle warrior who decided that she would no longer tolerate the humiliation and demoralization of racial segregation on a bus.

We have come a long way towards achieving Dr. King's dream of justice and equality for all. But we still have much work to do. Let us rededicate ourselves to continuing the struggle on Civil Rights, and to human rights in Rosa Parks name.

Mr. President, I ask unanimous consent that a brief biography of the life and times and movement which was sparked by Rosa Parks, the mother of the civil rights movement, and excerpted from USL Biographies, be printed in the RECORD.

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

#### ROSA PARKS—AMERICAN SOCIAL ACTIVIST

"I felt just resigned to give what I could to protect against the way I was being treated."

#### INTRODUCTION

On December 1, 1955, Rosa Parks refused to give up her seat on a bus to a white man who wanted it. By this simple act, which today would seem unremarkable, she set in motion the civil rights movement, which led to the Civil Rights Act of 1964 and ultimately ensured that today all black Americans must be given equal treatment with whites under the law.

Parks did not know that she was making history nor did she intend to do so. She simply knew that she was tired after a long day's work and did not want to move. Because of her fatigue and because she was so determined, America was changed forever. Segregation was on its way out.

#### GROWING UP IN A SEGREGATED SOCIETY

In the first half of this century, Montgomery, Alabama, was totally segregated, like so many other cities in the South. In this atmosphere Parks and her brother grew up. They had been brought to Montgomery by their mother, Leona (Edwards) McCauley, when she and their father separated in 1915. Their father, James McCauley, went away north and they seldom saw him, but they were made welcome by their mother's family and passed their childhood among cousins, uncles, aunts, grandparents, and great-grandparents.

Parks's mother was a schoolteacher, and Parks was taught by her until the age of eleven, when she went to Montgomery Industrial School for Girls. It was, of course, an all-black school, as was Booker T. Washington High School, which she attended briefly. Virtually everything in Montgomery was for "blacks only" or "whites only," and Parks became used to obeying the segregation laws, though she found them humiliating.

When Parks was twenty, she married Raymond Parks, a barber, and moved out of her mother's home. Parks took in sewing and worked at various jobs over the years. She also became an active member of the National Association for the Advancement of Colored People (NAACP), working as secretary of the Montgomery chapter.

## SILENT PROTESTS

In 1955 Parks was forty-two years old, and she had taken to protesting segregation in her own quiet way—for instance, by walking up the stairs of a building rather than riding in an elevator marked “blacks only.” She was well respected in the black community for her work with the Montgomery Voters League as well as the NAACP. The Voters League was a group that helped black citizens pass the various tests that had been set up to make it difficult for them to register as voters.

As well as avoiding black-only elevators, Parks often avoided traveling by bus, preferring to walk home from work when she was not too tired to do so. The buses were a constant irritation to all black passengers. The front four rows were reserved for whites (and remained empty even when there were not enough white passengers to fill them). The back section, which was always very crowded, was for black passengers. In between were some rows that were really part of the black section, but served as an overflow area for white passengers. If the white section was full, black passengers in the middle section had to vacate their seats—a whole row had to be vacated, even if only one white passenger required a seat.

## THE ARREST OF ROSA PARKS

This is what happened on the evening of December 1, 1955: Parks took the bus because she was feeling particularly tired after a long day in the department store where she worked as a seamstress. She was sitting in the middle section, glad to be off her feet at last, when a white man boarded the bus and demanded that her row be cleared because the white section was full. The others in the row obediently moved to the back of the bus, but Parks just didn't feel like standing for the rest of the journey, and she quietly refused to move.

At this, the white bus driver threatened to call the police unless Parks gave up her seat, but she calmly replied “Go ahead and call them.” By the time the police arrived, the driver was very angry, and when asked whether he wanted Parks to be arrested or let off with a warning, he insisted on arrest. So this respectable middle-aged woman was taken to the police station, where she was fingerprinted and jailed. She was allowed to make one phone call. She called an NAACP lawyer, who arranged for her to be released on bail.

## THE BUS BOYCOTT

Word of Parks' arrest spread quickly, and the Women's Political Council decided to protest her treatment by organizing a boycott of the buses. The boycott was set for December 5, the day of Parks' trial, but Martin Luther King, Jr., and other prominent members of Montgomery's black community realized that here was a chance to take a firm stand on segregation. As a result, the Montgomery Improvement Association was formed to organize a boycott that would continue until the bus segregation laws were changed. Leaflets were distributed telling people not to ride the buses, and other forms of transport were relied on.

The boycott lasted 382 days, causing the bus company to lose a vast amount of money. Meanwhile, Parks was fined for failing to obey a city ordinance, but on the advice of her lawyers she refused to pay the fine so that they could challenge the segregation law in court. The following year, the U.S. Supreme Court ruled the Montgomery segregation law illegal, and the boycott was at last called off. Yet Parks had started far more than a bus boycott. Other cities followed Montgomery's example and were protesting their segregation laws. The civil rights movement was underway.

## MOTHER OF THE CIVIL RIGHTS MOVEMENT

Parks has been hailed as “the mother of the civil rights movement,” but this was not an easy role for her. Threats and constant phone calls she received during the boycott caused her husband to have a nervous breakdown, and in 1957 they moved to Detroit, where Parks' brother, Sylvester, lived. There Parks continued her work as a seamstress, but she had become a public figure and was often sought out to give talks about civil rights.

Over the years, Parks has received several honorary degrees, and in 1965 Congressman John Conyers of Detroit appointed her to his staff. Parks' husband died in 1977 and she retired in 1988, but she has continued to work for the betterment of the black community. She is particularly eager to help the young, and in 1987 she established the Rosa and Raymond Parks Institute for Self-Development, a training school for Detroit teenagers.

Each year sees more honors showered upon her. In 1990, some three thousand people attended the Kennedy Center in Washington, D.C., to celebrate the seventy-seventh birthday of the indomitable campaigner and former seamstress, Rosa Parks.

Mr. LEVIN. I thank the Chair and I thank our colleagues from Michigan and Alabama.

## By Mrs. FEINSTEIN:

S. 532. A bill to provide increased funding for the Land and Water Conservation Fund and Urban Parks and Recreation Recovery Programs, to resume the funding of the State grants program of the Land and Water Conservation Fund, and to provide for the acquisition and development of conservation and recreation facilities and programs in urban areas, and for other purposes; to the Committee on Energy and Natural Resources.

## PUBLIC LANDS AND RECREATION INVESTMENT ACT OF 1999

Mrs. FEINSTEIN. Mr. President, today I am introducing the Public Lands and Recreation Investment Act of 1999. This bill will provide funding for two of our nation's most important conservation and recreation programs—the Land and Water Conservation Fund and the Urban Parks and Recreation Recovery Act—that have been woefully underfunded in recent years.

Every year, the Federal government collects about \$4 billion from oil and gas leases on the Outer Continental Shelf. These leases have detrimental impacts on our environment, so it is fitting that in 1965 Congress created the Land and Water Conservation Fund. This fund is authorized to use \$900 million annually in Outer Continental Shelf lease payments to purchase park and recreation lands in or near our national parks, wildlife refuges, national forests, and other public lands. The fund also is supposed to provide grants to states, so that state and local governments may purchase parklands and recreation facilities.

Acquisition of these lands protects some of our nation's most crucial natural resources, including key watersheds that provide drinking water to millions of Americans, and vital wildlife habitat for endangered species. Public lands

also provide recreation opportunities for millions of Americans, and open spaces in increasingly crowded urban areas. Over the years, the Land and Water Conservation Fund has protected lands in all 50 States, including such special places as Yellowstone National Park, the Everglades, and the California Desert.

Unfortunately, the Land and Water Conservation Fund's tremendous promise has not yet been fulfilled. Last year Congress and the President provided only \$328 million of the \$900 million collected by the Land and Water Conservation Fund for land acquisition. The rest went back into the Treasury, for deficit reduction or spending on other programs. The Land and Water Conservation Fund has collected over \$21 billion since its creation in 1965, but only \$9 billion has been spent. Unappropriated balances in the fund now total \$13 billion, and they are growing every year.

In the meantime, a huge backlog has developed in the federal acquisition of environmentally sensitive land. The U.S. Department of Interior estimates that the cost of acquiring inholdings in national parks, wildlife refuges, national forests, and other public lands now totals over \$10 billion. In addition, the federal government receives about \$600 million in Land and Water Conservation Fund requests each year.

The funding shortfall has been particularly difficult for State and local governments. For the last several years, Congress has provided no funding for the stateside grants portion of the Land and Water Conservation Fund, or to The Urban Parks and Recreation Recovery Act, a separate program that provides for rehabilitation of recreation facilities and improved recreation programs in our nation's cities.

Last month President Clinton proposed the Lands Legacy Initiative, which would provide \$1 billion from the Land and Water Conservation Fund in fiscal year 2000. The President's initiative would expand our nation's public lands, provide grants to states for land acquisition, promote open space and “smart growth,” improve wildlife habitat, and protect farmland from development. The Lands Legacy Initiative is a good first step, but our commitment to public lands should not be a one-year deal.

Therefore, I am pleased that other Senators have introduced bills that would provide permanent funding for the Land and Water Conservation Fund and the Urban Parks and Recreation Recovery Act, as well as a number of other programs. I support Senator BOXER's bill, the Permanent Protection for America's Resources Act, and I look forward to working with her and with all Senators interested in public lands, coastal restoration, and wildlife protection.

If Senator BOXER's bill does not move, however, the bill that I am introducing today is a moderate alternative that I believe will enjoy broad

bipartisan support. The bill is important for three reasons. First, it focuses exclusively on guaranteed annual funding for the Land and Water Conservation Fund and Urban Parks and Recreation Recovery Program. I want to ensure that the Land and Water Conservation Fund remains a top priority for Congress regardless of other important environmental programs that are funded. We cannot lose sight of how important the Land and Water Conservation Fund is to America's conservation and recreation efforts.

Second, the bill makes no changes to the Land and Water Conservation Fund that impede the federal government's ability to acquire land. Two bills currently pending in Congress would restrict federal land purchases to inholdings within existing parks only, and require prior Congressional authorization even for small acquisitions that have traditionally been approved through the appropriations process. These bills also require that two-thirds of the federal funding be spent east of the 100th meridian.

Under these terms, projects such as the Headwaters acquisition, where the federal government and State of California bought the largest ancient redwood stand in private hands, would have been impossible. I believe strongly that the primary purpose of the Land and Water Conservation Fund—to enable the federal government to permanently protect our nation's most special places—must be preserved and strengthened, not eroded.

Finally, this bill revives the state grants portion of the Land and Water Conservation Fund, which has funded over 37,000 state parks projects over the last three decades, as well as the Urban Parks and Recreation Recovery Program. These programs have worked well for decades, and I would like to restore funding for them while preserving broad latitude for states and local governments to determine their own conservation and recreation priorities. The bill does not establish competitive grants under the state program.

Specifically, the bill amends the Land and Water Conservation Fund Act to say that \$900 million will be automatically appropriated each year for the Land and Water Conservation Fund and the Urban Parks and Recreation Recovery Program. The bill also provides that 40 percent of the funds provided under this act must be spent on stateside grants. This will revive the moribund State grants program and ensure that states get their fair share of parks and recreation dollars. States will be required to "pass through" 50 percent of the grants they receive directly to local governments.

In addition, the bill provides that 10 percent of the funds provided under this act be allocated to the Urban Parks and Recreation Recovery program. This will ensure that recreation facilities and open space remain top priorities where they are urgently needed—increasingly crowded cities.

The Urban Parks and Recreation Recovery Act will be amended to allow funds to be spent for construction of recreation facilities, and acquisition of park lands in urban areas.

The bill also requires the President to submit an annual priority list to Congress for expenditure of funds provided to federal agencies under this act. The bill specifically provides for Congressional approval of this priority list, so that Congress will retain authority to decide how Land and Water Conservation Fund dollars are spent on federal lands.

The bill changes requirements for the Land and Water Conservation Fund's stateside grants program, including a new requirement for States to develop, with public input, action agendas that identify their top conservation and recreation acquisition needs. Finally, the bill provides that Indian tribes will be recognized collectively as one state under the state grants program.

The Public Land and Recreation Investment Act will have a major and immediate impact on conservation and recreation nationwide. In my home state, increased funding for the Land and Water Conservation Fund could allow for the purchase of 483,000 acres of inholdings in national parks and wilderness areas in the California Desert, dramatically improving recreation opportunities in three of our nation's newest national parks. It could permanently protect sensitive watersheds at Lake Tahoe and help preserve the Lake's astounding water quality. And it could restore wetlands in San Francisco Bay, which has lost over 80 percent of its wetlands in the last 100 years.

Nationally, funding for the Land and Water Conservation Fund will help to preserve special places like Cape Cod National Seashore and the Kodiak National Wildlife Refuge, whose land acquisition needs have gone unmet in recent years.

Reviving the Urban Parks and Recreation Recovery Act will help cities across our nation improve parks and recreation opportunities for their residents. In the past, the Urban Parks and Recreation Recovery Act has funded summer recreation, anti-drug counseling, and job training for teenagers in low income neighborhoods in Fresno. The City of Milwaukee instituted a "Park Watch" program to help neighborhoods combat vandalism and crime in city parks. And in Tuscon, Arizona, the UPARR program funded a health and physical fitness program for children, senior citizens, and disabled youth.

This bill is strongly supported by groups that seek to protect conservation and recreation resources for all Americans.

Mr. President, I will submit for the RECORD at the end of my statement, letters from the Sierra Club, the Wilderness Society, and Defenders of Wildlife, who strongly support the Public Land and Recreation Investment Act of 1999.

Mr. President, the bottom line is that for too long, we have diverted monies intended for conservation and recreation to other purposes. This bill will help to correct that imbalance, and ensure a lasting legacy for our children and grandchildren. Whether they hike through a pristine wilderness, climb on an urban jungle gym, or picnic in a greenbelt outside their hometown, they will have the Land and Water Conservation Fund and the Urban Parks and Recreation Recovery Act to thank. That is something I believe we can all be proud of.

Mr. President, I ask unanimous consent that the text of the bill and letters of support be printed in the RECORD.

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

S. 532

*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 "Public Land and Recreation Investment Act of 1999".

**SEC. 2. FINDINGS.**

Congress finds that—

(1) the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-4 et seq.) has been critical in acquiring land to protect America's national parks, forests, wildlife refuges, and public land in all 50 States from potential development and in improving recreational opportunities for all Americans;

(2) the Land and Water Conservation Fund has helped to preserve nearly 7,000,000 acres of America's most special places, from the California Desert to the Everglades, in part by providing grants that have helped States purchase over 2,000,000 acres of parkland and open space;

(3) although amounts in the Land and Water Conservation Fund are meant to be used only for conservation and recreation purposes, since 1980 Congress and the President have diverted much of this vital funding for deficit reduction and other budgetary purposes;

(4) because of chronic shortages in funding for the Land and Water Conservation Fund, the backlog of Federal acquisition needs now totals over \$10,000,000,000; the backlog includes key wetlands, watersheds, wilderness, and wildlife habitat and important historic, cultural, and recreational sites;

(5) the findings of the 1995 National Biological Service study entitled "Endangered Ecosystems of the United States: A Preliminary Assessment of Loss and Degradation" demonstrate the need to escalate conservation measures that protect the Nation's wildlands and wildlife habitats;

(6) lack of funding for the State grants portion of the Land and Water Conservation Fund has hampered State and local efforts to protect parklands, coastlines, habitat areas, and open space from development;

(7) recreation needs in America's cities have been neglected, in part because the Urban Park and Recreation Recovery Act of 1978 (16 U.S.C. 2501 et seq.) has not been funded since 1995;

(8) at the same time that Federal investment in conservation and recreation has shrunk, demand for outdoor recreation has skyrocketed: visits to our public lands have increased dramatically in recent years, and the national survey on recreation and the environment conducted by the Forest Service indicates substantial growth in most outdoor activities; and



(9) increased investment in conservation and recreation is essential to maintaining America's environmental quality and high quality of life.

**SEC. 3. PURPOSES.**

The purposes of this Act are—

(1) to ensure that funding is available without further Act of appropriation to the Land and Water Conservation Fund and the Urban Park and Recreation Recovery Program;

(2) to protect the Nation's parklands, wildlife habitat, and recreational resources;

(3) to revive the State grants portion of the Land and Water Conservation Fund; and

(4) to ensure that local governments and Indian tribes receive a fair share of proceeds from the Land and Water Conservation Fund.

**SEC. 4. LAND AND WATER CONSERVATION FUND.**

(a) APPROPRIATIONS.—Section 3 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460I-6) is amended—

(1) by striking "SEC. 3. APPROPRIATIONS.—Moneys" and inserting the following:

**"SEC. 3. APPROPRIATIONS.**

"(a) IN GENERAL.—Moneys";

(2) by striking the third sentence; and

(3) by adding at the end the following:

"(b) PERMANENT APPROPRIATION.—There is appropriated out of the fund to carry out this Act \$900,000,000 for each fiscal year, to remain available until expended."

(b) ALLOCATION OF FUND.—Section 5 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460I-7) is amended—

(1) by striking the first, second, and third sentences and inserting the following:

"(a) IN GENERAL.—Of amounts annually available to carry out this Act for any fiscal year—

"(1) 40 percent shall be allocated for financial assistance to States under section 6, of which not less than 50 percent shall be directed to local governments to provide natural areas, open space, parkland, wildlife habitat, and recreation areas;

"(2) 50 percent shall be allocated for Federal purposes under section 7; and

"(3) 10 percent shall be allocated for grants to local governments under the Urban Park and Recreation Recovery Act of 1978 (16 U.S.C. 2501 et seq.); and

(2) by striking "There shall be" and inserting the following:

"(b) SPECIAL ACCOUNT.—There shall be".

(c) FINANCIAL ASSISTANCE TO STATES.—

(1) IN GENERAL.—Section 6 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460I-8) is amended—

(A) in subsection (b)—

(i) in paragraph (1), by striking "forty per centum" and all that follows through "twenty per centum" and inserting "30 percent of the first \$225,000,000 and 20 percent"; and

(ii) by adding at the end the following:

"(6) INDIAN TRIBES.—

"(A) DEFINITION.—In this paragraph, the term 'Indian tribe' means an Indian or Alaska Native tribe, band, nation, pueblo, village, or community that the Secretary of the Interior recognizes as an Indian tribe under section 104 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 479a-1).

"(B) APPORTIONMENT.—For the purposes of paragraph (1), the Indian tribes—

"(i) shall be treated collectively as 1 State; and

"(ii) shall receive shares of their collective apportionment under that paragraph in amounts to be determined by the Secretary of the Interior.

"(C) OTHER TREATMENT.—For all other purposes of this title, each Indian tribe shall be treated as a State, except that—

"(i) an Indian tribe shall not be required to direct 50 percent of the financial assistance provided under this Act to local governments; and

"(ii) an Indian tribe may use financial assistance provided under this Act only if the Indian tribe provides assurances, subject to the approval of the Secretary, that the Indian tribe will maintain conservation and recreation opportunities to the public at large in perpetuity on land and facilities funded under this Act.

"(D) LIMITATION.—For any fiscal year, no single Indian tribe shall receive more than 10 percent of the total amount made available under paragraph (1) to all Indian tribes, collectively.";

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

"(d) STATE ACTION AGENDAS.—

"(1) IN GENERAL.—To qualify for financial assistance under this section, a State, in consultation with local subdivisions, non-profit and other private organizations, and interested citizens, shall prepare and submit to the Secretary a State action agenda for recreation, open space, and conservation that identifies the State's recreation, open space, and conservation needs and priorities.

"(2) REQUIREMENTS.—A State action agenda—

"(A) shall take into account long-term recreation, open space, and conservation needs (including preservation of habitat for threatened and endangered species and other species of conservation concern) but focus on actions that can be funded over a 4-year period;

"(B) shall be updated every 4 years and approved by the Governor;

"(C) shall be considered in an active public involvement process that includes public hearings around the State;

"(D) shall take into account activities and priorities of managers of conservation land, open space, and recreation land in the State, including Federal, regional, local, and non-profit agencies; and

"(E) to the extent practicable, shall be coordinated with other State, regional, and local plans for parks, recreation, open space, and wetland conservation.

"(3) USE OF RECOVERY ACTION PLANS.—A State shall use recovery action plans developed by local governments under section 1007 of the Urban Park and Recreation Recovery Act of 1978 (16 U.S.C. 2506) as a guide in formulating the conclusions and action items contained in the State action agenda.";

(C) by striking subsection (f)(3) and inserting the following:

"(3) CONVERSION OF USE OF PROPERTY.—

"(A) IN GENERAL.—No property acquired or developed with assistance under this section may be converted to a use other than use for recreation, open space, or conservation without the approval of the Secretary.

"(B) APPROVAL.—

"(i) IN GENERAL.—The Secretary may approve a conversion of use of property under subparagraph (A) if the State demonstrates that—

"(I) no prudent or feasible alternative to conversion of the use of the property exists;

"(II) because of changes in demographics, the property is no longer viable for use for recreation, open space, or conservation; or

"(III) the property must be abandoned because of environmental contamination that endangers public health or safety.

"(ii) SUBSTITUTION OF OTHER PROPERTY.—

"(I) IN GENERAL.—Conversion of the use of property shall satisfy any condition that the Secretary considers necessary to ensure that—

"(aa) the substituted property is property in the State that is of at least equal market value and reasonably equivalent usefulness and location; and

"(bb) the use of the substituted property for recreation, open space, or conservation is consistent with the State action agenda.

"(II) WETLAND AREAS.—A wetland area or interest in a wetland area (as identified in the wetland provisions of the State action agenda) that is proposed to be acquired as a suitable substitute property and that is otherwise acceptable to the Secretary shall be considered to be of reasonably equivalent usefulness to the property proposed for conversion."

(2) TRANSITION PROVISION.—Any comprehensive statewide outdoor recreation plan developed by a State under section 6(d) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460I-8(d)) before the date that is 5 years after the date of enactment of this Act shall remain in effect in the State until a State action agenda has been adopted in accordance with the amendment made by paragraph (1), but not later than 5 years after the date of enactment of this Act.

(3) CONFORMING AMENDMENTS.—

(A) Section 6 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460I-8(e)) is amended—

(i) in subsection (e)—

(I) in the matter preceding paragraph (1), by striking "State comprehensive plan" and inserting "State action agenda"; and

(II) in paragraph (1), by striking "or wetland areas and interests therein as identified in the wetlands provisions of the comprehensive plan"; and

(ii) in subsection (f)(3)—

(I) in the second sentence, by striking "then existing comprehensive statewide outdoor recreation plan" and inserting "State action agenda"; and

(II) by striking "Provided," and all that follows.

(B) Section 32(e) of the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1011(e)) is amended in the last proviso of the first paragraph by striking "existing comprehensive statewide outdoor recreation plan found adequate for purposes of the Land and Water Conservation Fund Act of 1965 (78 Stat. 897)" and inserting "State action agenda required by section 6 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460I-8)".

(C) Section 102(a)(2) of the National Historic Preservation Act (16 U.S.C. 470b(a)(2)) is amended by striking "comprehensive statewide outdoor recreation plan prepared pursuant to the Land and Water Conservation Fund Act of 1965 (78 Stat. 897)" and inserting "State action agenda required by section 6 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460I-8)".

(D) Section 8(a) of the National Trails System Act (16 U.S.C. 1247(a)) is amended in the first sentence—

(i) by striking "comprehensive statewide outdoor recreation plans" and inserting "State action agendas"; and

(ii) by inserting "of 1965 (16 U.S.C. 460I-4 et seq.)" after "Fund Act".

(E) Section 11(a)(2) of the National Trails System Act (16 U.S.C. 1250(a)(2)) is amended by striking "(relating to the development of Statewide Comprehensive Outdoor Recreation Plans)" and inserting "(16 U.S.C. 460I-8) (relating to the development of State action agendas)".

(F) Section 11 of the Wild and Scenic Rivers Act (16 U.S.C. 1282) is amended—

(i) in subsection (a)—

(I) by striking "comprehensive statewide outdoor recreation plans" and inserting "State action agendas"; and

(II) by striking "(78 Stat. 897)" and inserting "(16 U.S.C. 460I-4 et seq.)"; and

(ii) in subsection (b)(2)(B), by striking "(relating to the development of statewide comprehensive outdoor recreation plans)" and inserting "(16 U.S.C. 460I-8) (relating to the development of State action agendas)".

(G) Section 1008 of the Urban Park and Recreation Recovery Act of 1978 (16 U.S.C.

2507) is amended in the last sentence by striking "statewide comprehensive outdoor recreation plans" and inserting "State action agendas required by section 6 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-8)".

(H) Section 206(d) of title 23, United States Code, is amended—

(i) in paragraph (1)(B), by striking "statewide comprehensive outdoor recreation plan required by the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-4 et seq.)" and inserting "State action agenda required by section 6 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-8)"; and

(ii) in paragraph (2)(D)(ii), by striking "statewide comprehensive outdoor recreation plan that is required by the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-4 et seq.)" and inserting "State action agenda that is required by section 6 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-8)".

(I) Section 202(c)(9) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712(c)(9)) is amended by striking "statewide outdoor recreation plans developed under the Act of September 3, 1964 (78 Stat. 897), as amended" and inserting "State action agendas required by section 6 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-8)".

(d) FEDERAL PURPOSES.—Section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-9) is amended by adding at the end the following:

"(d) PRIORITY ACQUISITIONS.—

"(1) IN GENERAL.—As part of the annual budget request under section 1105 of title 31, United States Code, for each fiscal year, the President shall submit a list of priority acquisitions for expenditure of the Federal allocation under this section.

"(2) CONSULTATION.—The Federal priority list shall be prepared in consultation with the Secretary of Agriculture and the Secretary of the Interior.

"(3) CONSIDERATIONS.—In preparing the priority list, the agency heads shall consider—

"(A) the potential adverse impacts that might result if the acquisition were not undertaken;

"(B) the availability of appraisals of land, water, or interests in land or water and other information necessary to complete the acquisition in a timely manner;

"(C) the conservation and recreational values that the acquired land, water, or interest in land or water will provide; and

"(D) any other factors that the agency heads consider appropriate.

"(4) USE OF FUNDS.—An agency head shall expend funds appropriated for a fiscal year for acquisitions in the order of priority specified in the budget request unless Congress, in the general appropriation Act for the fiscal year, specifies a different order of priority or list of priorities."

#### SEC. 5. URBAN PARK AND RECREATION RECOVERY PROGRAM.

(a) DEFINITIONS.—Section 1004 of the Urban Park and Recreation Recovery Act of 1978 (16 U.S.C. 2503) is amended—

(1) in subsection (j), by striking "and" at the end;

(2) in subsection (k), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

"(l) 'acquisition grant' means a matching capital grant to a general purpose local government to cover the direct and incidental costs of purchasing new parkland to be permanently dedicated for public conservation and recreation; and

"(m) 'development and construction grant' means a matching capital grant to a general purpose local government to cover costs of

development and construction of existing or new neighborhood recreation sites, including indoor and outdoor recreation facilities."

(b) ELIGIBILITY OF GENERAL PURPOSE LOCAL GOVERNMENTS.—Section 1005 of the Urban Park and Recreation Recovery Act of 1978 (16 U.S.C. 2504) is amended by striking "SEC. 1005." and all that follows through subsection (a) and inserting the following:

#### "SEC. 1005. ELIGIBILITY.

"(a) ELIGIBILITY OF GENERAL PURPOSE LOCAL GOVERNMENTS.—

"(1) ELIGIBILITY LIST.—Not later than 120 days after the date of enactment of this paragraph and periodically thereafter, the Secretary shall publish in the Federal Register—

"(A) a list of general purpose local governments eligible for assistance under this Act; and

"(B) a description of the criteria used in determining eligibility.

"(2) CRITERIA.—The criteria for determining eligibility shall be based on factors that the Secretary determines are related to—

"(A) deteriorated recreational facilities or systems;

"(B) economic distress; and

"(C) lack of recreational opportunity."

(c) GRANTS.—The Urban Park and Recreation Recovery Act of 1978 is amended by striking section 1006 (16 U.S.C. 2505) and inserting the following:

#### "SEC. 6. GRANTS.

"(a) IN GENERAL.—The Secretary may provide an acquisition grant, development and construction grant, innovation grant, or rehabilitation grant to a general purpose local government on approval by the Secretary of an application made by the chief executive officer of the local government.

"(b) FEDERAL SHARE.—The Federal share of a project undertaken with a grant under subsection (a) shall not exceed 70 percent.

"(c) TRANSFER OF GRANT.—

"(1) IN GENERAL.—With the consent of the Secretary, and if consistent with an approved application, an acquisition grant, development and construction grant, innovation grant, or rehabilitation grant may be transferred in whole or in part to a special purpose local government, private nonprofit agency or political subdivision, or regional park authority.

"(2) ASSURANCES.—A transferee of a grant shall provide an assurance that the transferee will maintain public conservation and recreation opportunities in perpetuity at facilities funded with the grant funds.

"(d) GRANT PAYMENTS.—

"(1) ADVANCE APPROVAL.—Payment of a grant under subsection (a) may be made only for a project that the Secretary has approved in advance.

"(2) PROGRESS PAYMENTS.—Payment of a grant under subsection (a) may be made from time to time in keeping with the rate of progress toward completion of a project, on a reimbursable basis."

(d) CONVERSION OF USE OF PROPERTY.—The Urban Park and Recreation Recovery Act of 1978 is amended by striking section 1010 (16 U.S.C. 2509) and inserting the following:

#### "SEC. 1010. CONVERSION OF USE OF PROPERTY.

"(a) IN GENERAL.—No property acquired, improved, or developed under this title may be converted to a use other than use for public recreation without the approval of the Secretary.

"(b) APPROVAL.—

"(1) IN GENERAL.—The Secretary may approve a conversion of use of property under subsection (a) if the grant recipient demonstrates that—

"(A) no prudent or feasible alternative to conversion of the use of the property exists;

"(B) because of changes in demographics, the property is no longer viable for use for recreation; or

"(C) the property must be abandoned because of environmental contamination that endangers public health or safety.

"(2) SUBSTITUTION OF OTHER PROPERTY.—Conversion of the use of property shall satisfy any condition that the Secretary considers necessary to ensure that—

"(A) the substituted property is of at least equal market value and reasonably equivalent usefulness and location; and

"(B) the use of the substituted property for recreation is consistent with the current recreation recovery action program."

(e) LIMITATION ON USE OF FUNDS.—Section 1014 of the Urban Park and Recreation Recovery Act of 1978 (16 U.S.C. 2513) is repealed.

JANUARY 29, 1999.

Hon. DIANNE FEINSTEIN,

*U.S. Senate, Washington, DC.*

DEAR SENATOR FEINSTEIN: On behalf of Defenders of Wildlife, the Sierra Club and our nearly one million members and supporters, we want to thank you for your leadership in introducing the Public Land and Recreation Improvement Act of 1999 to provide permanent increased funding for both the Land and Water Conservation Fund and the Urban Parks and Recreation Recovery Program.

Ensuring full and permanent funding for the Land and Water Conservation Fund (LWCF) has been a major priority of the environmental community for many years. LWCF represents a promise made by Congress to the American people to reinvest revenue from the development of non-renewable resources into acquisition and permanent protection of key land, water, and open space resources for future generations.

Unfortunately, the LWCF promise is one that has remained largely unfulfilled—funding has averaged only about 25% of its annual authorized level. As a result, numerous conservation opportunities are being lost. Our nation's obligation to purchase lands within our National Wildlife Refuges, Parks, Forests, and Bureau of Land Management units has been neglected. Rivers, estuaries, and wetlands across the country are at risk. Pristine wilderness, vital to clean water and habitat protection, and the foundation of our nation's natural heritage is being threatened or destroyed. Parks and open space—the cornerstone for quality of life in our urban areas—are falling victim to urban sprawl and unchecked development.

As the Public Land and Recreation Improvement Act of 1999 correctly asserts, the need to provide additional protection to our nation's vanishing wildlands and habitats is greater than ever. The National Biological Service warned in a 1995 report that the nation's ecosystems are in decline and many of our park and forest areas must be acquired quickly before lands and wildlife are destroyed.

Your bill takes an important step forward in renewing the commitment made to the American people more than 30 years ago when the LWCF Act was originally passed to preserve—instead of losing forever—these irreplaceable land and water resources.

As you know, the President has also recently made a commitment to seek full and permanent funding for LWCF and other related programs to protect habitat, open space, and important marine and coastal resources. Moreover, the environmental community strongly supports the dedication of funding both for marine and coastal resource protection and critically underfunded state non-game wildlife conservation programs. We are eager to work with you, the President, and other leaders on these issues in Congress to ensure permanent and mandatory funding that addresses all of these crucial needs without creating any incentives for new offshore drilling as some current proposals in Congress would do.

Again, we applaud your leadership in introducing this important legislation and thank you for your commitment to preserving our magnificent natural heritage.

Sincerely,

RODGER SCHLICKERSEN,  
*President, Defenders  
of Wildlife.*  
CARL POPE,  
*Executive Director, Si-  
erra Club.*

THE WILDERNESS SOCIETY,  
*Washington, DC, February 1, 1999.*

DEAR SENATOR FEINSTEIN: The Wilderness Society would like to commend your efforts in introducing the "Public Lands and Recreation Investment Act of 1999". By focusing your bill on LWCF and the Urban Park and Recreation and Recovering (UPAAR) program, it will address needs of expanding population and urban sprawl.

This bill crystallizes several important concepts. It dramatically elevates the funding for LWCF and resuscitates the state-size grant program. Additionally, it reactivates UPAAR and adapts it to respond to contemporary urban needs by allowing land acquisition. Furthermore, the inclusion of language that allow tribes to participate equally with states for matching grants for planning acquisition and rehabilitation sets an important standard.

We support your thoughtful efforts on behalf America's public lands and appreciate the leadership you have provided.

Sincerely,

WILLIAM H. MEADOWS,  
*President.*

By Mr. ROBB (for himself and Mr. WARNER):

S. 533. A bill to amend the Solid Waste Disposal Act to authorize local governments and Governors to restrict receipt of out-of-State municipal solid waste, and for other purposes; to the Committee on Environment and Public Works.

INTERSTATE TRANSPORTATION OF MUNICIPAL  
SOLID WASTE CONTROL ACT

Mr. ROBB. Mr. President, I rise today, as I have done on two previous occasions, to introduce legislation to stem the flow—actually flood—of trash into Virginia and other States that have been affected. I am pleased to be joined, in doing so, by my senior colleague from Virginia, who will be joining us very shortly, Senator WARNER.

We have witnessed a virtual explosion in legislation in Congress focussed on rights. In recent months, Congress focused on the Patients' Bill of Rights, the Soldiers' Bill of Rights and the Taxpayer Bill of Rights. These are just a few recent examples.

The bill I am introducing today, along with my colleague, Senator WARNER, could be called a Bill of Responsibilities. It recognizes the responsibilities of the various levels of government to manage the huge volumes of trash we are generating.

The primary responsibility for taking care of trash lies with local governments. They are responsible for picking up the trash and they are responsible for finding a place to put it down. Local governments are also charged

with the responsibility of making local land-use decisions and should be allowed to decide for themselves whether a community should be subjected to a large landfill that takes garbage from out of State. Recognizing the responsibilities vested in local governments, the legislation we are introducing today allows localities to ban unwanted out-of-State trash.

States have a responsibility for ensuring that the State's environment is protected and that its highways and waterways are safe. This legislation recognizes that responsibility, allowing States to override local government approval of out-of-State imports if local decisions on trash affect the State as a whole. To help States fund this responsibility, the bill allows States to assess up to a \$3 per ton fee on out-of-State trash. This fee is similar to the out-of-State tuition that States charge students to come to their States to take advantage of host State's colleges and universities.

In addition, the legislation allows States to cap the amount of trash that can accumulate in landfills that have local approval. By allowing States to impose such a cap, this legislation strikes what we believe is the right balance between localities' desires to generate revenues by accepting waste and States's responsibilities to protect State resources, to provide a safe network of highways, and to ensure that State regulatory agencies are not overwhelmed by the influx of new waste.

This legislation also addresses the responsibilities of States that have refused to face the obligations of siting their own refuse. States that export huge amounts of waste are imposing a burden on those States that have created new capacity. The bill we are introducing sends a very strong message to States that ship more than 6 million tons a year to other States, although no State yet meets that threshold. The bill allows importing States to ban the garbage coming from such superexporting States. If the importing State chooses not to exercise this prohibition, the bill allows the State to impose large and escalating fees on those superexporting States that have not had the political will to site their own excess capacity.

While large regional landfills are becoming more common because of the expense of building modern and environmentally sound facilities, those landfills should accept waste on the basis of a region's cooperation rather than on the basis of a single State's abdication of its responsibilities.

Finally, this legislation recognizes the responsibility of the Congress to regulate interstate commerce. Because the Supreme Court has determined the garbage is commerce, like any other commodity, States and localities have been powerless to halt the disposal of out-of-State waste within their borders. While some States have at-

tempted to limit out-of-State trash on their own, unless Congress acts to grant States and localities the ability to ban or limit out-of-State trash, those State laws are likely to be struck down as unconstitutional.

This legislation overcomes that constitutional hurdle by granting States and localities the right to restrict interstate trash disposal. If we again fail to pass legislation that protects localities from being buried under out-of-State garbage, we are abdicating our own responsibility to protect the quality of life of communities in each of our States.

The bills I have introduced in past Congresses focused on protecting localities from unwanted garbage. The bill Senator WARNER and I introduce today builds on that foundation. It reflects Virginia's most recent experience with importing garbage and addresses both the problems we have seen and the lessons we have learned. We now have enough history to examine the benefits and the possible burdens of host community agreements, and how they can best be used to develop state-of-the-art landfills. We also understand better the hardships that trash traffic can impose on communities that do not benefit from another community's decision to host a large landfill. Finally, it addresses a problem that has festered for too long, the inability of States to summon the political will to site their own capacity. I encourage the Senate to move quickly to consider this particular legislation.

Mr. WARNER. Mr. President, I am pleased to introduce today, along with my colleague, Senator ROBB, legislation to give our States and local governments authority to ensure that they can effectively manage the disposal of municipal waste within their borders.

For several years, the Committee on Environment and Public Works, on which I serve, has considered many legislative proposals to convey authorities to States and localities to begin to address this serious problem. Unfortunately, no legislation has been enacted since this serious problem first surfaced in the early 1990s.

Mr. President, in past years, Senator ROBB and I have introduced legislation individually to allow localities to have the ability to decide when and under what circumstances waste generated from out-of-state sources came into their communities for disposal. Today, I am pleased that we are renewing our commitment to solving this serious problem by working together to introduce this legislation.

Today, large volumes of waste are traveling from Northeastern states to Mid-west and Mid-Atlantic states. Over the past few years, the amount of waste traveling across state lines has greatly increased and projections are that interstate waste shipments from certain states will continue to grow.

Most States and localities are responsible in ensuring that adequate capacity exists to accommodate municipal waste generated within each community. I regret, however, that the evidence available today shows that there are specific situations where State and local governments are neglecting responsible environmental stewardship.

The result of this neglect is that other States are bearing the burden of disposing of their waste. These State and local governments currently have no authority to refuse this waste or even to control the amount of waste that is sent for disposal on a daily basis.

Our legislation recognizes that in the normal course of business it is necessary for some amount of waste to travel across State lines, particularly in circumstances where there are large urban areas located at state borders. Our legislation will not close down State borders or prevent any waste shipments.

States will have, however, for the first time, the ability to effectively manage and plan for the disposal out-of-State waste along with waste generated within their borders.

Specifically, our legislation will allow States who are today receiving 1 million tons of waste or more to control the growth of these waste shipments.

These States would be permitted to freeze at current levels the amount of waste they are receiving or, if they decided, they could determine the amount of out-of-State waste they can safely handle. Today, they have no voice, but this legislation will give all citizens the right to participate in these important waste disposal decisions.

For all States and localities, protections would be provided to ensure that all interstate waste must be handled pursuant to a host community agreement. These voluntary agreements between the local community receiving the waste and the industry disposing of the waste have allowed some local governments to determine waste disposal activities within their borders.

Mr. President, I look forward to working with my colleagues to develop a fair and equitable resolution to this problem.

I encourage my colleagues to carefully review our legislation and I welcome their comments.

By Mr. WARNER (for himself and Mr. ROBB):

S. 535. A bill to amend section 49106(c)(6) of title 49, United States Code, to remove a limitation on certain funding; to the Committee on Commerce, Science, and Transportation.

METROPOLITAN WASHINGTON AIRPORTS  
AUTHORITY IMPROVEMENT ACT

Mr. WARNER. Mr. President, I rise today to introduce legislation, along with Senator ROBB, to give Reagan National and Dulles International Air-

ports equitable treatment under Federal law that is enjoyed today by all of the major commercial airports.

When the Congress enacted legislation in 1986 to transfer ownership of Reagan National and Dulles Airports to a regional authority—and I may say, Mr. President, I was a part of that airport commission. It was chaired by the former Governor of Virginia, Linwood Holton; Senator SARBANES joined me on that. From that, I drew up this very legislation that did the transfer. We included in that legislation that I drafted a provision to create a congressional board of review.

Immediately upon passage of the 1986 Transfer Act, local community groups filed a lawsuit challenging the constitutionality of the board of review. The Supreme Court upheld the lawsuit and concurred that the Congressional Board of Review as structured was unconstitutional because it gave Members of Congress veto authority over the airport decisions. The Court ruled that the functions of the board of review was a violation of the separation of powers doctrine.

During the 1991 House-Senate conference on the Intermodal Surface Transportation Efficiency Act, I offered an amendment, which was adopted, to attempt to revise the Board of Review to meet the constitutional requirements.

Those provisions were also challenged and again were ruled unconstitutional.

In 1996, in another attempt to address the situation, the Congress enacted legislation to repeal the Board of Review since it no longer served any function due to several federal court rulings. In its place, Congress increased the number of federal appointees to the MWA Board of Directors from 1 to 3 members.

In addition to the requirement that the Senate confirm the appointees, the statute contains a punitive provision which denies all federal Airport Improvement Program entitlement grants and passenger facility charges to Dulles International and Reagan National if the appointees were not confirmed by October 1, 1997.

Mr. President, the Senate has not confirmed the three Federal appointees. Since October, 1997, Dulles International and Reagan National, and its customers, have been waiting for the Senate to take action. Finally in 1998, the Senate Commerce Committee favorably reported the three pending nominations to the Senate for consideration, but unfortunately no further action occurred because these nominees were held hostage for other unrelated issues. Many speculate that these nominees have not been confirmed because of the ongoing delay in enacting a long-term FAA reauthorization bill.

Mr. President, I am not here today to join in that speculation. I do want, however, to call to the attention of my colleagues the severe financial, safety

and consumer service constraints this inaction is having on both Dulles and Reagan National.

As the current law forbids the FAA from approving any AIP entitlement grants for construction at the two airports and from approving any Passenger Facility Charge (PFC) applications, these airports have been denied access to over \$200 million.

These are funds that every other airport in the country receives annually and are critical to maintaining a quality level of service and safety at our Nation's airports. Unlike any other airport in the country, federal funds have been withheld from Dulles and Reagan National for over 18 months.

These critically needed funds have halted important construction projects at both airports. Of the over \$200 million that is due, approximately \$161 million will fund long-awaited construction projects and \$40 million is needed to fund associated financing costs.

I respect the right of the Senate to exercise its constitutional duties to confirm the President's nominees to important federal positions. I do not, however, believe that it is appropriate to link the Senate's confirmation process to vitally needed federal dollars to operate airports.

Also, I must say that I can find no justification for the Senate's delay in considering the qualifications of these nominees to serve on the MWA Board. To my knowledge, no one has raised concerns about the qualifications of the nominees. We are neglecting our duties.

For this reason, I am introducing legislation today—the Metropolitan Washington Airports Authority Improvement Act—to repeal the punitive prohibition on releasing Federal funds to the airports until the Federal nominees have been confirmed.

Airports are increasingly competitive. Those that cannot keep up with the growing demand see the services go to other airports. This is particularly true with respect to international services, and low-fare services, both of which are essential.

As a result of the Senate's inaction, I provide for my colleagues a list of the several major projects that are virtually on hold since October, 1997. They are as follows:

At Dulles International there are four major projects necessary for the airport to maintain the tremendous growth that is occurring there.

*Main terminal gate concourse:* It is necessary to replace the current temporary buildings attached to the main terminal with a suitable facility. This terminal addition will include passenger hold rooms and airline support space. The total cost of this project is \$15.4 million, with \$11.2 million funded by PFCs.

*Passenger access to main terminal:* As the Authority continues to keep pace with the increased demand for parking and access to the main terminal, PFCs

are necessary to build a connector between a new automobile parking facility and the terminal. The total cost of this project is \$45.5 million, with \$29.4 million funded by PFCs.

*Improved passenger access between concourse B and main terminal:* With the construction of a pedestrian tunnel complex between the main terminal and the B concourse, the Authority will be able to continue to meet passenger demand for access to this facility. Once this project is complete, access to concourse B will be exclusively by moving sidewalk, and mobile lounge service to this facility will be unnecessary. The total cost of this project is \$51.1 million, with \$46.8 million funded by PFCs.

*Increased baggage handling capacity:* With increased passenger levels come increase demands for handling baggage. PFC funding is necessary to construct a new baggage handling area for inbound and outbound passengers. The total cost of this project is \$38.7 million, with \$31.4 million funded by PFCs.

At Reagan National there are two major projects that are dependent on the Authority's ability to implement passenger facility charges (PFCs).

*Historic main terminal rehabilitation:* Even though the new terminal at Reagan National was opened last year, the entire Capital Development Program will not be complete until the historic main terminal is rehabilitated for airline use. This project includes the construction of nine air carrier gates, renovation of historic portions of the main terminal for continued passenger use and demolition of space that is no longer functional. The total cost of this project is \$94.2 million with \$20.7 million to be paid for by AIP entitlement grants and \$36.2 million to be funded with PFCs. Additional airfield work to accompany this project will cost \$12.2 million, with \$5.2 million funded by PFCs.

*Terminal connector expansion:* In order to accommodate the increased passengers moving between Terminals B and C (the new terminal) and Terminal A, it is necessary to expand the "Connector" between the two buildings. The total cost of the project is \$4.8 million, with \$4.3 million funded by PFCs.

Mr. President, my legislation is aimed at ensuring that necessary safety and service improvements proceed at Reagan National and Dulles. Let's give them the ability to address consumer needs just like every other airport does on a daily basis.

Mr. President, here is the problem. This legislation does not remove the Congress of the United States, and particularly the Senate, from the advise-and-consent role, but it allows the money, which we need for the modernization of these airports, to flow properly to the airports to continue the program of restructuring them physically to accommodate somewhat larger traffic patterns, as well as do the necessary modernization to achieve safety—most important, safety—and

greater convenience for the passengers using these two airports.

Those funds have been held up. It is over \$200 million, as my colleague from Virginia will join me in saying; \$200 million are more or less held in escrow pending the confirmation by the Senate of the United States of three individuals to this board.

For reasons known to this body, that confirmation has been held up. The confirmation may remain held up. But this legislation will let the moneys flow to the airports for this needed construction for safety and convenience, and then at a later date, hopefully, we can achieve the confirmation of these three new members to the board. I yield the floor.

Mr. ROBB addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia, Mr. ROBB, is recognized.

Mr. ROBB. Mr. President, I am pleased to join my senior colleague, Senator WARNER, in introducing legislation to put an end to the strangulation of the Capital region's airports. As Senator WARNER just indicated, more than \$200 million in airport improvements are on hold, and have been on hold since October 1, 1997, as part of an effort to strong-arm the region into accepting more flights at Ronald Reagan Washington National Airport.

I believe this tactic is outrageous. It is bad enough that the Congress is trying to micromanage local airports. As Governor of Virginia, I worked with my now colleague and senior partner, Senator WARNER, and then-Secretary of Transportation Dole to pass this legislation in 1986 designed to get the Federal Government out of the airport management business altogether.

The legislation that was enacted shifted control of the Washington airports away from the Federal Government and to a regional authority so they could effectively and efficiently manage their own airports, just like they do in every other State in the Union.

Even at that time, though, I was not particularly sanguine about the prospect that the Federal Government would not be able to resist the temptation to meddle with our local airports for its own ends. So I was not surprised at the efforts to add flights to National, and it is no secret that, notwithstanding a strong personal friendship that I and my senior colleague have with the distinguished chairman of the Commerce Committee, we sharply disagree on this particular issue. But to block airport improvements and hurt this region's consumers in an attempt to force a policy change is simply wrong.

The Senate has the power to delay airport improvements at National and Dulles, because it must approve nominees to the Metropolitan Washington Airports Authority that manage both—both—Ronald Reagan Washington National Airport and Dulles International Airport.

Without the nominees, the airports cannot obtain grants under the Airport Improvement Program or use the passenger facility charges to fund projects.

These two programs are the lifeblood of airport funding. So Senate inaction on the nominees keeps Dulles and National from making improvements that can truly make a difference to consumers.

Proponents of more flights at National argue they are helping consumers. But blocking the nominees blocks major improvements that would also help consumers.

These improvements include easier passenger access between the terminals and parking, better access among terminals, improved baggage handling, and the renovation of aging facilities.

We should resolve the issue of the number of flights and the distance of flights at National with open debate and not through coercion.

The legislation Senator WARNER and I are proposing today severs the link between action on the nominees and action on airport improvements, and we urge our colleagues to support this effort.

Our proposal retains the Senate's role in approving the nominees. So if Members have concerns about airport management, those concerns can be addressed. But it is simply wrong to hold airport improvements hostage. It is time to rescue Dulles and National. We shouldn't allow the critical improvements at both airports to remain captive any longer.

I am very pleased to join my senior colleague. I yield the floor.

Mr. WARNER. Mr. President, I am pleased to join my colleague. This Senator, and I hope Senator ROBB, is prepared to stand on this floor until this measure passes, no matter what it takes.

Mr. ROBB. I can assure my senior colleague, like a stone wall.

Mr. WARNER. Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows.

S. 535

*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 "Metropolitan Washington Airports Authority Improvement Act".

**SEC. 2. REMOVAL OF LIMITATION.**

Section 49106(c)(6) of title 49, United States Code, is amended—

- (1) by striking subparagraph (C); and
- (2) by redesignating subparagraph (D) as subparagraph (C).

By Mr. WARNER:

S. 536. A bill entitled the "Wendell H. Ford National Air Transportation System Improvement Act of 1999"; to the Committee on Commerce, Science, and Transportation.

WENDELL H. FORD NATIONAL AIR TRANSPORTATION SYSTEM IMPROVEMENT ACT OF 1999

Mr. WARNER. Mr. President, I rise today to share with my colleagues my strong opposition and serious concerns about safety and service impacts resulting from S. 82, the Air Transportation Improvement Act. This legislation has been reported from the Commerce Committee and reauthorizes the activities of the Federal Aviation Administration.

My remarks today will focus on the unwise provisions included in this bill which tear apart the Perimeter and High Density rules at Reagan National Airport. These rules have been in effect—either in regulation or in statute—for nearly 30 years. Since 1986, these rules have been a critical ingredient in providing for significant capital investments and a balance in service among this region's three airports—Dulles International, Reagan National, and Baltimore-Washington International.

First and foremost, I believe these existing rules have greatly benefitted the traveling public—the consumer. The provisions in the Committee bill will severely reduce the level of service that Reagan National now provides and, as a result, consumer convenience in air travel will suffer greatly.

The provisions in S. 82 differ dramatically from the provisions included in the legislation the Senate passed last year by a vote of 92 to 1. Of the four slot-controlled airports in the country—Reagan National, O'Hare International in Chicago, and Kennedy and LaGuardia in New York—only Reagan National received a significant increase in take-off and landing slots from last year's bill—24 per day to 48 per day.

This increase is unjustified and not supported by any evidence that it is needed. Today, Reagan National handles approximately 800 take-off and landing operations per day, Chicago's O'Hare handles approximately 2,000 take-off and landing operations per day. Yet, in the Committee-reported bill Reagan National would receive another 48 slots while O'Hare would receive only another 30 slots per day. This is a disproportionate increase especially when one compares the size and daily operations of the airports. Again, at New York's Kennedy and LaGuardia, there are no changes in this year's bill from the provisions included in the bill passed by the Senate last year.

Mr. President, to gain a full understanding of the severe impact that these changes will have on our regional airports, one must examine the recent history of these three airports. Prior to 1986, Dulles and Reagan National were federally-owned and managed by the FAA. The level of service provided at these airports was deplorable. At National, consumers were routinely subject to traffic gridlock, insufficient parking, and routine flight cancellations and delays. Dulles was an isolated, underutilized airport.

For years, the debate raged within the FAA and the surrounding communities about the future of Reagan National. Should it be improved, expanded or closed? This ongoing uncertainty produced an atmosphere where no investments were made in National and Dulles and service continued to deteriorate.

A national commission, now known as the Holton Commission, was created in 1984 and led by former Virginia Governor Linwood Holton and former Secretary of Transportation Elizabeth Dole to resolve these long-standing controversies which plagued both airports. The result was a recommendation to transfer Federal ownership of the airports so that sorely needed capital investments to improve safety and service could be made.

I was pleased to have participated in the development of the 1986 legislation to transfer operations of these airports to a regional authority. It was a fair compromise of the many issues which had stalled any improvements at both airports over the years. The regulatory High Density Rule was placed in the statute so that neither the FAA nor the Authority could change it unilaterally. The previous passenger cap was repealed, thereby ending growth controls, in exchange for a freeze on slots. Lastly, the perimeter rule at 1,250 miles was established.

For those interested in securing capital investments at both airports, the transfer of these airports under a long-term lease arrangement to the Metropolitan Washington Airports Authority gave MWAA the power to sell bonds to finance the long-overdue work. The Authority has sold millions of dollars in bonds which has financed the new terminal, rehabilitation of the existing terminal, a new control tower and parking facilities at Reagan National.

These improvements would not have been possible without the 1986 Transfer Act which included the High Density Rule, and the Perimeter Rule. Limitations on operations at National had long been in effect through FAA regulations, but now were part of the balanced compromise in the Transfer Act.

For those who feared significant increases in flight activity at National and who for years had prevented any significant investments in National, they were now willing to support major rehabilitation work at National to improve service. They were satisfied that these guarantees would ensure that Reagan National would not become another "Dulles or BWI". Citizens had received legislative assurances that there would be no growth at Reagan National in terms of permitted scheduled flights beyond on the 37-per-hour-limit.

These critical decisions in the 1986 Transfer Act were made to fix both the aircraft activity level at Reagan National and to set its role as a short-medium haul airport. These compromises served to insulate the airport from its long history of competing efforts to increase and to decrease its use.

Since the transfer, the Authority has worked to maintain the balance in service between Dulles and Reagan National. The limited growth principle for Reagan National has been executed by the Authority in all of its planning assumptions and the Master Plan. While we have all witnessed the transformation of National into a quality airport today, these improvements in terminals, the control tower and parking facilities were all determined to meet the needs of this airport for the foreseeable future based on the continuation of the High Density and Perimeter rules. These improvements, however, have purposely not included an increase in the number of gates for aircraft or airfield capacity.

Prior to the 1986 Transfer Act, while National was mired in controversy and poor service, Dulles was identified as the region's growth airport. Under FAA rules and the Department of Transportation's 1981 Metropolitan Washington Airports Policy, it was recognized that Dulles had the capacity for growth and a suitable environment to accommodate this growth. Following enactment of the Transfer Act, plans, capital investments and bonding decisions made by the Authority all factored in the High Density and Perimeter rules.

Mr. President, I provide this history on the issues which stalled improvements at the region's airports in the 1970s and 1980s because it is important to understanding how these airports have operated so effectively over the past thirteen years.

Everyone one of us should ask ourselves if the 1986 Transfer Act has met our expectations. For me, the answer is a resounding yes. Long-overdue capital investments have been made in Reagan National and Dulles. The surrounding communities have been given an important voice in the management of these airports. We have seen unprecedented stability in the growth of both airports. Most importantly, the consumer has benefitted by enhanced service at Reagan National.

For these reasons, I strongly oppose the Committee bill to add 48 slots, or another 16,000 flights annually, at Reagan National. There is no justification for an increase of this size. It is not recommended by the Administration, by the airline industry, by the Metropolitan Washington Airports Authority or by the consumer.

Last year, I cautiously supported a modest increase in flights at Reagan National because I believed it was a fair compromise of the many competing demands in the airline industry today. While many of my constituents strongly opposed this limited increase in aircraft activity at National, I came to the conclusion that this growth could be accommodated without significantly disrupting consumer services or safety.

Mr. President, I deeply regret that the Committee did not include in S.82 the provisions from last year's bill which was the result of an agreement

between the Chairman, the Majority Leader and those of us representing this region. I am prepared today to stand behind our agreement and will continue to work with the Commerce Committee to ensure that they understand how detrimental this excessive increase in flights will be for our hard-fought regional balance, air traffic safety and consumer service.

At a time when the Committee is considering legislation to protect air travel consumer rights, why are we considering legislation that will do nothing but severely disrupt consumer services at Reagan National?

The capital improvements made at Reagan National since the 1986 Transfer Act have not expanded the 44 gates or expanded airfield capacity. All of the improvements that have been made have been on the landside of the airport. No improvements have been made to accommodate increase aircraft capacity. Expanding flights at National to a level included in the Committee bill will simply "turn back the clock" at National to the days of traffic gridlock, overcrowded terminal activity and flight delays—all to the detriment of the traveling public.

This ill-advised scheme is sure to return Reagan National to an airport plagued by delays and inconvenience. This proposal threatens to overwhelm the new facilities, just as the previous facilities were overwhelmed. However, now it would be worse. Now, we would be facing increased aircraft delays. There would be delays and inconvenience both on the ground and in the air.

Any discussion of operations at Reagan National cannot occur without a recognition of the impact these increased flights will have on aircraft noise. One of the principal reasons why many in the Washington region were so wary of improvements at Reagan National, making it more attractive for additional flights and increased noise levels, appears to be coming true.

My colleagues will attempt to persuade you that these new flights, based on noise measurement techniques, will not result in noticeable increases in noise levels. The plain fact is that the increased flights included in the Committee bill will result in about 16,000 new flights each year at Reagan National. Do any of us believe that 16,000 new flights will not result in a "noticeable" increase in noise.

Mr. President, I regret that I must oppose the recommendations of the Commerce Committee to add another 48 slots at Reagan National. This is an unjustified increase that has not been thoroughly examined by the FAA. I believe it has the very real possibility of jeopardizing the significant improvements made at Reagan National in the past 10 years and will return the airport to the days of poor service, delays and overcrowding.

The current temporary extension of FAA activities and AIP funding expires at the end of this month. I readily rec-

ognize that the Congress must move forward with a full reauthorization proposal. Due to the press of time, it is regrettable that the Committee has decided to make such a significant change from last year's bill. This new approach does not aid our efforts to enact a full FAA reauthorization bill for our communities.

For these reasons, I am introducing today the FAA legislation passed by the Senate last September by a vote of 92 to 1. It provides for a modest increase in flights at Reagan National both inside and beyond the 1,250-mile perimeter.

Mr. President, I also intend to exercise all of my rights and engage in an extensive debate on these important issues.

Mr. President, this bill is exactly the bill passed by the U.S. Senate last year with a vote of 91 Senators to 1 no vote.

Mr. President, this is the bill which said that there shall be 24 slots in the judgment of the Senate. It was to go to the House, which it did. The House and the Senate could not reconcile their differences. I worked very carefully with Senator MCCAIN. I want to make it clear we had an understanding that I would support this bill of 24 even though I felt the slots were too many.

I had every reason to believe that in the negotiations with the House, the number of slots would come down below 24—usually the House and Senate split their differences—to, say 12, which although I still would not like to see 12 additional slots, for safety and other reasons, 90 other Senators felt there should be additional slots.

So recognizing the preponderance of the Senate wanted additional slots, I was willing to accept. Senator MCCAIN did not break his deal with me because the House would not accept any. So now he will soon be back here on the floor, presumably with another bill for 48 slots. I think that is too high. My bill hopefully will be put on as an amendment, as a substitute, in the course of that deliberation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 536

*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 SECTIONS.**

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

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

Sec. 1. Short title; table of sections.  
Sec. 2. Amendments to title 49, United States Code.

**TITLE I—AUTHORIZATIONS**

Sec. 101. Federal Aviation Administration operations.  
Sec. 102. Air navigation facilities and equipment.  
Sec. 103. Airport planning and development and noise compatibility planning and programs.

Sec. 104. Reprogramming notification requirement.  
Sec. 105. Airport security program.  
Sec. 106. Contract tower programs  
Sec. 107. Automated surface observation system stations.

**TITLE II—AIRPORT IMPROVEMENT PROGRAM AMENDMENTS**

Sec. 201. Removal of the cap on discretionary fund.  
Sec. 202. Innovative use of airport grant funds.  
Sec. 203. Matching share.  
Sec. 204. Increase in apportionment for noise compatibility planning and programs.  
Sec. 205. Technical amendments.  
Sec. 206. Repeal of period of applicability.  
Sec. 207. Report on efforts to implement capacity enhancements.  
Sec. 208. Prioritization of discretionary projects.  
Sec. 209. Public notice before grant assurance requirement waived.  
Sec. 210. Definition of public aircraft.  
Sec. 211. Terminal development costs.  
Sec. 212. Airfield pavement conditions.  
Sec. 213. Discretionary grants.

**TITLE III—AMENDMENTS TO AVIATION LAW**

Sec. 301. Severable services contracts for periods crossing fiscal years.  
Sec. 302. Foreign carriers eligible for waiver under Airport Noise and Capacity Act.  
Sec. 303. Government and industry consortia.  
Sec. 304. Implementation of Article 83 Bis of the Chicago Convention.  
Sec. 305. Foreign aviation services authority.  
Sec. 306. Flexibility to perform criminal history record checks; technical amendments to Pilot Records Improvement Act.  
Sec. 307. Aviation insurance program amendments.  
Sec. 308. Technical corrections to civil penalty provisions.  
Sec. 309. Criminal penalty for pilots operating in air transportation without an airman's certificate.  
Sec. 310. Nondiscriminatory interline interconnection requirements.

**TITLE IV—TITLE 49 TECHNICAL CORRECTIONS**

Sec. 401. Restatement of 49 U.S.C. 106(g).  
Sec. 402. Restatement of 49 U.S.C. 44909.

**TITLE V—MISCELLANEOUS**

Sec. 501. Oversight of FAA response to year 2000 problem.  
Sec. 502. Cargo collision avoidance systems deadline.  
Sec. 503. Runway safety areas; precision approach path indicators.  
Sec. 504. Airplane emergency locators.  
Sec. 505. Counterfeit aircraft parts.  
Sec. 506. FAA may fine unruly passengers.  
Sec. 507. Higher standards for handicapped access.  
Sec. 508. Conveyances of United States Government land.  
Sec. 509. Flight operations quality assurance rules.  
Sec. 510. Wide area augmentation system.  
Sec. 511. Regulation of Alaska air guides.  
Sec. 512. Application of FAA regulations.  
Sec. 513. Human factors program.  
Sec. 514. Independent validation of FAA costs and allocations.  
Sec. 515. Whistleblower protection for FAA employees.  
Sec. 516. Report on modernization of oceanic ATC system.  
Sec. 517. Report on air transportation oversight system.

- Sec. 518. Recycling of EIS.  
 Sec. 519. Protection of employees providing air safety information.  
 Sec. 520. Improvements to air navigation facilities.  
 Sec. 521. Denial of airport access to certain air carriers.  
 Sec. 522. Tourism.  
 Sec. 523. Equivalency of FAA and EU safety standards.  
 Sec. 524. Sense of the Senate on property taxes on public-use airports.  
 Sec. 525. Federal Aviation Administration Personnel Management System.  
 Sec. 526. Aircraft and aviation component repair and maintenance advisory panel.  
 Sec. 527. Report on enhanced domestic airline competition.  
 Sec. 528. Aircraft situational display data.  
 Sec. 529. To express the sense of the Senate concerning a bilateral agreement between the United States and the United Kingdom regarding Charlotte-London route.  
 Sec. 530. To express the sense of the Senate concerning a bilateral agreement between the United States and the United Kingdom regarding Cleveland-London route.  
 Sec. 531. Allocation of Trust Fund funding.  
 Sec. 532. Taos Pueblo and Blue Lakes Wilderness Area demonstration project.  
 Sec. 533. Airline marketing disclosure.  
 Sec. 534. Certain air traffic control towers.  
 Sec. 535. Compensation under the Death on the High Seas Act.

#### TITLE VI—AVIATION COMPETITION PROMOTION

- Sec. 601. Purpose.  
 Sec. 602. Establishment of small community aviation development program.  
 Sec. 603. Community-carrier air service program.  
 Sec. 604. Authorization of appropriations.  
 Sec. 605. Marketing practices.  
 Sec. 606. Slot exemptions for nonstop regional jet service.  
 Sec. 607. Exemptions to perimeter rule at Ronald Reagan Washington National Airport.  
 Sec. 608. Additional slot exemptions at Chicago O'Hare International Airport.  
 Sec. 609. Consumer notification of e-ticket expiration dates.  
 Sec. 610. Joint venture agreements.  
 Sec. 611. Regional air service incentive options.  
 Sec. 612. GAO study of air transportation needs.

#### TITLE VII—NATIONAL PARK OVERFLIGHTS

- Sec. 701. Findings.  
 Sec. 702. Air tour management plans for national parks.  
 Sec. 703. Advisory group.  
 Sec. 704. Overflight fee report.  
 Sec. 705. Prohibition of commercial air tours over the Rocky Mountain National Park.

#### TITLE VIII—CENTENNIAL OF FLIGHT COMMEMORATION

- Sec. 801. Short title.  
 Sec. 802. Findings.  
 Sec. 803. Establishment.  
 Sec. 804. Membership.  
 Sec. 805. Duties.  
 Sec. 806. Powers.  
 Sec. 807. Staff and support services.  
 Sec. 808. Contributions.  
 Sec. 809. Exclusive right to name, logos, emblems, seals, and marks.

- Sec. 810. Reports.  
 Sec. 811. Audit of financial transactions.  
 Sec. 812. Advisory board.  
 Sec. 813. Definitions.  
 Sec. 814. Termination.  
 Sec. 815. Authorization of appropriations.  
 TITLE IX—EXTENSION OF AIRPORT AND AIRWAY TRUST FUND EXPENDITURE AUTHORITY  
 Sec. 901. Extension of expenditure authority.

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

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

#### TITLE I—AUTHORIZATIONS

##### SEC. 101. FEDERAL AVIATION ADMINISTRATION OPERATIONS.

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

“(k) AUTHORIZATION OF APPROPRIATIONS FOR OPERATIONS.—

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

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

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

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

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

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

##### SEC. 102. AIR NAVIGATION FACILITIES AND EQUIPMENT.

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

“(1) for fiscal year 1999—

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

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

“(C) \$108,000,000 for engineering, development, test, and evaluation: landing and navigation aids;

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

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

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

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

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

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

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

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

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

“(2) \$2,189,000,000 for fiscal year 2000.”.

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

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

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

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

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

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

(1) striking “September 30, 1996,” and inserting “September 30, 1998.”; and

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

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

##### SEC. 104. REPROGRAMMING NOTIFICATION REQUIREMENT.

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

##### SEC. 105. AIRPORT SECURITY PROGRAM.

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

###### “§ 47136. Airport security program

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

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

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

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

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



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

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

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

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

“47136. Airport security program.”.

**SEC. 106. CONTRACT TOWER PROGRAM.**

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

**SEC. 107. AUTOMATED SURFACE OBSERVATION SYSTEM STATIONS.**

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

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

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

**TITLE II—AIRPORT IMPROVEMENT PROGRAM AMENDMENTS**

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

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

**SEC. 202. INNOVATIVE USE OF AIRPORT GRANT FUNDS.**

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

**“§ 47135. Innovative financing techniques**

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

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

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

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

“(1) payment of interest;

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

“(3) flexible non-Federal matching requirements.”.

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

“47135. Innovative financing techniques.”.

**SEC. 203. MATCHING SHARE.**

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

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

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

**SEC. 205. TECHNICAL AMENDMENTS.**

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

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

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

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

(2) in paragraph (1) by—

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

(B) striking “those airports” and inserting “airports in Alaska”; and

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

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

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

(d) DISCRETIONARY FUND DEFINITION.—

(1) Section 47115 is amended—

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

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

(2) Section 47116 is amended—

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

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

“(1) one-seventh for grants for projects at small hub airports (as defined in section 47131 of this title); and

“(2) the remaining amounts based on the following.”.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) Section 47151 is amended—

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

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

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

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

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

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

(2) Section 47152 is amended—

(A) by striking “gifts” in the section caption and inserting “conveyances”; and

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

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

“47152. Terms of conveyances.”.

(4) Section 47153(a) is amended—

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

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

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

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

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

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

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

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

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

#### SEC. 206. REPEAL OF PERIOD OF APPLICABILITY.

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

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

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

#### SEC. 208. PRIORITIZATION OF DISCRETIONARY PROJECTS.

Section 47120 is amended by—

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

(2) adding at the end thereof the following:

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

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

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

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

#### SEC. 210. DEFINITION OF PUBLIC AIRCRAFT.

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

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

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

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

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

#### SEC. 211. TERMINAL DEVELOPMENT COSTS.

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

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

#### SEC. 212. AIRFIELD PAVEMENT CONDITIONS.

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

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

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

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

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

#### SEC. 213. DISCRETIONARY GRANTS.

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

### TITLE III—AMENDMENTS TO AVIATION LAW

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

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

##### "§ 40125. Severable services contracts for periods crossing fiscal years

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

"(b) OBLIGATION OF FUNDS.—Funds made available for a fiscal year may be obligated

for the total amount of a contract entered into under the authority of subsection (a) of this section."

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

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

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

The first sentence of section 47528(b)(1) is amended by inserting "or foreign air carrier" after "air carrier" the first place it appears and after "carrier" the first place it appears.

#### SEC. 303. GOVERNMENT AND INDUSTRY CONSORTIA.

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

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

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

Section 44701 is amended—

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

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

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

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

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

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

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

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

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

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

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

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

**SEC. 305. FOREIGN AVIATION SERVICES AUTHORITY.**

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

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

Section 44936 is amended—

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

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

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

**SEC. 307. AVIATION INSURANCE PROGRAM AMENDMENTS.**

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

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

"(a) LOSSES.—

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

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

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

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

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

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

**SEC. 308. TECHNICAL CORRECTIONS TO CIVIL PENALTY PROVISIONS.**

Section 46301 is amended—

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

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

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

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

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

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

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

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

"(1) knowingly and willfully serves or attempts to serve in any capacity as an airman

without an airman's certificate authorizing the individual to serve in that capacity; or

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

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

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

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

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

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

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

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

**SEC. 310. NONDISCRIMINATORY INTERLINE INTERCONNECTION REQUIREMENTS.**

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

**"§41716. Interline agreements for domestic transportation**

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

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

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

"41716. Interline agreements for domestic transportation."

**TITLE IV—TITLE 49 TECHNICAL CORRECTIONS****SEC. 401. RESTATEMENT OF 49 U.S.C. 106(g).**

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

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

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

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

**TITLE V—MISCELLANEOUS****SEC. 501. OVERSIGHT OF FAA RESPONSE TO YEAR 2000 PROBLEM.**

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

**SEC. 502. CARGO COLLISION AVOIDANCE SYSTEMS DEADLINE.**

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

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

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

(2) other safety or public interest objectives.

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

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

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

(1) the improvement of runway safety areas; and

(2) the installation of precision approach path indicators.

**SEC. 504. AIRPLANE EMERGENCY LOCATORS.**

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

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

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

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

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

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

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

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

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

(c) EFFECTIVE DATE; REGULATIONS.—

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

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

#### SEC. 505. COUNTERFEIT AIRCRAFT PARTS.

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

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

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

"(a) DENIAL OF CERTIFICATE.—

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

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

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

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

"(b) REVOCATION OF CERTIFICATE.—

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

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

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

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

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

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

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

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

"(e) AQUITTAL OR REVERSAL.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### SEC. 506. FAA MAY FINE UNRULY PASSENGERS.

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

##### "§ 46316. Interference with cabin or flight crew

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

in the account established by section 45303(c).

"(b) COMPROMISE AND SETOFF.—

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

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

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

"46316. Interference with cabin or flight crew.

"46317. General criminal penalty when specific penalty not provided."

#### SEC. 507. HIGHER STANDARDS FOR HANDICAPPED ACCESS.

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

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

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

(2) adding at the end thereof the following:

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

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

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

#### SEC. 508. CONVEYANCES OF UNITED STATES GOVERNMENT LAND.

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

"(a) CONVEYANCES TO PUBLIC AGENCIES.—

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

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

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

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

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

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

“(C) make the requested conveyance if—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### SEC. 509. FLIGHT OPERATIONS QUALITY ASSURANCE RULES.

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

#### SEC. 510. WIDE AREA AUGMENTATION SYSTEM.

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

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

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

(2) submit a timetable for implementing WAAS; and

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

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

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

#### SEC. 511. REGULATION OF ALASKA AIR GUIDES.

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

#### SEC. 512. APPLICATION OF FAA REGULATIONS.

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

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

#### SEC. 513. HUMAN FACTORS PROGRAM.

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

##### “§44516. Human factors program

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

“(b) HUMAN FACTORS TRAINING.—

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

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

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

“(2) PILOTS AND FLIGHT CREWS.—The Administrator shall work with the aviation industry to develop specific training curricula, within 12 months after the date of enactment

of the Wendell H. Ford National Air Transportation System Improvement Act of 1998, to address critical safety problems, including problems of pilots—

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

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

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

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

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

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

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

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

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

“44516. Human factors program.”.

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

(a) INDEPENDENT ASSESSMENT.—

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

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

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

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

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

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

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

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

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

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

**SEC. 515. WHISTLEBLOWER PROTECTION FOR FAA EMPLOYEES.**

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

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

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

**SEC. 517. REPORT ON AIR TRANSPORTATION OVERSIGHT SYSTEM.**

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

**SEC. 518. RECYCLING OF EIS.**

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

law for the completion of such an assessment or study.

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

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

**"SUBCHAPTER III—WHISTLEBLOWER PROTECTION PROGRAM**

**"§ 42121. Protection of employees providing air safety information**

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

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

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

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

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

"(b) DEPARTMENT OF LABOR COMPLAINT PROCEDURE.—

"(1) FILING AND NOTIFICATION.—

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

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

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

"(i) filing of the complaint;

"(ii) allegations contained in the complaint;

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

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

"(2) INVESTIGATION; PRELIMINARY ORDER.—

"(A) IN GENERAL.—

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

the complainant and the person alleged to have committed a violation of subsection (a) of the Secretary's findings.

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

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

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

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

"(B) REQUIREMENTS.—

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

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

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

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

"(3) FINAL ORDER.—

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

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

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

"(II) denies the complaint.

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

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

Labor determines to have committed the violation to—

“(i) take action to abate the violation;

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

“(iii) provide compensatory damages to the complainant.

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

“(4) REVIEW.—

“(A) APPEAL TO COURT OF APPEALS.—

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

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

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

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

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

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

“(6) ENFORCEMENT OF ORDER BY PARTIES.—

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

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

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

“(d) NONAPPLICABILITY TO DELIBERATE VIOLATIONS.—Subsection (a) shall not apply with respect to an employee of an air carrier, or contractor or subcontractor of an air carrier who, acting without direction from the air carrier (or an agent, contractor, or subcontractor of the air carrier), deliberately

causes a violation of any requirement relating to air carrier safety under this subtitle or any other law of the United States.”.

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

“SUBCHAPTER III—WHISTLEBLOWER PROTECTION PROGRAM

“42121. Protection of employees providing air safety information.”.

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

**SEC. 520. IMPROVEMENTS TO AIR NAVIGATION FACILITIES.**

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

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

“(A) the improvements primarily benefit the government;

“(B) are essential for mission accomplishment; and

“(C) the government’s interest in the improvements is protected.”.

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

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

“(q) DENIAL OF ACCESS.—

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

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

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

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

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

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

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

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

“(4) DEFINITIONS.—In this subsection:

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

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

**SEC. 522. TOURISM.**

(a) FINDINGS.—Congress finds that—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) PURPOSES.—The purposes of this section are to provide international visitor initiatives and an international marketing program to enable the United States travel and

tourism industry and every level of government to benefit from a successful effort to make the United States the premiere travel destination in the world.

**(C) INTERNATIONAL VISITOR ASSISTANCE TASK FORCE.—**

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

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

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

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

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

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

(A) The Secretary of Commerce.

(B) The Secretary of State.

(C) The Secretary of Transportation.

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

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

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

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

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

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

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

**(E) AUTHORIZATION OF APPROPRIATIONS.—**

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

(2) **RESTRICTIONS ON USE OF FUNDS.**—None of the funds appropriated under paragraph (1) may be used for purposes other than marketing, research, outreach, or any other activity designed to promote the United States as the

premiere travel and tourism destination in the world, except that the general and administrative expenses of operating the United States National Tourism Organization shall be borne by the private sector through such means as the Board of Directors of the Organization shall determine.

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

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

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

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

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

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

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

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

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

It is the sense of the Senate that—

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

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

**SEC. 525. FEDERAL AVIATION ADMINISTRATION PERSONNEL MANAGEMENT SYSTEM.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(B) 1 representative of cargo air carriers;

(C) 1 representative of passenger air carriers;

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

(E) 1 representative of aircraft manufacturers; and

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

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

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

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

(c) **RESPONSIBILITIES.**—The panel shall—

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

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

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

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

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

(3) **DESCRIPTION OF WORK DONE.**—Included in the information the Administrator requests under paragraph (1) shall be information on



the amount and type of aircraft and aviation component repair work performed at those stations on aircraft registered in the United States.

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

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

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

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

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

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

(2) December 31, 2000.

(h) **ANNUAL REPORT TO CONGRESS.**—The Administrator shall report annually to the Congress on the number and location of air agency certificates that were revoked, suspended, or not renewed during the preceding year.

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

**SEC. 527. REPORT ON ENHANCED DOMESTIC AIRLINE COMPETITION.**

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

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

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

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

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

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

**SEC. 528. AIRCRAFT SITUATIONAL DISPLAY DATA.**

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

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

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

(b) **EXISTING MEMORANDA TO BE CONFORMED.**—The Administrator shall conform any memoranda of agreement, in effect on

the date of enactment of this Act, between the Administration and a person under which that person obtains such data to incorporate the requirements of subsection (a) within 30 days after that date.

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

(a) **DEFINITIONS.**—In this section:

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

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

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

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

(5) **SECRETARY.**—The term “Secretary” means the Secretary of Transportation.

(b) **FINDINGS.**—Congress finds that—

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

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

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

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

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

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

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

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

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

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

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

agreement to establish additional rights for air carriers of the United States and foreign air carriers of the United Kingdom.

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

(a) **DEFINITIONS.**—In this section:

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

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

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

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

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

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

(7) **SECRETARY.**—The term “Secretary” means the Secretary of Transportation.

(8) **SLOT.**—The term “slot” means a reservation for an instrument flight rule take-off or landing by an air carrier of an aircraft in air transportation.

(b) **FINDINGS.**—Congress finds that—

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

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

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

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

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

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

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

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

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

(3) ensure that the rights of the Government of the United States and citizens and

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

**SEC. 531. ALLOCATION OF TRUST FUND FUNDING.**

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

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

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

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

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

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

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

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

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

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

**SEC. 533. AIRLINE MARKETING DISCLOSURE.**

(a) DEFINITIONS.—In this section:  
 (1) AIR CARRIER.—The term "air carrier" has the meaning given that term in section 40102 of title 49, United States Code.

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

(b) FINAL REGULATIONS.—Not later than 90 days after the date of enactment of this Act, the Secretary of Transportation shall promulgate final regulations to provide for improved oral and written disclosure to each consumer of air transportation concerning the corporate name of the air carrier that provides the air transportation purchased by

that consumer. In issuing the regulations issued under this subsection, the Secretary shall take into account the proposed regulations issued by the Secretary on January 17, 1995, published at page 3359, volume 60, Federal Register.

**SEC. 534. CERTAIN AIR TRAFFIC CONTROL TOWERS.**

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

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

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

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

(2) adding at the end thereof the following:  
 "(b) COMMERCIAL AVIATION.—

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

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

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

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

**TITLE VI—AVIATION COMPETITION PROMOTION**

**SEC. 601. PURPOSE.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**SEC. 603. COMMUNITY-CARRIER AIR SERVICE PROGRAM.**

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

**"§41743. Air service program for small communities**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“(e) LIMITATIONS.—

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

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

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

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

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

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

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

“(f) REPORT.—The program director shall report through the Secretary to the Congress annually on the progress made under this section during the preceding year in expanding commercial aviation service to smaller communities.

#### “§ 41744. Pilot program project authority

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

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

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

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

“(1) out of amounts appropriated under section 604 of the Wendell H. Ford National Air Transportation System Improvement Act of 1998, provide financial assistance by

way of grants to small communities or consortia of small communities under section 41743 of up to \$500,000 per year; and

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

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

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

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

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

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

#### “§ 41745. Assistance to communities for service

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

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

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

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

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

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

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

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

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

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

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

“(1) permit the participation of the maximum feasible number of communities and States over a 4-year period by limiting the

number of years of participation or otherwise; and

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

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

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

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

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

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

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

#### “§ 41746. Additional authority

“In carrying out this chapter, the Secretary—

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

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

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

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

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

#### “§ 41747. Air traffic control services pilot program

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

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

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

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

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

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

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

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

"41743. Air service program for small communities.

"41744. Pilot program project authority.

"41745. Assistance to communities for service.

"41746. Additional authority.

"41747. Air traffic control services pilot program."

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

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

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

#### SEC. 604. AUTHORIZATION OF APPROPRIATIONS.

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

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

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

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

#### SEC. 605. MARKETING PRACTICES.

Section 41712 is amended by—

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

(2) adding at the end thereof the following:

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

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

"(2) code-sharing partnerships;

"(3) computer reservation system displays;

"(4) gate arrangements at airports;

"(5) exclusive dealing arrangements; and

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

"(c) REGULATIONS.—If the Secretary finds, after conducting the review required by subsection (b), that marketing practices inhibit the availability of such service to such com-

munities, then, after public notice and an opportunity for comment, the Secretary shall promulgate regulations that address the problem."

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

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

(1) redesignating section 41715 as 41716; and

(2) inserting after section 41714 the following:

#### "§41715. Slot exemptions for nonstop regional jet service.

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

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

"(2) a high density airport subject to the exemption authority under section 41714(a), the Secretary of Transportation shall grant or deny the exemption in accordance with established principles of safety and the promotion of competition.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) CONFORMING AMENDMENTS.—

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

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

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

"41715. Slot exemptions for nonstop regional jet service.

"41716. Air service termination notice."

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

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

(1) redesignating section 41716 as 41717; and

(2) inserting after section 41715 the following:

#### "§41716. Special Rules for Ronald Reagan Washington National Airport

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

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

"(2) increase competition in multiple markets;

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

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

"(b) WITHIN-PERIMETER EXEMPTIONS.—The Secretary shall by order grant exemptions from the requirements of sections 49104(a)(5),

4911(e), and 41714 of this title and subparts K and S of part 93 of title 14, Code of Federal Regulations, to commuter air carriers for service to airports with fewer than 2,000,000 annual enplanements within the perimeter established for civil aircraft operations at Ronald Reagan Washington National Airport under section 49109. The Secretary shall develop criteria for distributing slot exemptions for flights within the perimeter to such airports under this paragraph in a manner consistent with the promotion of air transportation.

“(c) LIMITATIONS.—

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

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

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

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

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

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

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

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

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

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

(c) MWAA NOISE-RELATED GRANT ASSURANCES.—

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

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

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

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

(3) SUNSET.—This subsection shall cease to be in effect 5 years after the date of enactment of this Act, if on that date the Secretary of Transportation certifies that the Metropolitan Washington Airports Authority has achieved full compliance with applicable noise compatibility planning and program requirements under part 150 of title 14, Code of Federal Regulations.

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

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

(e) CONFORMING AMENDMENTS.—

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

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

“41716. Special Rules for Ronald Reagan Washington National Airport.  
“41717. Air service termination notice.”

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

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

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

(1) redesignating section 41717 as 41718; and  
(2) inserting after section 41716 the following:

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

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

“(b) EQUIPMENT AND SERVICE REQUIREMENTS.—

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

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

“(A) 18 shall be used only for service to underserved markets, of which no fewer than 6 shall be designated as commuter slot exemptions; and

“(B) 12 shall be air carrier slot exemptions.  
“(c) PROCEDURAL REQUIREMENTS.—Before granting exemptions under subsection (a), the Secretary shall—

“(1) conduct an environmental review, taking noise into account, and determine that the granting of the exemptions will not cause a significant increase in noise;

“(2) determine whether capacity is available and can be used safely and, if the Secretary so determines then so certify;

“(3) give 30 days notice to the public through publication in the Federal Register of the Secretary's intent to grant the exemptions; and

“(4) consult with appropriate officers of the State and local government on any related noise and environmental issues.

“(d) UNDERSERVED MARKET DEFINED.—In this section, the term 'service to underserved markets' means passenger air transportation service to an airport that is a nonhub airport or a small hub airport (as defined in paragraphs (4) and (5), respectively, of section 41731(a)).”

(b) STUDIES.—

(1) 3-YEAR REPORT.—The Secretary shall study and submit a report 3 years after the first exemption granted under section 41717(a) of title 49, United States Code, is first used on the impact of the additional slots on the safety, environment, noise, access to underserved markets, and competition at Chicago O'Hare International Airport.

(2) DOT STUDY IN 2000.—The Secretary of Transportation shall study community noise levels in the areas surrounding the 4 high-density airports after the 100 percent Stage 3 fleet requirements are in place, and compare those levels with the levels in such areas before 1991.

(c) CONFORMING AMENDMENT.—The chapter analysis for chapter 417, as amended by section 607(b) of this Act, is amended by striking the item relating to section 41717 and inserting the following:

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

“41718. Air service termination notice.”

**SEC. 609. CONSUMER NOTIFICATION OF E-TICKET EXPIRATION DATES.**

Section 41712, as amended by section 605 of this Act, is amended by adding at the end thereof the following:

“(d) E-TICKET EXPIRATION NOTICE.—It shall be an unfair or deceptive practice under subsection (a) for any air carrier utilizing electronically transmitted tickets to fail to notify the purchaser of such a ticket of its expiration date, if any.”

**SEC. 610. JOINT VENTURE AGREEMENTS.**

(a) IN GENERAL.—Subchapter I of chapter 417, as amended by section 608, is amended by adding at the end the following:

**“§41719. Joint venture agreements**

“(a) DEFINITIONS.—In this section—

“(1) JOINT VENTURE AGREEMENT.—The term 'joint venture agreement' means an agreement entered into by a major air carrier on or after January 1, 1998, with regard to (A) code-sharing, blocked-space arrangements, long-term wet leases (as defined in section 207.1 of title 14, Code of Federal Regulations) of a substantial number (as defined by the Secretary by regulation) of aircraft, or frequent flyer programs, or (B) any other cooperative working arrangement (as defined by the Secretary by regulation) between 2 or more major air carriers that affects more than 15 percent of the total number of available seat miles offered by the major air carriers.

“(2) MAJOR AIR CARRIER.—The term ‘major air carrier’ means a passenger air carrier that is certificated under chapter 411 of this title and included in Carrier Group III under criteria contained in section 04 of part 241 of title 14, Code of Federal Regulations.

“(b) SUBMISSION OF JOINT VENTURE AGREEMENT.—At least 30 days before a joint venture agreement may take effect, each of the major air carriers that entered into the agreement shall submit to the Secretary—

“(1) a complete copy of the joint venture agreement and all related agreements; and

“(2) other information and documentary material that the Secretary may require by regulation.

“(c) EXTENSION OF WAITING PERIOD.—

“(1) IN GENERAL.—The Secretary may extend the 30-day period referred to in subsection (b) until—

“(A) in the case of a joint venture agreement with regard to code-sharing, the 150th day following the last day of such period; and

“(B) in the case of any other joint venture agreement, the 60th day following the last day of such period.

“(2) PUBLICATION OF REASONS FOR EXTENSION.—If the Secretary extends the 30-day period referred to in subsection (b), the Secretary shall publish in the Federal Register the reasons of the Secretary for making the extension.

“(d) TERMINATION OF WAITING PERIOD.—At any time after the date of submission of a joint venture agreement under subsection (b), the Secretary may terminate the waiting periods referred to in subsections (b) and (c) with respect to the agreement.

“(e) REGULATIONS.—The effectiveness of a joint venture agreement may not be delayed due to any failure of the Secretary to issue regulations to carry out this subsection.

“(f) MEMORANDUM TO PREVENT DUPLICATIVE REVIEWS.—Promptly after the date of enactment of this section, the Secretary shall consult with the Assistant Attorney General of the Antitrust Division of the Department of Justice in order to establish, through a written memorandum of understanding, preclearance procedures to prevent unnecessary duplication of effort by the Secretary and the Assistant Attorney General under this section and the United States antitrust laws, respectively.

“(g) PRIOR AGREEMENTS.—With respect to a joint venture agreement entered into before the date of enactment of this section as to which the Secretary finds that—

“(1) the parties have submitted the agreement to the Secretary before such date of enactment; and

“(2) the parties have submitted any information on the agreement requested by the Secretary,

the waiting period described in paragraphs (2) and (3) shall begin on the date, as determined by the Secretary, on which all such information was submitted and end on the last day to which the period could be extended under this section.

“(h) LIMITATION ON STATUTORY CONSTRUCTION.—The authority granted to the Secretary under this subsection shall not in any way limit the authority of the Attorney General to enforce the antitrust laws as defined in the first section of the Clayton Act (15 U.S.C. 12).”

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of such chapter is amended by adding at the end the following:

“41716. Joint venture agreements.”

**SEC. 611. REGIONAL AIR SERVICE INCENTIVE OPTIONS.**

(a) PURPOSE.—The purpose of this section is to provide the Congress with an analysis of means to improve service by jet aircraft

to underserved markets by authorizing a review of different programs of Federal financial assistance, including loan guarantees like those that would have been provided for by section 2 of S. 1353, 105th Congress, as introduced, to commuter air carriers that would purchase regional jet aircraft for use in serving those markets.

(b) STUDY.—The Secretary of Transportation shall study the efficacy of a program of Federal loan guarantees for the purchase of regional jets by commuter air carriers. The Secretary shall include in the study a review of options for funding, including alternatives to Federal funding. In the study, the Secretary shall analyze—

(1) the need for such a program;

(2) its potential benefit to small communities;

(3) the trade implications of such a program;

(4) market implications of such a program for the sale of regional jets;

(5) the types of markets that would benefit the most from such a program;

(6) the competitive implications of such a program; and

(7) the cost of such a program.

(c) REPORT.—The Secretary shall submit a report of the results of the study to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure not later than 24 months after the date of enactment of this Act.

**SEC. 612. GAO STUDY OF AIR TRANSPORTATION NEEDS.**

The General Accounting Office shall conduct a study of the current state of the national airport network and its ability to meet the air transportation needs of the United States over the next 15 years. The study shall include airports located in remote communities and reliever airports. In assessing the effectiveness of the system the Comptroller General may consider airport runway length of 5,500 feet or the equivalent altitude-adjusted length, air traffic control facilities, and navigational aids.

**TITLE VII—NATIONAL PARKS OVERFLIGHTS**

**SEC. 701. FINDINGS.**

The Congress finds that—

(1) the Federal Aviation Administration has sole authority to control airspace over the United States;

(2) the Federal Aviation Administration has the authority to preserve, protect, and enhance the environment by minimizing, mitigating, or preventing the adverse effects of aircraft overflights on the public and tribal lands;

(3) the National Park Service has the responsibility of conserving the scenery and natural and historic objects and wildlife in national parks and of providing for the enjoyment of the national parks in ways that leave the national parks unimpaired for future generations;

(4) the protection of tribal lands from aircraft overflights is consistent with protecting the public health and welfare and is essential to the maintenance of the natural and cultural resources of Indian tribes;

(5) the National Parks Overflights Working Group, composed of general aviation, air tour, environmental, and Native American representatives, recommended that the Congress enact legislation based on its consensus work product; and

(6) this title reflects the recommendations made by that Group.

**SEC. 702. AIR TOUR MANAGEMENT PLANS FOR NATIONAL PARKS.**

(a) IN GENERAL.—Chapter 401, as amended by section 301 of this Act, is amended by adding at the end the following:

**“§ 40126. Overflights of national parks**

“(a) IN GENERAL.—

“(1) GENERAL REQUIREMENTS.—A commercial air tour operator may not conduct commercial air tour operations over a national park or tribal lands except—

“(A) in accordance with this section;

“(B) in accordance with conditions and limitations prescribed for that operator by the Administrator; and

“(C) in accordance with any effective air tour management plan for that park or those tribal lands.

“(2) APPLICATION FOR OPERATING AUTHORITY.—

“(A) APPLICATION REQUIRED.—Before commencing commercial air tour operations over a national park or tribal lands, a commercial air tour operator shall apply to the Administrator for authority to conduct the operations over that park or those tribal lands.

“(B) COMPETITIVE BIDDING FOR LIMITED CAPACITY PARKS.—Whenever a commercial air tour management plan limits the number of commercial air tour flights over a national park area during a specified time frame, the Administrator, in cooperation with the Director, shall authorize commercial air tour operators to provide such service. The authorization shall specify such terms and conditions as the Administrator and the Director find necessary for management of commercial air tour operations over the national park. The Administrator, in cooperation with the Director, shall develop an open competitive process for evaluating proposals from persons interested in providing commercial air tour services over the national park. In making a selection from among various proposals submitted, the Administrator, in cooperation with the Director, shall consider relevant factors, including—

“(i) the safety record of the company or pilots;

“(ii) any quiet aircraft technology proposed for use;

“(iii) the experience in commercial air tour operations over other national parks or scenic areas;

“(iv) the financial capability of the company;

“(v) any training programs for pilots; and

“(vi) responsiveness to any criteria developed by the National Park Service or the affected national park.

“(C) NUMBER OF OPERATIONS AUTHORIZED.—In determining the number of authorizations to issue to provide commercial air tour service over a national park, the Administrator, in cooperation with the Director, shall take into consideration the provisions of the air tour management plan, the number of existing commercial air tour operators and current level of service and equipment provided by any such companies, and the financial viability of each commercial air tour operation.

“(D) COOPERATION WITH NPS.—Before granting an application under this paragraph, the Administrator shall, in cooperation with the Director, develop an air tour management plan in accordance with subsection (b) and implement such plan.

“(E) TIME LIMIT ON RESPONSE TO ATMP APPLICATIONS.—The Administrator shall act on any such application and issue a decision on the application not later than 24 months after it is received or amended.

“(3) EXCEPTION.—Notwithstanding paragraph (1), commercial air tour operators may conduct commercial air tour operations over a national park under part 91 of the Federal Aviation Regulations (14 CFR 91.1 et seq.) if—

“(A) such activity is permitted under part 119 (14 CFR 119.1(e)(2));

“(B) the operator secures a letter of agreement from the Administrator and the national park superintendent for that national park describing the conditions under which the flight operations will be conducted; and

“(C) the total number of operations under this exception is limited to not more than 5 flights in any 30-day period over a particular park.

“(4) SPECIAL RULE FOR SAFETY REQUIREMENTS.—Notwithstanding subsection (c), an existing commercial air tour operator shall, not later than 90 days after the date of enactment of the Wendell H. Ford National Air Transportation System Improvement Act of 1998, apply for operating authority under part 119, 121, or 135 of the Federal Aviation Regulations (14 CFR Pt. 119, 121, or 135). A new entrant commercial air tour operator shall apply for such authority before conducting commercial air tour operations over a national park or tribal lands.

“(b) AIR TOUR MANAGEMENT PLANS.—

“(1) ESTABLISHMENT OF ATMPS.—

“(A) IN GENERAL.—The Administrator shall, in cooperation with the Director, establish an air tour management plan for any national park or tribal land for which such a plan is not already in effect whenever a person applies for authority to operate a commercial air tour over the park. The development of the air tour management plan is to be a cooperative undertaking between the Federal Aviation Administration and the National Park Service. The air tour management plan shall be developed by means of a public process, and the agencies shall develop information and analysis that explains the conclusions that the agencies make in the application of the respective criteria. Such explanations shall be included in the Record of Decision and may be subject to judicial review.

“(B) OBJECTIVE.—The objective of any air tour management plan shall be to develop acceptable and effective measures to mitigate or prevent the significant adverse impacts, if any, of commercial air tours upon the natural and cultural resources and visitor experiences and tribal lands.

“(2) ENVIRONMENTAL DETERMINATION.—In establishing an air tour management plan under this subsection, the Administrator and the Director shall each sign the environmental decision document required by section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332) which may include a finding of no significant impact, an environmental assessment, or an environmental impact statement, and the Record of Decision for the air tour management plan.

“(3) CONTENTS.—An air tour management plan for a national park—

“(A) may prohibit commercial air tour operations in whole or in part;

“(B) may establish conditions for the conduct of commercial air tour operations, including commercial air tour routes, maximum or minimum altitudes, time-of-day restrictions, restrictions for particular events, maximum number of flights per unit of time, intrusions on privacy on tribal lands, and mitigation of noise, visual, or other impacts;

“(C) shall apply to all commercial air tours within ½ mile outside the boundary of a national park;

“(D) shall include incentives (such as preferred commercial air tour routes and altitudes, relief from caps and curfews) for the adoption of quiet aircraft technology by commercial air tour operators conducting commercial air tour operations at the park;

“(E) shall provide for the initial allocation of opportunities to conduct commercial air tours if the plan includes a limitation on the number of commercial air tour flights for any time period; and

“(F) shall justify and document the need for measures taken pursuant to subparagraphs (A) through (E).

“(4) PROCEDURE.—In establishing a commercial air tour management plan for a national park, the Administrator and the Director shall—

“(A) initiate at least one public meeting with interested parties to develop a commercial air tour management plan for the park;

“(B) publish the proposed plan in the Federal Register for notice and comment and make copies of the proposed plan available to the public;

“(C) comply with the regulations set forth in sections 1501.3 and 1501.5 through 1501.8 of title 40, Code of Federal Regulations (for purposes of complying with those regulations, the Federal Aviation Administration is the lead agency and the National Park Service is a cooperating agency); and

“(D) solicit the participation of any Indian tribe whose tribal lands are, or may be, overflowed by aircraft involved in commercial air tour operations over a national park or tribal lands, as a cooperating agency under the regulations referred to in paragraph (4)(C).

“(5) AMENDMENTS.—Any amendment of an air tour management plan shall be published in the Federal Register for notice and comment. A request for amendment of an air tour management plan shall be made in such form and manner as the Administrator may prescribe.

“(c) INTERIM OPERATING AUTHORITY.—

“(1) IN GENERAL.—Upon application for operating authority, the Administrator shall grant interim operating authority under this paragraph to a commercial air tour operator for a national park or tribal lands for which the operator is an existing commercial air tour operator.

“(2) REQUIREMENTS AND LIMITATIONS.—Interim operating authority granted under this subsection—

“(A) shall provide annual authorization only for the greater of—

“(i) the number of flights used by the operator to provide such tours within the 12-month period prior to the date of enactment of the Wendell H. Ford National Air Transportation System Improvement Act of 1998; or

“(ii) the average number of flights per 12-month period used by the operator to provide such tours within the 36-month period prior to such date of enactment, and, for seasonal operations, the number of flights so used during the season or seasons covered by that 12-month period;

“(B) may not provide for an increase in the number of operations conducted during any time period by the commercial air tour operator to which it is granted unless the increase is agreed to by the Administrator and the Director;

“(C) shall be published in the Federal Register to provide notice and opportunity for comment;

“(D) may be revoked by the Administrator for cause;

“(E) shall terminate 180 days after the date on which an air tour management plan is established for that park or those tribal lands; and

“(F) shall—

“(i) promote protection of national park resources, visitor experiences, and tribal lands;

“(ii) promote safe operations of the commercial air tour;

“(iii) promote the adoption of quiet technology, as appropriate; and

“(iv) allow for modifications of the operation based on experience if the modification improves protection of national park resources and values and of tribal lands.

“(3) NEW ENTRANT AIR TOUR OPERATORS.—

“(A) IN GENERAL.—The Administrator, in cooperation with the Director, may grant interim operating authority under this paragraph to an air tour operator for a national park for which that operator is a new entrant air tour operator if the Administrator determines the authority is necessary to ensure competition in the provision of commercial air tours over that national park or those tribal lands.

“(B) SAFETY LIMITATION.—The Administrator may not grant interim operating authority under subparagraph (A) if the Administrator determines that it would create a safety problem at that park or on tribal lands, or the Director determines that it would create a noise problem at that park or on tribal lands.

“(C) ATMP LIMITATION.—The Administrator may grant interim operating authority under subparagraph (A) of this paragraph only if the air tour management plan for the park or tribal lands to which the application relates has not been developed within 24 months after the date of enactment of the Wendell H. Ford National Air Transportation System Improvement Act of 1998.

“(d) DEFINITIONS.—In this section, the following definitions apply:

“(1) COMMERCIAL AIR TOUR.—The term ‘commercial air tour’ means any flight conducted for compensation or hire in a powered aircraft where a purpose of the flight is sightseeing. If the operator of a flight asserts that the flight is not a commercial air tour, factors that can be considered by the Administrator in making a determination of whether the flight is a commercial air tour, include, but are not limited to—

“(A) whether there was a holding out to the public of willingness to conduct a sightseeing flight for compensation or hire;

“(B) whether a narrative was provided that referred to areas or points of interest on the surface;

“(C) the area of operation;

“(D) the frequency of flights;

“(E) the route of flight;

“(F) the inclusion of sightseeing flights as part of any travel arrangement package; or

“(G) whether the flight or flights in question would or would not have been canceled based on poor visibility of the surface.

“(2) COMMERCIAL AIR TOUR OPERATOR.—The term ‘commercial air tour operator’ means any person who conducts a commercial air tour.

“(3) EXISTING COMMERCIAL AIR TOUR OPERATOR.—The term ‘existing commercial air tour operator’ means a commercial air tour operator that was actively engaged in the business of providing commercial air tours over a national park at any time during the 12-month period ending on the date of enactment of the Wendell H. Ford National Air Transportation System Improvement Act of 1998.

“(4) NEW ENTRANT COMMERCIAL AIR TOUR OPERATOR.—The term ‘new entrant commercial air tour operator’ means a commercial air tour operator that—

“(A) applies for operating authority as a commercial air tour operator for a national park; and

“(B) has not engaged in the business of providing commercial air tours over that national park or those tribal lands in the 12-month period preceding the application.

“(5) COMMERCIAL AIR TOUR OPERATIONS.—The term ‘commercial air tour operations’ means commercial air tour flight operations conducted—

“(A) over a national park or within ½ mile outside the boundary of any national park;

“(B) below a minimum altitude, determined by the Administrator in cooperation with the Director, above ground level (except

solely for purposes of takeoff or landing, or necessary for safe operation of an aircraft as determined under the rules and regulations of the Federal Aviation Administration requiring the pilot-in-command to take action to ensure the safe operation of the aircraft); and

“(C) less than 1 mile laterally from any geographic feature within the park (unless more than ½ mile outside the boundary).

“(6) NATIONAL PARK.—The term ‘national park’ means any unit of the National Park System.

“(7) TRIBAL LANDS.—The term ‘tribal lands’ means ‘Indian country’, as defined by section 1151 of title 18, United States Code, that is within or abutting a national park.

“(8) ADMINISTRATOR.—The term ‘Administrator’ means the Administrator of the Federal Aviation Administration.

“(9) DIRECTOR.—The term ‘Director’ means the Director of the National Park Service.”.

(b) EXEMPTIONS.—

(1) GRAND CANYON.—Section 40126 of title 49, United States Code, as added by subsection (a), does not apply to—

(A) the Grand Canyon National Park; or

(B) Indian country within or abutting the Grand Canyon National Park.

(2) ALASKA.—The provisions of this title and section 40126 of title 49, United States Code, as added by subsection (a), do not apply to any land or waters located in Alaska.

(3) COMPLIANCE WITH OTHER REGULATIONS.—For purposes of section 40126 of title 49, United States Code—

(A) regulations issued by the Secretary of Transportation and the Administrator of the Federal Aviation Administration under section 3 of Public Law 100-91 (16 U.S.C. 1a-1, note); and

(B) commercial air tour operations carried out in compliance with the requirements of those regulations, shall be deemed to meet the requirements of such section 40126.

(c) CLERICAL AMENDMENT.—The table of sections for chapter 401 is amended by adding at the end thereof the following:

“40126. Overflights of national parks.”.

#### SEC. 703. ADVISORY GROUP.

(a) ESTABLISHMENT.—Not later than 1 year after the date of enactment of this Act, the Administrator of the Federal Aviation Administration and the Director of the National Park Service shall jointly establish an advisory group to provide continuing advice and counsel with respect to the operation of commercial air tours over and near national parks.

(b) MEMBERSHIP.—

(1) IN GENERAL.—The advisory group shall be composed of—

(A) a balanced group of—

(i) representatives of general aviation;

(ii) representatives of commercial air tour operators;

(iii) representatives of environmental concerns; and

(iv) representatives of Indian tribes;

(B) a representative of the Federal Aviation Administration; and

(C) a representative of the National Park Service.

(2) EX-OFFICIO MEMBERS.—The Administrator and the Director shall serve as ex-officio members.

(3) CHAIRPERSON.—The representative of the Federal Aviation Administration and the representative of the National Park Service shall serve alternating 1-year terms as chairman of the advisory group, with the representative of the Federal Aviation Administration serving initially until the end of the calendar year following the year in which the advisory group is first appointed.

(c) DUTIES.—The advisory group shall provide advice, information, and recommendations to the Administrator and the Director—

(1) on the implementation of this title;

(2) on the designation of appropriate and feasible quiet aircraft technology standards for quiet aircraft technologies under development for commercial purposes, which will receive preferential treatment in a given air tour management plan;

(3) on other measures that might be taken to accommodate the interests of visitors to national parks; and

(4) on such other national park or tribal lands-related safety, environmental, and air touring issues as the Administrator and the Director may request.

(d) COMPENSATION; SUPPORT; FACA.—

(1) COMPENSATION AND TRAVEL.—Members of the advisory group who are not officers or employees of the United States, while attending conferences or meetings of the group or otherwise engaged in its business, or while serving away from their homes or regular places of business, each member may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

(2) ADMINISTRATIVE SUPPORT.—The Federal Aviation Administration and the National Park Service shall jointly furnish to the advisory group clerical and other assistance.

(3) NONAPPLICATION OF FACA.—Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) does not apply to the advisory group.

(e) REPORT.—The Administrator and the Director shall jointly report to the Congress within 24 months after the date of enactment of this Act on the success of this title in providing incentives for quiet aircraft technology.

#### SEC. 704. OVERFLIGHT FEE REPORT.

Not later than 180 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall transmit to Congress a report on the effects proposed overflight fees are likely to have on the commercial air tour industry. The report shall include, but shall not be limited to—

(1) the viability of a tax credit for the commercial air tour operators equal to the amount of the proposed fee charged by the National Park Service; and

(2) the financial effects proposed offsets are likely to have on Federal Aviation Administration budgets and appropriations.

#### SEC. 705. PROHIBITION OF COMMERCIAL AIR TOURS OVER THE ROCKY MOUNTAIN NATIONAL PARK.

Effective beginning on the date of enactment of this Act, no commercial air tour may be operated in the airspace over the Rocky Mountain National Park notwithstanding any other provision of this Act or section 40126 of title 49, United States Code, as added by this Act.

### TITLE VIII—CENTENNIAL OF FLIGHT COMMEMORATION

#### SEC. 801. SHORT TITLE.

This title may be cited as the “Centennial of Flight Commemoration Act”.

#### SEC. 802. FINDINGS.

Congress finds that—

(1) December 17, 2003, is the 100th anniversary of the first successful manned, free, controlled, and sustained flight by a power-driven, heavier-than-air machine;

(2) the first flight by Orville and Wilbur Wright represents the fulfillment of the age-old dream of flying;

(3) the airplane has dramatically changed the course of transportation, commerce, communication, and warfare throughout the world;

(4) the achievement by the Wright brothers stands as a triumph of American ingenuity, inventiveness, and diligence in developing new technologies, and remains an inspiration for all Americans;

(5) it is appropriate to remember and renew the legacy of the Wright brothers at a time when the values of creativity and daring represented by the Wright brothers are critical to the future of the Nation; and

(6) as the Nation approaches the 100th anniversary of powered flight, it is appropriate to celebrate and commemorate the centennial year through local, national, and international observances and activities.

#### SEC. 803. ESTABLISHMENT.

There is established a commission to be known as the Centennial of Flight Commission.

#### SEC. 804. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—The Commission shall be composed of 6 members, as follows:

(1) The Director of the National Air and Space Museum of the Smithsonian Institution or his designee.

(2) The Administrator of the National Aeronautics and Space Administration or his designee.

(3) The chairman of the First Flight Centennial Foundation of North Carolina, or his designee.

(4) The chairman of the 2003 Committee of Ohio, or his designee.

(5) As chosen by the Commission, the president or head of a United States aeronautical society, foundation, or organization of national stature or prominence who will be a person from a State other than Ohio or North Carolina.

(6) The Administrator of the Federal Aviation Administration, or his designee.

(b) VACANCIES.—Any vacancy in the Commission shall be filled in the same manner in which the original designation was made.

(c) COMPENSATION.—

(1) PROHIBITION OF PAY.—Except as provided in paragraph (2), members of the Commission shall serve without pay or compensation.

(2) TRAVEL EXPENSES.—The Commission may adopt a policy, only by unanimous vote, for members of the Commission and related advisory panels to receive travel expenses, including per diem in lieu of subsistence. The policy may not exceed the levels established under sections 5702 and 5703 of title 5, United States Code. Members who are Federal employees shall not receive travel expenses if otherwise reimbursed by the Federal Government.

(d) QUORUM.—Three members of the Commission shall constitute a quorum.

(e) CHAIRPERSON.—The Commission shall select a Chairperson of the Commission from the members designated under subsection (a) (1), (2), or (5). The Chairperson may not vote on matters before the Commission except in the case of a tie vote. The Chairperson may be removed by a vote of a majority of the Commission’s members.

(f) ORGANIZATION.—No later than 90 days after the date of enactment of this Act, the Commission shall meet and select a Chairperson, Vice Chairperson, and Executive Director.

#### SEC. 805. DUTIES.

(a) IN GENERAL.—The Commission shall—

(1) represent the United States and take a leadership role with other nations in recognizing the importance of aviation history in general and the centennial of powered flight in particular, and promote participation by the United States in such activities;

(2) encourage and promote national and international participation and sponsorships in commemoration of the centennial of powered flight by persons and entities such as—



- (A) aerospace manufacturing companies;
- (B) aerospace-related military organizations;
- (C) workers employed in aerospace-related industries;
- (D) commercial aviation companies;
- (E) general aviation owners and pilots;
- (F) aerospace researchers, instructors, and enthusiasts;
- (G) elementary, secondary, and higher educational institutions;
- (H) civil, patriotic, educational, sporting, arts, cultural, and historical organizations and technical societies;
- (I) aerospace-related museums; and
- (J) State and local governments;

(3) plan and develop, in coordination with the First Flight Centennial Commission, the First Flight Centennial Foundation of North Carolina, and the 2003 Committee of Ohio, programs and activities that are appropriate to commemorate the 100th anniversary of powered flight;

(4) maintain, publish, and distribute a calendar or register of national and international programs and projects concerning, and provide a central clearinghouse for, information and coordination regarding, dates, events, and places of historical and commemorative significance regarding aviation history in general and the centennial of powered flight in particular;

(5) provide national coordination for celebration dates to take place throughout the United States during the centennial year;

(6) assist in conducting educational, civic, and commemorative activities relating to the centennial of powered flight throughout the United States, especially activities that occur in the States of North Carolina and Ohio and that highlight the activities of the Wright brothers in such States; and

(7) encourage the publication of popular and scholarly works related to the history of aviation or the anniversary of the centennial of powered flight.

(b) **NONDUPLICATION OF ACTIVITIES.**—The Commission shall attempt to plan and conduct its activities in such a manner that activities conducted pursuant to this title enhance, but do not duplicate, traditional and established activities of Ohio's 2003 Committee, North Carolina's First Flight Centennial Commission, the First Flight Centennial Foundation, or any other organization of national stature or prominence.

#### **SEC. 806. POWERS.**

(a) **ADVISORY COMMITTEES AND TASK FORCES.**—

(1) **IN GENERAL.**—The Commission may appoint any advisory committee or task force from among the membership of the Advisory Board in section 812.

(2) **FEDERAL COOPERATION.**—To ensure the overall success of the Commission's efforts, the Commission may call upon various Federal departments and agencies to assist in and give support to the programs of the Commission. The head of the Federal department or agency, where appropriate, shall furnish the information or assistance requested by the Commission, unless prohibited by law.

(3) **PROHIBITION OF PAY OTHER THAN TRAVEL EXPENSES.**—Members of an advisory committee or task force authorized under paragraph (1) shall not receive pay, but may receive travel expenses pursuant to the policy adopted by the Commission under section 804(c)(2).

(b) **POWERS OF MEMBERS AND AGENTS.**—Any member or agent of the Commission may, if authorized by the Commission, take any action that the Commission is authorized to take under this title.

(c) **AUTHORITY TO PROCURE AND TO MAKE LEGAL AGREEMENTS.**—

(1) **IN GENERAL.**—Notwithstanding any other provision in this title, only the Com-

mission may procure supplies, services, and property, and make or enter into leases and other legal agreements in order to carry out this title.

(2) **RESTRICTION.**—

(A) **IN GENERAL.**—A contract, lease, or other legal agreement made or entered into by the Commission may not extend beyond the date of the termination of the Commission.

(B) **FEDERAL SUPPORT.**—The Commission shall obtain property, equipment, and office space from the General Services Administration or the Smithsonian Institution, unless other office space, property, or equipment is less costly.

(3) **SUPPLIES AND PROPERTY POSSESSED BY COMMISSION AT TERMINATION.**—Any supplies and property, except historically significant items, that are acquired by the Commission under this title and remain in the possession of the Commission on the date of the termination of the Commission shall become the property of the General Services Administration upon the date of termination.

(d) **MAILS.**—The Commission may use the United States mails in the same manner and under the same conditions as any other Federal agency.

#### **SEC. 807. STAFF AND SUPPORT SERVICES.**

(a) **EXECUTIVE DIRECTOR.**—There shall be an Executive Director appointed by the Commission and chosen from detailees from the agencies and organizations represented on the Commission. The Executive Director may be paid at a rate not to exceed the maximum rate of basic pay payable for the Senior Executive Service.

(b) **STAFF.**—The Commission may appoint and fix the pay of any additional personnel that it considers appropriate, except that an individual appointed under this subsection may not receive pay in excess of the maximum rate of basic pay payable for GS-14 of the General Schedule.

(c) **INAPPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.**—The Executive Director and staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates, except as provided under subsections (a) and (b) of this section.

(d) **MERIT SYSTEM PRINCIPLES.**—The appointment of the Executive Director or any personnel of the Commission under subsection (a) or (b) shall be made consistent with the merit system principles under section 2301 of title 5, United States Code.

(e) **STAFF OF FEDERAL AGENCIES.**—Upon request by the Chairperson of the Commission, the head of any Federal department or agency may detail, on either a nonreimbursable or reimbursable basis, any of the personnel of the department or agency to the Commission to assist the Commission to carry out its duties under this title.

(f) **ADMINISTRATIVE SUPPORT SERVICES.**—

(1) **REIMBURSABLE SERVICES.**—The Secretary of the Smithsonian Institution may provide to the Commission on a reimbursable basis any administrative support services that are necessary to enable the Commission to carry out this title.

(2) **NONREIMBURSABLE SERVICES.**—The Secretary may provide administrative support services to the Commission on a non-reimbursable basis when, in the opinion of the Secretary, the value of such services is insignificant or not practical to determine.

(g) **COOPERATIVE AGREEMENTS.**—The Commission may enter into cooperative agreements with other Federal agencies, State and local governments, and private interests

and organizations that will contribute to public awareness of and interest in the centennial of powered flight and toward furthering the goals and purposes of this title.

(h) **PROGRAM SUPPORT.**—The Commission may receive program support from the non-profit sector.

#### **SEC. 808. CONTRIBUTIONS.**

(a) **DONATIONS.**—The Commission may accept donations of personal services and historic materials relating to the implementation of its responsibilities under the provisions of this title.

(b) **VOLUNTEER SERVICES.**—Notwithstanding section 1342 of title 31, United States Code, the Commission may accept and use voluntary and uncompensated services as the Commission determines necessary.

(c) **REMAINING FUNDS.**—Any funds (including funds received from licensing royalties) remaining with the Commission on the date of the termination of the Commission may be used to ensure proper disposition, as specified in the final report required under section 810(b), of historically significant property which was donated to or acquired by the Commission. Any funds remaining after such disposition shall be transferred to the Secretary of the Treasury for deposit into the general fund of the Treasury of the United States.

#### **SEC. 809. EXCLUSIVE RIGHT TO NAME, LOGOS, EMBLEMS, SEALS, AND MARKS.**

(a) **IN GENERAL.**—The Commission may devise any logo, emblem, seal, or descriptive or designating mark that is required to carry out its duties or that it determines is appropriate for use in connection with the commemoration of the centennial of powered flight.

(b) **LICENSING.**—The Commission shall have the sole and exclusive right to use, or to allow or refuse the use of, the name "Centennial of Flight Commission" on any logo, emblem, seal, or descriptive or designating mark that the Commission lawfully adopts.

(c) **EFFECT ON OTHER RIGHTS.**—No provision of this section may be construed to conflict or interfere with established or vested rights.

(d) **USE OF FUNDS.**—Funds from licensing royalties received pursuant to this section shall be used by the Commission to carry out the duties of the Commission specified by this title.

(e) **LICENSING RIGHTS.**—All exclusive licensing rights, unless otherwise specified, shall revert to the Air and Space Museum of the Smithsonian Institution upon termination of the Commission.

#### **SEC. 810. REPORTS.**

(a) **ANNUAL REPORT.**—In each fiscal year in which the Commission is in existence, the Commission shall prepare and submit to Congress a report describing the activities of the Commission during the fiscal year. Each annual report shall also include—

(1) recommendations regarding appropriate activities to commemorate the centennial of powered flight, including—

(A) the production, publication, and distribution of books, pamphlets, films, and other educational materials;

(B) bibliographical and documentary projects and publications;

(C) conferences, convocations, lectures, seminars, and other similar programs;

(D) the development of exhibits for libraries, museums, and other appropriate institutions;

(E) ceremonies and celebrations commemorating specific events that relate to the history of aviation;

(F) programs focusing on the history of aviation and its benefits to the United States and humankind; and

(G) competitions, commissions, and awards regarding historical, scholarly, artistic, literary, musical, and other works, programs,

and projects related to the centennial of powered flight;

(2) recommendations to appropriate agencies or advisory bodies regarding the issuance of commemorative coins, medals, and stamps by the United States relating to aviation or the centennial of powered flight;

(3) recommendations for any legislation or administrative action that the Commission determines to be appropriate regarding the commemoration of the centennial of powered flight;

(4) an accounting of funds received and expended by the Commission in the fiscal year that the report concerns, including a detailed description of the source and amount of any funds donated to the Commission in the fiscal year; and

(5) an accounting of any cooperative agreements and contract agreements entered into by the Commission.

(b) FINAL REPORT.—Not later than June 30, 2004, the Commission shall submit to the President and Congress a final report. The final report shall contain—

(1) a summary of the activities of the Commission;

(2) a final accounting of funds received and expended by the Commission;

(3) any findings and conclusions of the Commission; and

(4) specific recommendations concerning the final disposition of any historically significant items acquired by the Commission, including items donated to the Commission under section 808(a)(1).

#### SEC. 811. AUDIT OF FINANCIAL TRANSACTIONS.

(a) IN GENERAL.—

(1) AUDIT.—The Comptroller General of the United States shall audit on an annual basis the financial transactions of the Commission, including financial transactions involving donated funds, in accordance with generally accepted auditing standards.

(2) ACCESS.—In conducting an audit under this section, the Comptroller General—

(A) shall have access to all books, accounts, financial records, reports, files, and other papers, items, or property in use by the Commission, as necessary to facilitate the audit; and

(B) shall be afforded full facilities for verifying the financial transactions of the Commission, including access to any financial records or securities held for the Commission by depositories, fiscal agents, or custodians.

(b) FINAL REPORT.—Not later than September 30, 2004, the Comptroller General of the United States shall submit to the President and to Congress a report detailing the results of any audit of the financial transactions of the Commission conducted by the Comptroller General.

#### SEC. 812. ADVISORY BOARD.

(a) ESTABLISHMENT.—There is established a First Flight Centennial Federal Advisory Board.

(b) NUMBER AND APPOINTMENT.—

(1) IN GENERAL.—The Board shall be composed of 19 members as follows:

(A) The Secretary of the Interior, or the designee of the Secretary.

(B) The Librarian of Congress, or the designee of the Librarian.

(C) The Secretary of the Air Force, or the designee of the Secretary.

(D) The Secretary of the Navy, or the designee of the Secretary.

(E) The Secretary of Transportation, or the designee of the Secretary.

(F) Six citizens of the United States, appointed by the President, who—

(i) are not officers or employees of any government (except membership on the Board shall not be construed to apply to the limitation under this clause); and

(ii) shall be selected based on their experience in the fields of aerospace history,

science, or education, or their ability to represent the entities enumerated under section 805(a)(2).

(G) Four citizens of the United States, appointed by the majority leader of the Senate in consultation with the minority leader of the Senate.

(H) Four citizens of the United States, appointed by the Speaker of the House of Representatives in consultation with the minority leader of the House of Representatives. Of the individuals appointed under this subparagraph—

(i) one shall be selected from among individuals recommended by the representative whose district encompasses the Wright Brothers National Memorial; and

(ii) one shall be selected from among individuals recommended by the representatives whose districts encompass any part of the Dayton Aviation Heritage National Historical Park.

(c) VACANCIES.—Any vacancy in the Advisory Board shall be filled in the same manner in which the original designation was made.

(d) MEETINGS.—Seven members of the Advisory Board shall constitute a quorum for a meeting. All meetings shall be open to the public.

(e) CHAIRPERSON.—The President shall designate 1 member appointed under subsection (b)(1)(F) as chairperson of the Advisory Board.

(f) MAILS.—The Advisory Board may use the United States mails in the same manner and under the same conditions as a Federal agency.

(g) DUTIES.—The Advisory Board shall advise the Commission on matters related to this title.

(h) PROHIBITION OF COMPENSATION OTHER THAN TRAVEL EXPENSES.—Members of the Advisory Board shall not receive pay, but may receive travel expenses pursuant to the policy adopted by the Commission under section 804(e).

(i) TERMINATION.—The Advisory Board shall terminate upon the termination of the Commission.

#### SEC. 813. DEFINITIONS.

In this title:

(1) ADVISORY BOARD.—The term “Advisory Board” means the Centennial of Flight Federal Advisory Board.

(2) CENTENNIAL OF POWERED FLIGHT.—The term “centennial of powered flight” means the anniversary year, from December 2002 to December 2003, commemorating the 100-year history of aviation beginning with the First Flight and highlighting the achievements of the Wright brothers in developing the technologies which have led to the development of aviation as it is known today.

(3) COMMISSION.—The term “Commission” means the Centennial of Flight Commission.

(4) DESIGNEE.—The term “designee” means a person from the respective entity of each entity represented on the Commission or Advisory Board.

(5) FIRST FLIGHT.—The term “First Flight” means the first four successful manned, free, controlled, and sustained flights by a power-driven, heavier-than-air machine, which were accomplished by Orville and Wilbur Wright of Dayton, Ohio on December 17, 1903, at Kitty Hawk, North Carolina.

#### SEC. 814. TERMINATION.

The Commission shall terminate not later than 60 days after the submission of the final report required by section 810(b) and shall transfer all documents and material to the National Archives or other appropriate Federal entity.

#### SEC. 815. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this title—

- (1) \$250,000 for fiscal year 1999;
- (2) \$600,000 for fiscal year 2000;
- (3) \$750,000 for fiscal year 2001;
- (4) \$900,000 for fiscal year 2002;
- (5) \$900,000 for fiscal year 2003; and
- (6) \$600,000 for fiscal year 2004.

By Mr. LUGAR:

S. 537. A bill to amend the Internal Revenue Code of 1986 to adjust the exemption amounts used to calculate the individual alternative minimum tax for inflation since 1993; to the Committee on Finance.

#### INDEXATION OF ALTERNATIVE MINIMUM TAX EXEMPTIONS

Mr. LUGAR. Mr. President, I am introducing today a bill to address what has become an increasingly heavy burden for middle-income taxpayers: the Alternative Minimum Tax, or AMT. My bill would retroactively index to inflation the exemptions used to calculate an individual taxpayer's AMT liability. The indexation would begin in 1993—the last time these exemptions were raised. The AMT is conspicuous for its lack of indexation. Under the regular income tax, the tax rate structure, the standard deductions, the personal exemptions, and certain other structural components are indexed so that taxpayers are not pushed into higher income tax brackets just because their income has kept pace with the cost of living.

The Joint Tax Committee estimates that in 1997, 605,000 taxpayers were subject to the AMT. According to these same estimates, which take into account the changes in the Taxpayer Relief Act of 1997, taxpayers subject to the AMT could total 12 million by 2007. This is an increase of more than 1,800 percent in the number of taxpayers paying this particular tax. According to the Joint Tax Committee, this dramatic expansion of the AMT's reach can largely be attributed to the lack of indexation of the AMT exemptions.

The AMT was created in 1969 after a Treasury Department study revealed that 155 individuals who had annual incomes in excess of \$200,000 had avoided paying taxes because of loopholes in the tax code. We can all agree that upper-income individuals should pay their fair share of taxes. The AMT was created effectively to be a tax on the use of incentives and preferences to reduce an individual's income tax liability. However, since its implementation, the AMT has inadvertently created larger tax burdens for the middle-class, who were never meant to be subject to the AMT.

Of the more than two million taxpayers who this year will be subject to the AMT, about half will have incomes between \$30,000 and \$100,000. Some are single working parents; and some are people who make as little as \$527 a week, according to a recent article by David Cay Johnston in the January 10, 1999 New York Times. Mr. President, I will submit this article for the RECORD. Overall, the number of people affected by this tax is expected to grow 26 percent a year for the next decade.

The Taxpayer Relief Act of 1997 accelerated the growth of the AMT. Under this law, even more middle-income families may be subject to the AMT because they cannot take the full value of their child and education tax credits without reaching the AMT limits for deductions.

Even if Congress were to exempt the child and education tax credits from the AMT calculation, it would only slow the spread of the AMT slightly if the tax is not indexed for inflation, according to a study by two Treasury Department economists, Robert Rebelein and Jerry Tempalski. I will also submit their study for the RECORD.

I believe that indexing the AMT exemptions is the best way to restrain the unintended reach of the AMT. The AMT exemptions have only been raised once, in 1993, by 12.5 percent, from \$40,000 to \$45,000. Since 1986, when the tax code was last overhauled, the cost of living has risen 43 percent. Indexing would bring the AMT into line with the rest of our tax structure. It would also avoid adding any complexity to the already burdensome task of taxpaying Americans.

Let me give you a real life example of how the AMT has crept up on middle-income taxpayers. The New York Times article provided a stark picture of the AMT. David and Margaret Klaassen of Marquette, Kansas, are a couple with 13 children. Mr. Klaassen works at home as a lawyer. In 1997, Mr. Klaassen earned \$89,751 and paid \$5,989 in Federal income tax. The IRS sent the Klaassens a notice in December 1998 demanding an additional payment of \$3,761 under the AMT, including a penalty. The Klaassens' tax bill was higher because the AMT, a tax mechanism aimed at wealthy individuals who would otherwise pay no taxes, applied to them.

The Klaassens are subject to the AMT because medical expenses for their 13 children, which include costs of battling their son's leukemia, resulted in exemptions and deductions totaling more than \$45,000. Certainly the Congress did not intend for the AMT to create an extra burden for families like the Klaassens.

Mr. President, there is agreement from both the Administration and Congress that the AMT is a growing problem for the middle class and that something must be done. In this new era of budget surpluses, the time has come for us to act to restore some measure of fairness and simplicity to our income tax code. This is why I advocate indexing the AMT, an approach that is supported by both the Tax Foundation and Citizens for Tax Justice.

Mr. President, I ask unanimous consent that my bill to index the AMT exemptions for inflation as well as additional material be printed in the RECORD.

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

S. 537

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

**SECTION 1. INFLATION ADJUSTMENT FOR INDIVIDUAL AMT EXEMPTION AMOUNTS.**

(a) IN GENERAL.—Section 55(d) of the Internal Revenue Code of 1986 (relating to exemption amount) is amended by adding at the end the following:

“(4) INFLATION ADJUSTMENT.—

“(A) IN GENERAL.—In the case of any taxable year beginning after 1998, each of the dollar amounts contained in paragraphs (1) and (3) shall be increased by an amount equal to—

“(i) such dollar amount, multiplied by

“(ii) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year.

“(B) ROUNDING.—If any increase determined under subparagraph (A) is not a multiple of \$50, such increase shall be rounded to the nearest multiple of \$50.”

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1998.

[From the New York Times, Jan. 10, 1999]

FUNNY, THEY DON'T LOOK LIKE FAT CATS

(By David Cay Johnston)

Three decades ago, Congress, embarrassed by the disclosure that 155 wealthy Americans had paid no Federal income taxes, enacted legislation aimed at preventing the very rich from shielding their wealth in tax shelters.

Today, that legislation, creating the alternative minimum tax, is instead snaring a rapidly growing number of middle-class taxpayers, forcing them to pay additional tax or to lose some of their tax breaks.

Of the more than two million taxpayers who will be subject this year to the alternative minimum tax, or A.M.T., about half have incomes of \$30,000 to \$100,000. Some are single parents with jobs; some are people making as little as \$527 a week. Over all, the number of people affected by the tax is expected to grow 26 percent a year for the next decade.

But many of the wealthy will not be among them. Even with the A.M.T., the number of taxpayers making more than \$200,000 who pay no taxes has risen to more than 2,000 each year.

How a 1969 law aimed at the tax-shy rich became a growing burden on moderate earners illustrates how tax policy in Washington can be a hall of mirrors.

While some Republican Congressmen favor eliminating the tax, other lawmakers say such a move would be an expensive tax break for the wealthy—or at least would be perceived that way, and thus would be politically unpalatable. And any overhaul of the system would need to compensate for the \$6.6 billion that individuals now pay under the A.M.T. This year, such payments will account for almost 1 percent of all individual income tax revenue.

“This is a classic case of both Congress and the Administration agreeing that the tax doesn't make much sense, but not being able to agree on doing anything about it,” said C. Eugene Steuerle, an economist with the Urban Institute, a nonprofit research organization in Washington.

Mr. Steuerle was a Treasury Department tax official in 1986, when an overhaul of the tax code set the stage for drawing the middle class into the A.M.T.

In eliminating most tax shelters for the wealthy, Congress decided to treat exemptions for children and deductions for medical expenses just like special credits for investors in oil wells, if they cut too deeply into a household's taxable income.

Congress decided that once these “tax preferences” exceeded certain amounts—\$40,000 for a married couple, for example—people would be moved out of the regular income tax and into the alternative minimum tax. At the time, the threshold was high enough to affect virtually no one but the rich. But it has since been raised only once—by 12.5 percent, to \$45,000 for a married couple—while the cost of living has risen 43 percent. And so the limits have sneaked up on growing numbers of taxpayers of more modest means.

“Everyone knew back then that it had problems that had to be fixed,” Mr. Steuerle recalled. “They just said, ‘next year.’”

But “next year” has never come—and it is unlikely to arrive in 1999, either. While tax policy experts have known for years that the middle class would be drawn into the A.M.T., few taxpayers have been clamoring for change.

Among those few, however, are David and Margaret Klaassen of Marquette, Kan. Mr. Klaassen, a lawyer who lives in and works out of a farmhouse, made \$89,751.07 in 1997 and paid \$5,989 in Federal income taxes. Four weeks ago, the Internal Revenue Service sent the Klaassens a notice demanding \$3,761 more under the alternative minimum tax, including a penalty because the I.R.S. said the Klaassens knew they owed the A.M.T.

Mr. Klaassen acknowledges that he knew the I.R.S. would assert that he was subject to the A.M.T., but he says the law was not meant to apply to his family. “I've never invested in a tax shelter,” he said. “I don't even have municipal bonds.”

The Klaassens do, however, have 13 children and their attendant medical expenses—including the costs of caring for their second son, Aaron, 17, who has battled leukemia for years. It was those exemptions and deductions that subjected them to the A.M.T.

“What kind of policy taxes you for spending money to save your child's life?” Mr. Klaassen asked.

The tax affects taxpayers in three ways. Some, like the Klaassens, pay the tax at either a 26 percent or a 28 percent rate because they have more than \$45,000 in exemptions and deductions. Others do not pay the A.M.T. itself, but they cannot take the full tax breaks they would have received under the regular income tax system without running up against limits set by the A.M.T. The A.M.T. can also convert tax-exempt income from certain bonds and from exercising incentive stock options into taxable income.

It may be useful to think of the alternative minimum tax as a parallel universe to the regular income tax system, similar in some ways but more complex and with its own classifications of deductions, its own rates and its own paperwork. The idea was that taxpayers who had escaped the regular tax universe by piling on credits and deductions would enter this new universe to pay their fair share. (Likewise, there is a corporate A.M.T. that parallels the corporate income tax.)

At first, the burden of the A.M.T. fell mainly on the shoulders of business owners and investors, said Robert S. McIntyre, executive director of Citizens for Tax Justice, a nonprofit group in Washington that says the tax system favors the rich. Based on I.R.S. data, Mr. McIntyre said he found that 37 percent of A.M.T. revenue in 1990 was a result of business owners using losses from previous years to reduce their regular income taxes; an additional 18 percent was because of big deductions for state and local taxes.

But that has begun to shift, largely as a result of the 1986 changes, which eliminated most tax shelters and lowered tax rates.

When President Reagan and Congress were overhauling the tax code, they could not make the projected revenue under the new

rules equal those under the old system. Huge, and growing, budget deficits made it politically essential for the official estimates to show that after tax reform, the same amount of money would flow to Washington.

One solution, said Mr. Steuerle, the former Treasury official, was to count personal and dependent exemptions and some medical expenses as preferences to be reduced or ignored under the A.M.T. just as special credits for petroleum investments and other tax shelters are.

Mortgage interest and charitable gifts were not counted as preferences, according to tax policy experts who worked on the legislation, because they generated more money than was needed.

But the A.M.T. has not stayed "revenue neutral," in Washington parlance.

The regular income tax was indexed for inflation in 1984, so that taxpayers would not get pushed into higher tax brackets simply because their income kept pace with the cost of living.

The A.M.T. limits, however, have not been indexed. The total allowable exemptions before the tax kicks in have been fixed since 1993 at \$45,000 for a married couple filing jointly. For unmarried people, the total amount is now \$33,750, and for married people filing separately, it is \$22,500.

If the limit has been indexed since 1986, when the A.M.T. was overhauled, it would be about \$57,000 for married couples filing jointly—and most middle-income households would still be exempt.

Mr. Steuerle said he warned at the time that including "normal, routine deductions and exemptions that everyone takes" in the list of preferences would eventually turn the A.M.T. into a tax on the middle class.

That appears to be exactly what has happened.

For example, a married person who makes just \$527 a week and files her tax return separately can be subject to the tax, said David S. Hulse, an assistant professor of accounting at the University of Kentucky.

And the Taxpayer Relief Act of 1997, which allows a \$500-a-child tax credit as well as education credits, may make even more middle-class families subject to the A.M.T. by reducing the value of those credits.

Two Treasury Department economists recently calculated that largely because of the new credits, the number of households making \$30,000 to \$50,000 who must pay the alternative minimum tax will more than triple in the coming decade. The economists, Robert Rebelein and Jerry Tempalski, also calculated that for households making \$15,000 to \$30,000 annually, A.M.T. payments will grow 25-fold, to \$1.2 billion, by 2008.

Last year, many more people would have been subject to the A.M.T. if Congress had not made a last-minute fix pushed by Representative Richard E. Neal, Democrat of Massachusetts, that—for 1998 only—exempted the new child and education credits. The move came after I.R.S. officials told Congress that the credits added enormous complexity to calculating tax liability. Figuring out how much the A.M.T. would reduce the credits was beyond the capacity of most taxpayers and even many paid tax preparers, the I.R.S. officials said.

Even if Congress makes a permanent fix to the problems created by the child and education credits, it will put only a minor drag on the spread of the A.M.T. as long as the tax is not indexed for inflation. The two Treasury economists calculated that revenue from the tax would climb to \$25 billion in 2008 without a fix, or to \$21.9 billion with one.

In 1999, if there is no exemption for the credits, a single parent who does not itemize

deductions but who makes \$50,000 and takes a credit for the costs of caring for two children while he works, will be subject to the A.M.T. estimated Jeffrey Pretsfelder, an editor at RIA Group, a publisher of tax information for professionals.

If the tax laws are not changed, 8.8 million taxpayers will have to pay the A.M.T. a decade from now, the Congressional Joint Committee on Taxation estimated last month. Add in the taxpayers who will not receive the full value of their deductions because they run up against the limits set by the A.M.T., and the total grows to 11.6 million taxpayers—92 percent of whom have incomes of less than \$200,000, the two Treasury economists estimated.

While many lawmakers and Treasury officials have criticized the impact of the tax on middle-class taxpayers, there are few signs of change, as Republicans and the Administration talk past each other.

Representative Bill Archer, the Texas Republican who as the chairman of the House Ways and Means Committee is the chief tax writer, said the A.M.T. should be eliminated in the next budget.

"Unfortunately, the A.M.T. tax can penalize large families, which is part of the reason why Republicans for years have tried to eliminate it or at least reduce it," Mr. Archer said. "Unfortunately, President Clinton blocked our efforts each time."

Lawrence H. Summers, the Deputy Treasury Secretary, said the Administration was "very concerned that the A.M.T. has a growing impact on middle-class families, including by diluting the child credit, education credits and other crucial tax benefits, and we hope to address this issue in the President's budget."

"Subject to budget constraints, we look forward to working with Congress on this important issue," he continued.

That revenue concerns have thwarted exempting the middle class runs counter to the reason Congress initially imposed the tax.

"You need an A.M.T. because people who make a lot of money should pay some income taxes," said Mr. McIntyre, of Citizens for Tax Justice. "If you believe, like Mr. Archer and a lot of Republicans do, that the more you make the less in taxes you should pay, then of course you are against the A.M.T. But somehow I don't think most people see it that way."

The Klaassens, meanwhile, are challenging the A.M.T. in Federal Court. The United States Court of Appeals for the 10th Circuit is scheduled to hear arguments in March on their claim that the tax infringes their religious freedom. The Klaassens, who are Presbyterians, say they believe children "are a blessing from God, and so we do not practice birth control." Mr. Klaassen said.

When Mr. Klaassen wrote to an I.R.S. official complaining that a \$1,085 bill for the A.M.T. for 1994 resulted from the size of his family, he got back a curt letter saying that his "analysis of the alternative minimum tax's effect on large families was interesting but inappropriate" and advising him that it was medical deductions, not family size, that subjected him to the A.M.T.

Under the regular tax system, medical expenses above 7.5 percent of adjusted gross income—the last line on the front page of Form 1040—are deductible. Under the A.M.T., the threshold is raised to 10 percent.

Still doubting the I.R.S.'s math, Mr. Klaassen decided to test what would have happened had he filed the same tax return, changing only the number of children he claimed as dependents. He found that if he had seven or fewer children, the A.M.T. would not have applied in 1994.

But the eighth child set off the A.M.T., at a cost of \$223. Having nine children raised

the bill to \$717. And 10 children, the number he had in 1994, increased that sum to \$1,085—the amount the I.R.S. said was due.

"We love this country and we believe in paying taxes," Mr. Klaassen said. "But we cannot believe that Congress ever intended to apply this tax to our family solely because of how many children we choose to have. And I have shown that we are subject to the A.M.T. solely because we have chosen not to limit the size of our family."

The I.R.S., in papers opposing the Klaassens, noted that tax deductions are not a right but a matter of "legislative grace."

Mr. Klaassen turned to the Federal courts after losing in Tax Court. The opinion by Tax Court Judge Robert N. Armen, Jr. was summed up this way by Tax Notes, a magazine that critiques tax policy: "Congress intended the alternative minimum tax to affect large families when it made personal exemptions a preference item."

Several tax experts said that Mr. Klaassen had little chance of success in the courts because the statute treating children as tax preferences was clear. They also said that nothing in the A.M.T. laws was specifically aimed at his religious beliefs.

Meanwhile, for people who make \$200,000 or more, the A.M.T. will be less of a burden this year because of the Taxpayer Relief Act of 1997, which included a provision lowering the maximum tax rate on capital gains for both the regular tax and the A.M.T. to 20 percent.

Mr. Rebelein and Mr. Tempalski, the Treasury Department economists, calculated recently that people making more than \$200,000 would pay a total of 4 percent less in A.M.T. for 1998 because of the 1997 law. By 2008, their savings will be 9 percent, largely as a result of lower capital gains rates and changed accounting rules for business owners.

"This law was passed to catch people who use tax shelters to avoid their obligations," Mr. Klaassen said. "But instead of catching them it hits people like me. This is just nuts."

#### THREE WAYS TO DEAL WITH A TAXING PROBLEM

President Clinton, his tax policy advisers and the Republicans who control the tax writing committees in Congress all agree that the alternative minimum tax is a growing problem for the middle class. But there is no agreement on what to do. Here are some options that have been discussed:

Raise the exemption—Representative Bill Archer, the Texas Republican who is the chairman of the House Ways and Means Committee, two years ago proposed raising the \$45,000 A.M.T. exemption for a married couple by \$1,000. But that would leave many middle-class families subject to the tax, because it would not fully account for inflation. To do that would require an exemption of about \$57,000, followed by automatic inflation adjustments. That is the most widely favored approach, drawing support from people like J.D. Foster, executive director of the Tax Foundation, a group supported by corporations, and Robert S. McIntyre, executive director of Citizens for Tax Justice, which is financed in part by unions and contends that the tax system favors the rich.

Exempt child and education credits—For 1998 only, Congress exempted the child tax credit and the education tax credits from the A.M.T. But millions of taxpayers will lose these credits, or get only part of them, unless Congress makes a fix each year or permanently exempts them.

Eliminate it—Mr. Archer and other Republicans want to get rid of the A.M.T. but have not proposed how to make up for the lost revenue, which in a decade is expected to grow to \$25 billion annually. Recently, however, Mr. Archer has said that in a period of

Federal budget surpluses, it may be time to scrap the budget rules that require paying for tax cuts with reduced spending or tax increases elsewhere.

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EFFECT OF TRA '97 ON THE INDIVIDUAL AMT  
(By Robert Rebelein and Jerry Tempalski)

Robert Rebelein and Jerry Tempalski are financial economists in the Office of Tax Analysis at the Treasury Department.

The authors believe that even without enactment of TRA '97, the estimated number of individual AMT taxpayers would have increased from 0.9 million in 1997 to 8.5 million in 2008 (a 23 percent annual growth rate). Primarily because of the new child and education credits, TRA '97 increases the number of AMT taxpayers in 2008 to 11.6 million, or 11 percent of all individual taxpayers. They project that TRA '97 increases the estimated amount of tax paid because of the individual AMT from \$20.8 billion in 2008 to \$25 billion.

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Even before the Taxpayer Relief Act of 1997 (TRA '97) was enacted in August 1997, the individual alternative minimum tax (AMT) had begun to receive considerable attention.<sup>1</sup> The reason for this attention was the increasing awareness that both the number of tax-payers<sup>2</sup> affected by the AMT and the AMT taxes they pay would increase significantly over the next 10 years. Without TRA '97 the number of taxpayers affected by the AMT would have grown from 0.9 million in 1997 to 8.5 million in 2008 (an annual growth rate of 23 percent); tax liability from the AMT would have grown from \$5.0 billion in 1997 to \$20.8 billion in 2008 (an annual growth rate of 14 percent).<sup>3</sup>

Since passage of TRA '97, the individual AMT has received even more attention.<sup>4</sup> The primary reason is that TRA '97 includes provisions that have a major effect on the individual AMT. Although some of these provisions reduce the effect of the AMT on taxpayers, the overall effect of TRA '97 is to increase significantly both the number of AMT taxpayers and the taxes they pay because of the AMT.

TRA '97 reduces overall tax liability by \$27.0 billion in 2008 for individual taxpayers. The benefits of TRA '97 would be even greater if not the AMT. TRA '97 increases AMT liability by \$4.2 billion in 2008. Nevertheless, taxpayers whose AMT liability is affected by TRA '97 see their overall tax liability fall by \$4.5 billion in 2008.

The first section of this report discusses how the individual AMT works and why the effect of the AMT increases so sharply over the next 10 years. The second section begins by examining the overall effects of TRA '97 on the AMT and follows with a detailed, provision-by-provision examination of the effects of TRA '97 on the AMT.

#### I. ALTERNATIVE MINIMUM TAX

The individual AMT is like a parallel income tax to the regular individual tax. The AMT is structured similarly to the regular tax, but the AMT uses a generally broader tax base, lower tax rates, higher exemption, and fewer allowable tax credits.

The AMT was generally intended to apply only to the relatively few high-income taxpayers who Congress believed overused certain tax deductions, exclusions, or credits and consequently were not paying their fair share of taxes. The AMT, however, increas-

ingly affects many taxpayers not traditionally viewed as taking aggressive tax positions or abusing the system. In addition, the AMT can also significantly complicate filing a tax return for millions of taxpayers, particularly those with personal tax credits, who often are supposed to make tedious calculations only to determine they have no AMT liability.

The primary reason for the increase in the number of AMT taxpayers is that, unlike regular income tax parameters, AMT parameters (primarily the AMT exemption) are not indexed for inflation.<sup>5</sup> As nominal income rises each year, partially as a result of inflation, more taxpayers become subject to the AMT. In addition, the lack of AMT indexing exposes other anomalies that also may not have been intended.<sup>6</sup> For example, the AMT does not allow deductions for personal exemptions or state and local taxes paid. As a result, taxpayers with large families are more likely to be affected by the AMT than taxpayers with small families, and taxpayers living in high-tax states are more likely to be affected by the AMT than taxpayers living in low-tax states.

#### A. Structure of the AMT

A taxpayer's AMT liability is the difference between a taxpayer's regular income tax liability (before any interaction with the AMT) and the taxpayer's tentative AMT (TAMT). TAMT is calculated using AMT income (AMTI), the AMT exemption, AMT tax rates, and allowable AMT credits.<sup>7</sup>

AMT is the sum of taxable income under the regular tax (as calculated on Form 1040) plus the many AMT preferences.<sup>8</sup> AMT preferences are items excluded from taxable income under the regular tax but included in AMTI. There were 28 AMT preferences in 1995, with 4 items accounting for 86 percent (in dollar terms) of total AMT preferences: state and local tax deductions accounted for 46 percent, miscellaneous deductions above the 2-percent floor for 19 percent, personal exemptions for 13 percent, and post-1986 depreciation for 8 percent. With the possible exception of the last item, these are not tax-shelter type preferences.

The AMT exemption is \$45,000 for joint returns (\$33,750 for singles and heads-of-household (HH)); the exemption is not adjusted for inflation nor is it based on the number of dependents. The exemption is phased out at the rate of \$0.25 per \$1 of AMTI above \$150,000 for joint returns (\$112,500 for singles and HH). The AMT tax rate is 26 percent on the first \$175,000 of AMTI above the AMT exemption and 28 percent on AMTI more than \$175,000 above the exemption.<sup>9</sup>

The AMT affects taxpayers primarily in two ways.<sup>10</sup> First, a taxpayer can be directly subject to the AMT by having AMT liability as calculated on the AMT form (Form 6251). The difference between a taxpayer's regular tax liability (before other taxes and credits, except the foreign tax credit) and his TAMT is the taxpayer's AMT liability from Form 6251.

Second, a taxpayer can be indirectly subject to the AMT by having the amount of usable tax credits reduced by the AMT. The AMT can limit the ability of a taxpayer to use tax credits, because the AMT disallows the use of most credits in calculating TAMT. Put differently, most tax credits cannot be used in calculating a taxpayer's regular tax liability if they would push the taxpayer's regular tax liability below his TAMT. The effect of credits "lost" because of this AMT restriction is reflected on the credit forms themselves, rather than on Form 6251.<sup>11</sup> For example, if a taxpayer has regular tax liability (before tax credits) of \$1,000, \$200 in education credits, and \$600 in TAMT, the taxpayer has a total tax liability of \$800 (\$1,000

less \$200), with no AMT liability. If, instead, the taxpayer had a TAMT of \$1,050, the taxpayer would have a total tax liability of \$1,050. This taxpayer's AMT liability would be \$250, \$50 that would be reported on the Form 6251 (\$1,050 less \$1,000) and \$200 (\$1,000 less \$800) that would be reported on the education credit form as reduced allowable credits.

#### II. TAXPAYER RELIEF ACT OF 1997

TRA '97 contains six provisions that can significantly affect the individual AMT:<sup>12</sup> Child credit; HOPE education credit; lifetime Learning credit; conformation of AMT depreciation lives with regular tax lives; kiddie tax simplification; and capital gains rate cut.

Three of these provisions generally increase the effect of the AMT on taxpayers—the child credit, the HOPE education credit, and the Lifetime Learning education credit. Two provisions generally reduce the effect of the AMT on taxpayers—conform AMT depreciation lives to regular tax depreciation lives, and raise the minimum AMT exemption for kiddie-tax tax payers and uncouple their AMT exemption from their parents' AMT exemption.<sup>13</sup> The capital gains rate cut reduces AMT liability for some taxpayers but increases AMT liability for others.

#### A. Overall effect

Relative to pre-TRA '97 law, TRA '97 increases the number of taxpayers on the AMT by between 37 and 58 percent each year from 1998 to 2008. (See Table 1.) This percentage is generally lower at the end of the period when the number of AMT taxpayers under pre-TRA '97 law is already relatively high; TRA '97 increases the number of AMT taxpayers by 58 percent (0.7 million) in 1999, but only by 37 percent (3.2 million) in 2008.

Although TRA '97 increases the overall number of AMT taxpayers, it does eliminate the effect of the AMT on some taxpayers. TRA '97 removes about 15 percent of the taxpayers with AMT liability under pre-TRA '97 law from the AMT (0.2 million in 1999, 0.3 million in 2002, and 0.9 million in 2008). The majority of taxpayers removed from the AMT by TRA '97 have AGIs of less than \$15,000.

Under pre-TRA '97 law the number of AMT taxpayers, as a percentage of total taxpayers, grows from 1 percent in 1997, to 2 percent in 2002, and to 8 percent in 2008. Under post-TRA '97 law this percentage grows to 3 percent in 2002 and to 11 percent in 2008.<sup>14</sup>

TRA '97 significantly increases the percentage of AMT taxpayers with AGIs between \$15,000 and \$100,000 of AGI (in 1999 dollars). (See Tables 2 and 3.) In 1999 taxpayers in this income range account for 32 percent of all AMT taxpayers under pre-TRA '97 law and 57 percent under post-TRA '97 law; in 2008 the pre-TRA '97 percentage is 45 percent and the post-TRA '97 percentage is 65 percent. The percentage of taxpayers in this income range who are subject to the AMT in 2008 is 5 percent under pre-TRA '97 law, but 10 percent under post-TRA '97 law. Taxpayers in this income range are the primary beneficiaries of the child and education credits, so it is not surprising that they feel the pinch of the AMT most.

For taxpayers in the other income groups, TRA '97 sometimes reduces the effect of the AMT. Taxpayers with less than \$15,000 in real AGI are the primary beneficiaries of the kiddie-tax provision and account for a significant amount of the benefits from the depreciation provision. Most taxpayers with real AGIs above \$100,000 are ineligible for the new credits, and many benefit from the depreciation provision.

From 1998 to 2008, TRA '97 increases AMT liability by between 5 percent and 20 percent each year relative to pre-TRA '97 law. (See

Footnotes at end of article.

Table 4.) AMT liability increases by \$0.5 billion in 1998, by \$0.5 billion in 2002, and by \$4.2 billion in 2008. The effect of TRA '97 on AMT liability is smallest in 2000 and 2001, when relatively few child and education credits are lost because of the AMT and when the effect of the depreciation provision is relatively large. In 2008, the effect of the TRA '97 law on AMT liability is largest because the amount of TRA '97 credits lost is relatively large.

TRA '97 significantly changes the distribution of AMT liability between lost credits (i.e., tax credits unusable because of the AMT) and liability from the AMT form. (See Table 4.) Under pre-TRA '97 law roughly three times as many taxpayers have AMT liability from the AMT form than have lost credits. Under post-TRA '97 law the number of taxpayers with lost credits is actually greater (by roughly 20 percent) than the number with AMT liability from the AMT form.<sup>15</sup>

#### B. Effects of individual TRA '97 provisions

1. Child and education credits. The TRA '97 provisions having the greatest effect on the AMT are the child credit and the two education credits. All three credits can reduce a taxpayer's regular tax liability, but, like most tax credits, their use can be limited (or even eliminated) by a taxpayer's TAMT.<sup>16</sup>

The number of taxpayers who benefit from the child credit and education credits decreases in almost every year over the 1998-to-2008 period. (See Table 5.) There are two primary reasons for these annual decreases. First, the income-eligibility thresholds for the child credit are not indexed for inflation. As a taxpayer's income increases each year, the amount of the child credit a taxpayer near the thresholds can take is reduced. For example, a joint taxpayer with one child who had \$100,000 in modified AGI in 1999 would be eligible for the full \$500 child credit. If that taxpayer's income increased each year by the inflation rate, the taxpayer's modified AGI would be about \$122,000 in 2008 and the taxpayer would be ineligible for the child credit. Second, because the individual AMT parameters are not indexed for inflation, each year the AMT completely eliminates the credits for an increasing number of taxpayers. The number of taxpayers who completely lose the credits because of the AMT is 0.3 million in 1999, 0.5 million in 2002, and 2.3 million in 2008.

The following sections discuss the effect of the child credit first, the two education credits second, and the combined effect of the three credits third.

a. Child credit. Effective January 1, 1998 the child credit allows a \$500 tax credit for each dependent child under age 17 at year-end.<sup>17</sup> The credit is reduced by \$50 for each \$1,000 of modified AGI for joint returns with modified AGI above \$110,000 (\$75,000 for singles and HH).

The number of taxpayers whose child credit is reduced or eliminated by the AMT grows at a 25-percent annual rate, from 0.6 million in 1998 to 6.0 million in 2008 (See Table 3.) The number of taxpayers added to the AMT because of the child credit grows from 0.3 million in 1998 to 0.9 million in 2002 and to 2.5 million in 2008; the amount of child credits lost because of the AMT grows from \$0.3 billion in 1998 to \$0.9 billion in 2002, and to \$3.5 billion in 2008.

b. Education credits.<sup>18</sup> Effective January 1, 1998, the \$1,500 HOPE tax credit is available for college tuition and certain fees incurred. For each student, the HOPE credit covers the first \$1,000 and 50 percent of the next \$1,000 in education expenses incurred in the first two years of college. The credit is phased-out ratably for joint taxpayers with modified AGI between \$80,000 and \$100,000 (\$40,000 and \$50,000 for singles).<sup>19</sup>

Beginning July 1, 1998, a taxpayer can elect to take a lifetime learning (LL) credit rather than a HOPE credit for a qualifying student. Through December 31, 2002, the LL credit equals 20 percent of the first \$5,000 in education expenses (\$1,000 maximum credit). After December 31, 2002, the credit equals 20 percent of the first \$10,000 in expenses (\$2,000 maximum credit). The credit is phased-out ratably for joint taxpayers with modified AGI between \$80,000 and \$100,000 (\$40,000 and \$50,000 for singles).<sup>20</sup>

Because fewer taxpayers benefit from the education credits than the child credit, the effect of the AMT on the education credits is less than the effect on the child credit. (See Table 5.) The number of taxpayers who have their education credits reduced or eliminated because of the AMT grows from 0.4 million in 1998 to 2.5 million in 2008, a 20-percent annual growth rate. The number of taxpayers added to the AMT because of the education credits grows from 0.3 million in 1998 to 0.6 million in 2002 and to 1.3 million in 2008. The amount of education credits lost because of the AMT grows from \$0.3 billion in 1998 to \$0.6 billion in 2002 and to \$2.1 billion in 2008.

c. Child and education credits combined. Because double-counting is removed, the effect of the AMT on the child credit and education credits combined is less than the sum of the individual effects. The number of taxpayers with TRA '97 credits reduced or eliminated by the AMT grows from 0.8 million in 1998 to 6.7 million in 2008, a 23-percent annual rate. The number of taxpayers added to the AMT because of these credits grows from 0.6 million in 1998 to 1.3 million in 2002 and to 3.8 million in 2008, and the amount of these credits lost because of the AMT grows from \$0.5 billion in 1998 to \$1.2 billion in 2002 and to \$5.1 billion in 2008.

The increase in the percentage of taxpayers whose child and education credits are reduced or eliminated by the AMT is striking. In 1998 34.1 million taxpayers would be eligible for the credits in the absence of the AMT; of these taxpayers, 3 percent have their credits reduced or eliminated by the AMT. In 2002 and 2008 the number of taxpayers eligible for the credits in the absence of the AMT is almost the same as in 1998, but the percentage whose credits are reduced or eliminated by the AMT is 6 percent in 2002 and 20 percent in 2008.

2. Other TRA '97 provisions. The effects of the three other TRA '97 provisions on the AMT are much smaller than the effects of the three credit provisions.

a. Depreciation. The provision to conform AMT depreciation lives to regular tax lives primarily affects corporate AMT taxpayers. The provision affects some individual AMT taxpayers (0.4 million in 2008), however, and the average benefit from the provision per individual-tax taxpayer is substantial, \$2,300 in 2008. The total benefit to individual tax taxpayers grows from \$0.2 billion in 1999 to \$0.7 billion in 2002 and to \$0.8 billion in 2008.

b. Kiddie tax. The provision to raise the minimum AMT exemption for kiddie-tax taxpayers from \$1,000 to \$5,000 and uncouple a dependent's AMT exemption from his parents' (or sibling's) AMT exemption is a simplification provision designed to benefit a significant number of taxpayers at relatively little cost to the government. The number of taxpayers who benefit from the proposal (0.5 million in 2008) is about the same as the number of individual taxpayers who benefit from the depreciation provision, but the cost to the government is much lower—less than \$100 per taxpayer. The total benefit of the kiddie tax provision to taxpayers is \$5 million in 1998 and grows to \$20 million in 2008.

c. Capital gains. The capital gains provision limits the AMT tax rate on capital

gains to 20 percent (the limit is 10 percent for taxpayers in the 15-percent regular tax bracket).<sup>21</sup> The provision can lower the AMT liability for taxpayers whose AMT tax rate on capital gains falls by more than their regular tax rate on capital gains (i.e., those whose TAMT falls by more than their regular tax liability). Consider, for example, a taxpayer who faced a pre-TRA '97 regular tax capital gains rate of 28 percent and a pre-TRA '97 AMT rate of 32.5 percent (combined effect of 26-percent statutory AMT rate and phase-out of AMT exemption). TRA '97 decreases this taxpayer's regular-tax rate on capital gains by 8 percentage points and her AMT rate on capital gains by 12.5 percentage points. This taxpayer's regular-tax liability is reduced by less than her TAMT, so the capital gains provision reduces the effect of the AMT on this taxpayer. On the other hand, consider a taxpayer who faced a pre-TRA '97 regular tax capital gains rate of 28 percent and a pre-TRA AMT rate of 26 percent. TRA '97 decreases this taxpayer's regular-tax rate on capital gains by 8 percentage points and her AMT rate on capital gains by 6 percentage points. This taxpayer's regular-tax liability is reduced by more than her TAMT, so the capital gains provision increases the effect of the AMT on this taxpayer. In no case, however, can the capital gains rate cut increase AMT liability so as to completely offset the reduced regular tax liability.

On net, the capital gains provision increases the number of AMT taxpayers by 0.3 million in each year of the 1998–2008 period. The number of taxpayers added to the AMT because of the capital gains provision is about 0.4 million in each year, and the number of taxpayers removed from the AMT is about 0.1 million each year.<sup>22</sup>

The provision essentially does not change AMT liability over the period. Taxpayers with increased AMT liability incur between \$0.5 billion and \$0.8 billion in increased AMT liability in each year of the period; this increased liability is almost exactly offset each year by decreased AMT liability for other tax-payers.

#### III. CONCLUSION

Before TRA '97 was enacted, many tax experts were aware that the individual AMT had serious long-run problems that needed fixing. The number of taxpayers who would face the potentially daunting task of filling out the AMT form and paying AMT taxes would increase to such a high level within the next several years that significant pressure to reform the AMT would arise. Despite its generally beneficial effect on taxpayers, TRA '97 exacerbated the AMT problem considerably and probably increased the pressure for AMT reform.

<sup>1</sup>See, e.g., Robert P. Harvey and Jerry Tempalski, "The Individual AMT: Why It Matters," *National Tax Journal*, Vol. L, No. 3, September 1997, p. 453; Martin A. Sullivan, "The Individual AMT: Nowhere to Go But Up," *Highlights & Documents*, October 24, 1996, p. 773.

<sup>2</sup>For estimates presented in this report, a couple filing a joint return counts as one taxpayer.

<sup>3</sup>All post-1995 numbers in this report are estimates made using the Treasury Department's Individual Tax Model and the Clinton Administration's economic forecast from the FY99 Budget.

<sup>4</sup>Lee A. Sheppard, "Tax Accounting for 'No-Necked Monsters,'" *Tax Notes*, Aug. 3, 1998, p. 524. See, e.g., Albert B. Crenshaw, "Now You See It, Now You Don't: Tax Law to Make Benefits Disappear," *The Washington Post*, September 17, 1997, p. C9, C11; Albert B. Crenshaw, "More People Feel the Pinch of the Alternative Minimum Tax," *The Washington Post*, September 21, 1997, p. H1, H4; "AMT, Cash Machine," *The Wall Street Journal*, October 8, 1997, p. A22.

<sup>5</sup>Since 1985, regular income tax parameters have been indexed for inflation.

<sup>6</sup>These other anomalies may not have been viewed as significant when most taxpayers subject to the

AMT had tax-shelter type preferences; the anomalies are more troublesome when even taxpayers with no preferences of that type are subject to the AMT.

<sup>7</sup>For a detailed discussion of how the AMT works, see Harvey and Tempalski (1997).

<sup>8</sup>Personal exemptions are treated here as an AMT preference.

<sup>9</sup>For taxpayers in the phase-out range of the AMT exemption, the 26 percent AMT tax rate effectively becomes a 32.5 percent rate and the 28 percent rate becomes a 35 percent rate.

<sup>10</sup>For a small number of taxpayers, the AMT can affect taxpayers in a third way. Because the AMT treats the standard deduction as a preference item, some taxpayers with itemized deductions less than the standard deduction can lower their overall tax liability if they itemize deductions rather than take the standard deduction. This tax-minimizing behavior could occur if most itemized deductions are not AMT preferences (e.g., charitable contributions). For these taxpayers, itemizing increases regular tax liability but lowers AMT liability even more, thus decreasing total tax liability.

<sup>11</sup>A few of these "lost" credits, particularly general business credits, can be carried back or carried forward, so they may not be permanently lost.

<sup>12</sup>Except for some taxpayers who voluntarily increase their capital gains realizations because of the capital gains rate cut, nearly all taxpayers affected by the six provisions have their overall tax liability reduced by the provisions.

<sup>13</sup>The kiddie-tax provision can increase the effect of the AMT for a very small number of taxpayers, less than 3,000 in 2008. The additional AMT liability for these taxpayers totals less than \$1 million in 2008.

<sup>14</sup>TRA '97 affects the percentage of taxpayers on the AMT in two ways. First, it increases the number of AMT taxpayers by 3.2 million in 2008. Second, it decreases the total number of taxpayers by 3.9 million in 2008, primarily because of the child and education credits.

<sup>15</sup>This point is important in examining IRS data. IRS data does not indicate the amount of tax credits lost because of the AMT. IRS data only reports AMT liability from Form 6251. Only researchers with ac-

cess to a microsimulation computer model using actual tax return data can determine the amount of lost credits.

<sup>16</sup>For taxpayers with three or more children, the child credit is not directly limited by TAMT. The credit is, however, reduced by any final AMT liability reported on the AMT form.

<sup>17</sup>The child credit is \$400 in 1998.

<sup>18</sup>Because the two education credits are substitutes for each other for many taxpayers, they are discussed together in this section.

<sup>19</sup>The credit amount and the income limits for the credit are indexed for inflation occurring after 2000.

<sup>20</sup>The income limits for the credit are indexed for inflation occurring after 2000.

<sup>21</sup>Under pre-TRA '97 law, capital gains under the AMT were taxed at the same rate as other AMTI.

<sup>22</sup>The numbers discussed here include the effects of increased capital gains realizations resulting from the lower capital gains tax rate. The effect of the increased realizations on the AMT is very small.

TABLE 1.—NUMBER OF AMT TAXPAYERS

[By calendar years, in millions]

	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	Compound annual growth rate (percent)
Number of AMT taxpayers:													
Post-TRA '97:													
Number with only AMT liability from Form 6251 .....	0.6	0.5	0.6	0.7	0.8	1.0	1.3	1.6	1.9	2.4	3.1	4.0	19
Number with only "lost" credits .....	0.1	0.8	1.0	1.2	1.4	1.6	2.1	2.5	3.1	3.7	4.1	4.7	42
Number with both .....	0.2	0.3	0.4	0.5	0.6	0.7	0.9	1.1	1.4	1.8	2.4	2.9	28
Total <sup>1</sup> .....	0.9	1.6	2.0	2.4	2.8	3.3	4.3	5.2	6.4	8.0	9.5	11.6	26
Pre-TRA '97:													
Number with only AMT liability from Form 6251 .....	0.6	0.7	0.9	1.1	1.4	1.7	2.1	2.7	3.2	4.3	5.2	6.6	24
Number with only "lost" credits .....	0.1	0.2	0.2	0.2	0.2	0.3	0.3	0.4	0.5	0.5	0.6	0.8	21
Number with both .....	0.2	0.2	0.2	0.2	0.3	0.3	0.4	0.5	0.5	0.7	0.9	1.1	17
Total <sup>1</sup> .....	0.9	1.1	1.3	1.5	1.9	2.2	2.8	3.5	4.2	5.5	6.7	8.5	23
Change caused by TRA '97:													
Number with only AMT liability from Form 6251 .....	N/A	-0.2	-0.3	-0.4	-0.5	-0.6	-0.8	-1.1	-1.3	-1.8	-2.2	-2.6	.....
Number with only "lost" credits .....	N/A	0.6	0.8	1.0	1.2	1.4	1.8	2.1	2.6	3.2	3.5	3.9	.....
Number with both .....	N/A	0.1	0.2	0.3	0.3	0.4	0.5	0.7	0.9	1.2	1.5	1.9	.....
Total <sup>1</sup> .....	N/A	0.6	0.7	0.8	0.9	1.1	1.5	1.7	2.2	2.5	2.8	3.2	.....
Number of returns added to AMT .....	N/A	0.7	0.9	1.0	1.3	1.5	1.9	2.2	2.8	3.3	3.6	4.0	.....
Number of returns removed from AMT .....	N/A	0.2	0.2	0.2	0.3	0.3	0.4	0.5	0.6	0.8	0.8	0.9	.....
Percentage change caused by TRA '97:													
Number with only AMT liability from Form 6251 .....	N/A	-28%	-35%	-36%	-40%	-39%	-39%	-41%	-40%	-43%	-42%	-39%	.....
Number with only "lost" credits .....	N/A	394%	469%	434%	491%	519%	560%	554%	565%	577%	575%	492%	.....
Number with both .....	N/A	80%	101%	118%	117%	121%	139%	153%	157%	165%	166%	173%	.....
Total .....	N/A	51%	58%	54%	51%	50%	54%	49%	52%	45%	41%	37%	.....
Total number of taxpayers:													
Post-TRA '97													
Percentage of taxpayers on AMT .....	1%	2%	2%	3%	3%	3%	4%	5%	6%	8%	9%	11%	.....
Pre-TRA '97													
Percentage of taxpayers on AMT .....	1%	94.0	95.4	96.5	97.8	99.2	100.6	102.0	103.5	104.7	106.3	107.8	.....

<sup>1</sup> Taxpayers affected by the AMT can have both "lost" credits and AMT liability from Form 6251.

Source: Treasury Department Individual Tax Model.

TABLE 2.—AGI DISTRIBUTION OF TRA '97 EFFECT ON AMT IN 1999

AGI (in dollars)	AMT Liability <sup>1</sup> (\$ millions)				Number of AMT Taxpayers <sup>2</sup> (thousands of returns)			
	Post-TRA '97	Pre-TRA '97	Difference	Percentage change	Post-TRA '97	Pre-TRA '97	Difference	Percentage change
Less than 0 .....	66	129	-63	-49	4	6	-2	-33
0-15,000 .....	12	20	-8	-40	54	149	-95	-64
15,000-30,000 .....	48	14	34	243	143	8	135	1688
30,000-50,000 .....	128	46	82	178	205	59	146	247
50,000-75,000 .....	398	206	192	93	357	128	229	179
75,000-100,000 .....	652	388	264	68	445	207	238	115
100,000-200,000 .....	1,415	1,328	87	7	452	396	56	14
200,000 and over .....	3,857	4,000	-143	-4	344	316	28	9
Total .....	6,576	6,131	445	7	2,004	1,269	735	58
as percentage of total								
Less than 0 .....	1	2	-14	.....	0	0	0	.....
0-15,000 .....	0	0	-2	.....	3	12	-13	.....
15,000-30,000 .....	1	0	8	.....	7	1	18	.....
30,000-50,000 .....	2	1	18	.....	10	5	20	.....
50,000-75,000 .....	6	3	43	.....	18	10	31	.....
75,000-100,000 .....	10	6	59	.....	22	16	32	.....
100,000-200,000 .....	22	22	20	.....	23	31	8	.....
200,000 and over .....	59	65	-32	.....	17	25	4	.....
Total .....	100	100	100	.....	100	100	100	.....

<sup>1</sup> Includes lost credits.

<sup>2</sup> Includes taxpayers who only have lost credits.

Source: Treasury Department Individual Tax Model.





TABLE 5.—EFFECTS OF INDIVIDUAL TRA '97 PROVISIONS ON THE INDIVIDUAL AMT <sup>1, 2</sup>—Continued

[Number of taxpayers in millions, dollars in billions]

	Calendar year											Compound annual growth rate (percent)
	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	
Change in tax liability from AMT .....	0.1	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.1	.....
Change for taxpayers with increased AMT liability .....	0.5	0.5	0.5	0.5	0.6	0.6	0.6	0.7	0.7	0.8	0.8	.....
Change for taxpayers with decreased AMT liability .....	-0.5	-0.5	-0.5	-0.5	-0.5	-0.6	-0.6	-0.7	-0.7	-0.8	-0.9	.....

Source: Treasury Department Individual Tax Model.

<sup>1</sup> Estimates on this table are not directly comparable with estimates contained on either Tables 1 or 4. Except for No. 3 above, estimates on this table are for single TRA '97 provisions only, with no interactions. Estimates in Tables 1 and 4 show the effects of all provisions, including interaction effects.

<sup>2</sup> Provisions are "stacked last" for purposes of these estimates (i.e., estimates are based on the difference in revenue between post-TRA '97 and post-TRA '97 law with the provision under examination removed).

<sup>3</sup> Number excludes taxpayers who lose entire total amount of new credits because of the AMT.

<sup>4</sup> Includes effects of increased capital gains realizations caused by lower capital gains tax rate.

By Mr. ASHCROFT:

S. 538. A bill to provide for violent and repeat juvenile offender accountability, and for other purposes; to the Committee on the Judiciary.

PROTECT CHILDREN FROM VIOLENCE ACT

Mr. ASHCROFT. Mr. President, I rise today to introduce legislation to address a serious national problem—the increasingly violent nature of juvenile crime. It seems that nearly every day we hear encouraging news about the progress we are making in the fight against crime. There is no doubt that this is good news. But reports about reductions in the crime rate obscure two unfortunate realities: First, although the rate of crime has dropped over the past few years, the level of crime remains far too high. Second, whatever progress has been made in the reduction of overall crime rates, we are still confronted with a serious problem with violent juvenile crime.

Statistics about crime rates are useful, but what really matters is the level of violent crime. Yesterday, the Dow Jones Industrial Average went down over twenty points. If we were focus on that fact alone, it would appear that the stock market was down, when in fact the Dow is near its all time record high. The same is true of crime, especially juvenile crime. Although the most recent data show some drops in the crime rate, the overall level of crime, especially juvenile crime is unacceptably high. There are about as many violent crimes committed today as in 1987. The number of violent juvenile crimes is at roughly the 1992 level and at 150% of the 1987 level. I do not think anyone thought they were safe or secure enough in 1987 or in 1992.

Statistics about crime rates also mask the increasingly violent nature of juvenile crimes. Seventeen percent of all forcible rapes, fifty percent of all arsons and thirty-seven percent of all burglaries are committed by juveniles. The juvenile justice system is no longer being asked to deal with juveniles who have committed a youthful indiscretion. The system is being asked to deal with juveniles who become hardened criminals before they turn eighteen.

Finally, the recent dip in crime rates is cold comfort for victims of violent crimes. My constituents in Missouri continually identify violent juvenile crime as a paramount concern, and you only have to read the newspaper to understand why. When parents read in

the newspaper about a 16-year old who raped four young girls in St. Charles County, they understand the importance of targeting violent juvenile crime. When parents in Hazelwood read about a 13-year old convicted of murder for fracturing his victim's skull with the butt of a sawed-off shotgun, they understand the importance of targeting violent juvenile crime. And when people in Poplar Bluff read about a 16-year old, encouraged by his 20-year old accomplice, who held a pizza delivery man at the point of a shotgun to steal \$32, they understand the importance of targeting violent juvenile crime.

Mr. President, that is precisely what the bill I am introducing today does—it targets violent juvenile crime. This bill, the Protect Children from Violent Act, will update our current juvenile justice laws to reflect the new vicious nature of today's teen criminals. It treats the most violent juvenile offenders as adults and punishes those adults who would exploit or endanger our children.

The Act has several components. First and foremost, it would require federal prosecutors and States, in order to qualify for \$750 million in new incentive grants, to try as adults those juveniles fourteen and older who commit serious violent offenses, such as rape or murder. There is nothing juvenile about these crimes, and the perpetrators must be treated and tried as adults.

Some of the laws on the books inadvertently pervert the direction of the law enforcement system, offering more protections to the perpetrators, than to the public. This must cease. Strengthening our juvenile justice laws is the first line of defense in protecting the public and providing greater protection for innocent children than for violent criminals.

In order to do this, we also must ensure that our law enforcement officials, courts and schools have clear lines of communication and access to the records of violent juvenile offenders. This bill accomplishes this goal by requiring the fingerprinting and photographing of juveniles found guilty of crimes that would be felonies if committed by an adult. The bill also would ensure that those records are made available to federal and state law enforcement officials and school officials, so they will know who they are dealing with when they confront a dangerous juvenile offender.

Typically, state statutes seal juvenile criminal records and expunge those records when the juvenile reaches age 18. Today's young criminal predators understand that when they reach their eighteenth birthday, they can begin their second career as adult criminals with an unblemished record. The time has come to discard the anachronistic idea that crimes committed by juveniles must be kept confidential, no matter how heinous the crime.

Our law enforcement agencies, courts, and school officials need improved access to juvenile records so that they have the tools to deal with the exponential increase in the severity and frequency of juvenile crimes.

The current state of juvenile record keeping is simply unacceptable. As part of the message that juvenile crime is something less than real crime, many jurisdictions have kept inadequate juvenile records or kept records sealed and inaccessible. What is more, whatever juvenile records they did keep were expunged when the juvenile turned eighteen. A judge sentencing a fresh-faced nineteen-year-old would sentence him like a first-time offender, blissfully ignorant of his prior record of similar incidents. These problems are made worse by the absence of any system to provide for the nationwide sharing of juvenile records. This is not a problem that any one State can solve alone. Even if a State treats juvenile criminal records like any other criminal record, it is still vulnerable to violent juveniles who move into the State. The problem we face is that although juveniles frequently cross state lines, their records do not follow them.

For too long, law enforcement officers have operated in the dark. Our police departments need to have access to the prior juvenile criminal records of individuals to assist them in criminal investigations and apprehension.

According to Police Chief David G. Walchak, who is past president of the International Association of Chiefs of Police, law enforcement officials are in desperate need of access to juvenile criminal records. The police chief has said, "Current juvenile records (both arrest and adjudication) are inconsistent across the States, and are usually unavailable to the various programs' staff who work with youthful offenders."

Chief Walchak also notes that "If we [in law enforcement] don't know who

the youthful offenders are, we can't appropriately intervene."

Chief Walchak is not the only one saying this. Law enforcement officers in my home State have told me that when they arrest juveniles they have no idea who they are dealing with because the records are kept confidential.

School officials, as well as courts and law enforcement officials, need access to juvenile criminal records to assist them in providing for the best interests of all students and preventing more tragedies.

The decline in school safety across the country can be attributed to a significant degree to laws that put the protection of dangerous students ahead of protecting the innocent—those who go to school to learn, not to maim or murder.

While visiting with school officials in Sikeston, Missouri, a teacher told me how one of her students came to school wearing an electronic monitoring ankle bracelet. Can you imagine being that teacher and having to turn around—back to the class—to write on the chalk board not knowing whether that student was a rapist, or even a murderer?

The proposed bill solves these problems by providing a nationwide system of record sharing. What is more, the bill provides block grants to the States for the purpose of establishing improved juvenile record keeping. To qualify for these block grants, States must keep records for juveniles that are equivalent to those they keep for adult criminals. The States must then make those records available to the FBI, law enforcement officers, school officials and sentencing courts. These provisions allow those who have to deal with these violent juveniles to do so based on full information. That is the only basis on which those decision should be made.

In addition to requiring that federal and state prosecutors try violent juvenile offenders as adults and increasing record keeping and sharing capabilities, this bill enhances the federal criminal penalties for those adults who seek to lure juveniles into criminal activity or drug use.

For example, any adult who distributes drugs to a minor, traffics in drugs in or near a school, or uses minors to distribute drugs would face a minimum three year jail sentence (as compared to the 1 year minimum under current law).

This bill also doubles the maximum jail time and fines for adults who use minors in crimes of violence. The second time the adult hides behind the juvenile status of a child by using him to commit a crime, the adult faces a tripling of the maximum sentence and fine.

The fact that our current system treats juvenile crime lightly has not been lost on young people. Not has it been lost on hardened adult criminals. If the system is going to let young people off with a slap on the wrist and

then give them a clean slate when they turn eighteen, why should any adult criminal risk serious jail time by committing a crime themselves. Why not, instead, just use a juvenile and have the youth commit the crime for them. This use of juveniles is deplorable. But, sadly, our current treatment of juveniles gives adults an incentive to exploit children in this way. If a store sold candy for \$5 to adults, but for \$1 to children, there would be a lot of adults sending a kid in to buy them a candy bar. So too, with the criminal justice system. Our light treatment of juveniles has led adults to corrupt children in order to escape the penalties imposed by the adult system. It is no wonder that a 20-year old in Poplar Bluff has her 16-year old accomplice take the lead in the armed robbery. We cannot continue to encourage this intolerable behavior. Those who would corrupt our children should receive our stiffest and swiftest sanction. To this end, my bill imposes enhanced penalties on adults who use juveniles to commit violent offenses, and also will encourage the States to adopt similar provisions.

Furthermore, the Protect Children from Violence Act elevates to a federal crime the recruiting of minors to participate in gang activity. Under this legislation, those gangsters who lure our children into gangs will face a federal prosecutor and a federal penitentiary.

A 1993 survey reported an estimated 4,881 gangs with 249,324 gang members in the United States. Those figures are disturbing enough. But a second study, conducted just two years later, found that the number of gangs had increased more than four-fold, with 23,388 gangs claiming over 650,000 members. We need legislation to stem this rising tide.

Let me quickly recap the highlights of this legislation. In order to qualify for incentive grants, States would be required to try juveniles as adults if they commit certain violent crimes such as rape and murder. States also would have to fingerprint and keep records on juveniles who commit crimes that would be felonies if committed by adults, and States must allow public access to juvenile criminal records of repeat juvenile offenders. These same provisions would apply to federal law enforcement officials. To protect our children from adults who prey on the, this bill doubles and triples the jail time for those convicted of using a juvenile to commit a violent crime or to distribute drugs. Anyone caught dealing drugs to minors or near a school will face three times the penalty under current law.

This bill is a reasonable and prudent response to the threat that violent youth, and the adults that lead them into a life of crime, pose to our children. The monies authorized will be used to deter and incarcerate violent juvenile criminals, not just to provide for more midnight basketball and pre-

vention programs—the situation, and our future, demands more than that. We need to take into account the needs of the innocent children—not sacrifice their protection in the name of privacy for violent juvenile perpetrators.

For too long now we have treated juvenile crime as something less than real crime. Even the language we use—referring to adult crimes, but to acts of juvenile delinquency—suggests that juvenile crime is not real crime. But we are not talking about throwing spitballs or juvenile horseplay. We are talking about murder and assault and rape. And I assure you that for the victims of these crimes, the crimes are all too real—no less so because the perpetrator was under eighteen. The time has come to take juvenile crime seriously and protect our children from violence.

By Mr. BROWNBACK:

S. 539. A bill to amend the Internal Revenue Code of 1986 to increase the maximum taxable income for the 15 percent rate bracket, to replace the Consumer Price Index with the national average wage index for purposes of cost-of-living adjustments, to lessen the impact of the noncorporate alternative minimum tax, and for other purposes; to the Committee on Finance.

#### TAX LEGISLATION

Mr. BROWNBACK. Mr. President, today, I have introduced a proposal for a tax cut which I think answers a number of questions that people have been putting forward. I hear both sides of the aisle talking about a tax cut and the willingness to have a tax cut. Some are saying we need it to be targeted; some say we need to do it with the marriage penalty; others say we need a broad-based tax relief to take place.

The proposal I am putting in today would expand the 15-percent tax category over a period of 10 years and raise that to the level of the maximum amount at which we tax Social Security. What it does is, we broaden that 15-percent tax bracket. We make it such that it will take care of most of the marriage penalty. It will be economically stimulating in that it will be a great relief for a number of people that grow into that 15-percent category, then, as we expand it. And it will be middle-income targeted because it will be that category of people making in the 15-percent rate and growing it up to \$72,000 over a period of 10 years.

I think this answers a lot of questions on what we have been putting forward. We set aside every dime of Social Security money for Social Security, period. We do that. All those funds flowing into Social Security will remain and stay with Social Security. Not a dime of that is touched.

With the other resources that we have coming in that are building the surplus, let's do this sort of tax cut that moves to the middle-income category and addresses the marriage penalty problem. That is economically stimulating and is one that I think can be fair and helpful to our growth.

This is the final point I will make, as I intend to be brief about this. We are at a period of being able to talk about solving Social Security and paying down debt and providing tax cuts and dealing with education problems because we have a strong growing economy. We have a growing economy that is producing these sorts of revenues. We have to maintain that, and the lead thing that we can do to maintain that is to provide for economically stimulating tax cuts like what I am proposing here, and broaden that 15-percent tax rate, target it for people there, and have an economically stimulating benefit from that occurring. I think that is the way that we need to go to be able to maintain what we have in place now in this healthy economy and to be able to deal with these sorts of issues, to stimulate education reform, and to have the funds for education, as well.

Mr. President, that is the proposal I have introduced today. I urge my colleagues to look at it, and I would appreciate their support for this bill as we press forward on this broad-based debate on what we are going to do about this budget and how we continue the strong economy.

By Mr. JOHNSON (for himself, Mr. INHOFE, Mr. CONRAD, Mr. KERRY, Mr. DASCHLE, Mr. INOUE, Mr. WELLSTONE, Mr. SARBANES, Mr. KERREY, Mr. KENNEDY, Mr. DORGAN, Mr. REID, Mr. BAUCUS, Mr. BRYAN, and Mrs. BOXER):

S. 540. A bill to amend the Internal Revenue Code of 1986 to provide that housing assistance provided under the Native American Housing Assistance and Self-Determination Act of 1996 be treated for purposes of the low-income housing credit in the same manner as comparable assistance; to the Committee on Finance.

LOW INCOME HOUSING TAX CREDIT EQUITABLE ACCESS FOR INDIAN TRIBES

Mr. JOHNSON. Mr. President, I rise today to introduce legislation which will correct an unintended oversight in the federal administration of Native American housing programs, allowing Indian tribes to once again access Low-Income Housing Tax Credits (LIHTCs) for housing development in some of this nation's most under-served communities. Joining me as original cosponsors of this bill are Senators INHOFE, CONRAD, KERRY, DASCHLE, INOUE, WELLSTONE, SARBANES, KERREY, KENNEDY, DORGAN, REID, BAUCUS, BRYAN and BOXER.

In the 104th Congress, the Native American Housing Assistance and Self-Determination Act (NAHASDA) was signed into law, separating Indian housing from public housing and providing block grants to tribes and their tribally designated housing authorities. Prior to passage of NAHASDA, Indian tribes receiving HOME block grant funds were able to use those funds to leverage the Low Income Housing Tax Credits distributed by

states on a competitive basis. Unfortunately, unlike HOME funds, block grants to tribes under the new NAHASDA are defined as federal funds and cannot be used for accessing LIHTCs.

The fact that tribes cannot use their new block grant funds to access a program (LIHTC) which they formerly could access is an unintended consequence of taking Indian Housing out of Public Housing at HUD and setting up the otherwise productive and much needed NAHASDA system. The legislation I am introducing today is limited in scope and redefines NAHASDA funds, restoring tribal eligibility for the LIHTC by putting NAHASDA funds on the same footing as HOME funds. With this technical correction, there would be no change to the LIHTC programs—tribes would compete for LIHTCs with all other entities at the state level, just as they did prior to NAHASDA.

This technical corrections legislation is a minor but much needed fix to a valuable program that will restore equity to housing development across the country. The South Dakota Housing Development Authority has enthusiastically endorsed this legislation out of concern for equitable treatment of every resident of our state and to reinforce the proven success of the LIHTC program for housing development in rural and lower income communities.

I have joined many of my colleagues in past efforts to preserve and increase the Low Income Housing Tax Credit program which benefits every state, and I ask my colleagues to recognize the importance of maintaining fairness in access to this program emphasized through this legislation and encourage my colleagues to support passage of this vital legislation.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

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

S. 540

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

**SECTION 1. CERTAIN NATIVE AMERICAN HOUSING ASSISTANCE DISREGARDED IN DETERMINING WHETHER BUILDING IS FEDERALLY SUBSIDIZED FOR PURPOSES OF THE LOW-INCOME HOUSING CREDIT.**

(a) IN GENERAL.—Subparagraph (E) of section 42(i)(2) of the Internal Revenue Code of 1986 (relating to determination of whether building is federally subsidized) is amended—

(1) in clause (i), by inserting “or the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 et seq.) (as in effect on October 1, 1997)” after “this subparagraph”, and

(2) in the subparagraph heading, by inserting “OR NATIVE AMERICAN HOUSING ASSISTANCE” after “HOME ASSISTANCE”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to periods after the date of the enactment of this Act.

By Ms. COLLINS (for herself, Mr. MURKOWSKI, and Mr. ROBERTS):

S. 541. A bill to amend title XVIII of the Social Security Act to make certain changes related to payments for graduate medical education under the medicare program; to the Committee on Finance.

THE GRADUATE MEDICAL EDUCATION TECHNICAL AMENDMENTS OF 1999

Ms. COLLINS. Mr. President, I am pleased to be joining my colleague from Alaska, Senator MURKOWSKI, in introducing the Graduate Medical Education Technical Amendments Act of 1999, which is intended to address some of the problems that small family practice residency programs in Maine and elsewhere are experiencing as a result of provisions in the Balanced Budget Act (BBA) of 1997 that were intended to control the growth in Medicare graduate medical education spending.

Of specific concern are the provisions in the BBA that cap the total number of residents in a program at the level included in the 1996 Medicare cost reports. Congress' goal in reforming Medicare's graduate medical education program was to slow down our nation's overall production of physicians, while still protecting the training of physicians who are in short supply and needed to meet local and national health care demands. While the BBA's provisions will indeed curb growth in the overall physician supply, they do so indiscriminately and are thwarting efforts in Maine and elsewhere to increase the supply of primary care physicians in underserved rural areas.

Because Maine has only one medical school—the University of New England, which trains osteopathic physicians—we depend on a number of small family practice residency programs to introduce physicians to the practice opportunities in the state. Most of the graduates of these residency programs go on to establish practices in Maine, many in rural and underserved areas of the state. The new caps on residency slots included in the BBA penalize these programs in a number of ways.

For instance, the current cap is based on the number of interns and residents who were “in the hospital” in FY 1996. Having a cap that is institution-specific rather than program-specific has caused several problems. For example, the Maine-Dartmouth Family Practice Residency Program had two residents out on leave in 1996—one on sick leave for chemotherapy treatments and one on maternity leave. Therefore, the program's cap was reduced by two, because it was based on the number of actual residents in the hospital in 1996 as opposed to the number of residents in the program.

Moreover, residents in this program have spent one to two months training in obstetrics at Dartmouth's Mary Hitchcock's Medical Center in Lebanon, New Hampshire. Because the cap is based on a hospital's cost report, these residents are counted toward Dartmouth Medical School's cap instead of the Maine-Dartmouth Family Practice Residency Program's. Last

year, the Maine program was informed that Dartmouth would be cutting back the amount of time their residents are there. But the Maine-Dartmouth Family Practice Residency Program has no way of recouping the resident count from them in order to have the funds to support obstetrical training for their residents elsewhere.

Moreover, the cap does not include residents who continue to be part of the residency program, but who have been sent outside of the hospital for training. This penalizes all primary care specialties, but especially family medicine, where ambulatory training has historically been the hallmark of the specialty. This is particularly ironic since other specialty programs that now begin training in settings outside the hospital will, under the new rules, have those costs included in their Medicare graduate medical education funding.

All told, the Maine Dartmouth Family Practice Residency Program will see its graduate medical education funding reduced by over half a million dollars a year as a result of the cap established by the BBA.

The example I have just used is from Maine, but the problems created by the BBA's graduate medical education changes are national in scope. It has created disproportionately harmful effects on family practice residencies from Maine to Alaska. A recent survey of all family practice residency program directors has found that:

56 percent of respondents who were in the process of developing new rural training sites have indicated that they will either not implement those plans or are unsure about their sponsoring institutions' continued support.

21 percent of respondents report planning to decrease their family practice residency slots in the immediate future. The majority of those who are planning to decrease their slots are the sole residency program in a teaching hospital. This means that, under current law, they have no alternative way of achieving growth, such as through a reduction of other specialty slots in order to stay within the cap.

And finally, the vast majority of family practice residencies did not have their full residency FTEs captured in the 1996 cost reports upon which the cap is based.

In addition to this survey, we have anecdotal information from residencies across the country detailing how they have lost funding either because of where they trained their residents or because their residents had been extended sick or maternity leave. For example, one family practice residency in Washington State last year had an equivalent of 14 residents training outside of the hospital and four in the hospital. Under the BBA, their cap would be four. By contrast, had all of their residents been trained in the hospital up to this point, their payment base would have been capped at 18, even if they trained residents in non-hospital settings in the future.

The Medicare Graduate Medical Education Technical Amendments Act we are introducing today will address these problems by basing the cap on the number of residents "who were appointed by the approved medical residency training programs for the hospital" in 1996, rather than on the number of residents who were "in the hospital."

I am also concerned that the Balanced Budget Act and its accompanying regulations will severely hamper primary care residency programs that are expanding to meet local needs. Specifically, a new residency program that had not met its full complement of accredited residency positions until after the cutoff date of August 5, 1997, is precluded from increasing its number of residents unless the hospital decreases the number of residents in one of its other specialty programs. However, over forty percent of the nation's family practice residency programs are the only program sponsored by the hospital. This provision therefore completely precludes such a hospital from expanding its residency program to meet emerging primary care needs.

To address this problem, the legislation we are introducing today would allow the small number of programs at hospitals that sponsor just one residency program to increase their cap by one residency slot a year up to a maximum of three. In addition, to enable a number of family practice residency programs that are already in the pipeline to get accredited and grow to completion, the bill extends the cutoff date to September 1999.

And finally, the Balanced Budget Act gave the Secretary of Health and Human Services the authority to give "special consideration" to new facilities that "meet the needs of underserved rural areas." The Health Care Financing Administration has interpreted this to mean facilities that are actually in underserved rural areas. There have been several recent expansions in family practice residency programs that include a rural training track, with residents located in outlying hospitals, or with satellite programs designed specifically to train residents to work with underserved populations.

Even though these new programs or satellites required accrediting body approval, they are still part of the "mother" residencies, which may not be physically located in an underserved rural area. While these are not technically new programs, I believe that the definition should be expanded to include such endeavors, given the value of these programs in addressing the needs of underserved populations. Therefore, the Medicare Graduate Medical Education Technical Amendments Act would expand the definition to include "facilities which are not located in an underserved rural area, but which have established separately accredited rural training tracks."

Mr. President, while the changes we are proposing today are relatively

minor and technical in nature, they are critical to the survival of the small family practice residency programs that are so important to our ability to meet health manpower needs in rural and underserved areas. I urge all of my colleagues to join us in cosponsoring the Medicare Graduate Medical Education Technical Amendments and ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 541

*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 "Graduate Medical Education Technical Amendments of 1999".

**SEC. 2. INDIRECT GRADUATE MEDICAL EDUCATION ADJUSTMENT.**

(a) IN GENERAL.—Section 1886(d)(5)(B)(v) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(B)(v)) (as added by section 4621(b) of the Balanced Budget Act of 1997) is amended—

(1) by striking "(v) In determining" and inserting "(v)(I) Subject to subclause (II), in determining";

(2) by striking "in the hospital with respect to the hospital's most recent cost reporting period ending on or before December 31, 1996"; and inserting "who were appointed by the hospital's approved medical residency training programs for the hospital's most recent cost reporting period ending on or before December 31, 1996"; and

(3) by adding at the end the following:  
 "(II) Beginning on or after January 1, 1997, in the case of a hospital that sponsors only 1 allopathic or osteopathic residency program, the limit determined for such hospital under subclause (I) may, at the hospital's discretion, be increased by 1 for each calendar year but shall not exceed a total of 3 more than the limit determined for the hospital under subclause (I)."

(b) TECHNICAL AMENDMENTS.—Section 1886(d)(5)(B) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(B)) is amended by moving clauses (ii), (v), and (vi) 2 ems to the left.

**SEC. 3. DIRECT GRADUATE MEDICAL EDUCATION ADJUSTMENT.**

(a) LIMITATION ON NUMBER OF RESIDENTS.—Section 1886(h)(4)(F) of the Social Security Act (42 U.S.C. 1395ww(h)(4)(F)) (as added by section 4623 of the Balanced Budget Act of 1997) is amended by inserting "who were appointed by the hospital's approved medical residency training programs" after "may not exceed the number of such full-time equivalent residents".

(b) FUNDING FOR NEW PROGRAMS.—The first sentence of section 1886(h)(4)(H)(i) of the Social Security Act (42 U.S.C. 1395ww(h)(4)(H)(i)) (as added by section 4623 of the Balanced Budget Act of 1997) is amended inserting "and before September 30, 1999" after "January 1, 1995".

(c) FUNDING FOR PROGRAMS MEETING RURAL NEEDS.—The second sentence of section 1886(h)(4)(H)(i) of the Social Security Act (42 U.S.C. 1395ww(h)(4)(H)(i)) (as added by section 4623 of the Balanced Budget Act of 1997) is amended by striking the period at the end and inserting ", including facilities that are not located in an underserved rural area but have established separately accredited rural training tracks."

**SEC. 4. EFFECTIVE DATE.**

The amendments made by this Act shall take effect as if included in the enactment of the Balanced Budget Act of 1997.

Mr. MURKOWSKI. Mr. President, I am pleased today to introduce with my distinguished colleague from Maine, Senator COLLINS, the Graduate Medical Education Technical Amendments Act of 1999. This legislation will alleviate unintended consequences of the Balanced Budget Act of 1997 regarding Graduate Medical Education (GME).

The Balanced Budget Act of 1997 contained important and necessary GME reform. However, a small number of the changes in the Balanced Budget Act of 1997, have grave consequences for many residency programs, particularly for programs that have been training in ambulatory settings, are small, or who produce physicians to serve in rural areas. The impact has been disproportionately harmful to programs that: have already been training in ambulatory settings (because the hospitals in which they were located were not allowed to count the residents they had serving in community settings in the cap); are small, such as hospitals with only one residency program; and train physicians for practice in rural areas.

The impact is especially damaging to family practice residency programs. Only family practice residents have been trained extensively out of the hospital and only family practice residencies were significantly harmed by this provision in the BBA. In fact, a recent survey indicates that 56 percent of family residency program directors believe that the BBA provisions will preclude their development of rural training sites.

Senator COLLINS' and my legislation would include the following legislative remedies:

Recalculate the IME and DME caps based on the number of interns and residents who were appointed by the approved medical residency training programs for FY 1996, whether they were being trained in the hospital or in the community;

Change the cutoff date for adjusting the DME funding cap to September 30, 1999, to allow those programs already in the approval process for accreditation to continue to realization; and

Expand the exception to the funding caps to include programs with separately accredited rural training tracks even if the sponsoring hospital is not located in a rural area, and for residency programs where a primary care training program is the only one offered in the hospital.

This legislation is important for Alaska's first and only residency program. The Alaska Family Practice Residency is specifically designed to train physicians to practice medicine in rural Alaska.

Alaska's rural health care problems are tough: 74% of Alaska is medically under-served. Many villages populated by 25-1000 individuals do not have access to physicians. Physician turn-over rate is high which makes it impossible for patients to establish long-term relationships with their physician to

manage chronic disease or to do preventative medicine. The result is that bush Alaska has much higher rates of preventable diseases.

This legislation is truly imperative to Alaska health care. While other residency programs have the luxury of educating their residents on rural health issues, for us it is a necessity.

Mr. President, our legislation corrects a small deficiency in the BBA of 1997 that has had a large, unintended impact on programs training community-based and rural doctors. I hope my colleagues can join our efforts and support this important legislation.

By Mr. ABRAHAM (for himself, Mr. WYDEN, Mr. HATCH, Mr. KERREY, Mr. COVERDELL, Mr. DASCHLE, Mr. JEFFORDS, Mr. LIEBERMAN, Mr. ALLARD, Mr. GORTON, Mr. BURNS, and Mr. MCCONNELL):

S. 542. A bill to amend the Internal Revenue Code of 1986 to expand the deduction for computer donations to schools and allow a tax credit for donated computers; to the Committee on Finance.

#### THE NEW MILLENNIUM CLASSROOMS ACT

Mr. ABRAHAM. Mr. President, I am joined today by Senators WYDEN, HATCH, KERREY, COVERDELL, DASCHLE, JEFFORDS, LIEBERMAN, ALLARD, GORTON, MCCONNELL, and BURNS in introducing the New Millennium Classrooms Act. This legislation will effectively encourage the donation of computer equipment and software to schools through tax deductions and credits. In addition, enhanced tax credits would be applied to equipment donated to schools within designated empowerment zones, enterprise communities, and Indian reservations.

Advanced technology has fueled unprecedented economic growth and transformed the way Americans do business and communicate with each other. Despite these gains, this same technology is just beginning to have an impact on our classrooms and how we educate our children. It is projected that 60 percent of all jobs will require high-tech computer skills by the year 2000, yet 32 percent of our public schools have only one classroom with access to the Internet.

Mr. President, it is imperative that we act now to provide our nation's students with the necessary technological background so they can succeed in tomorrow's high-tech workplace and ensure our country's future position in competitive world markets.

The Department of Education recommends that there be at least one computer for every five students. According to the Educational Testing Service, in 1997, there was only one computer for every 24 students, on average. Not only are our classrooms sadly under-equipped, but even those classrooms with computers often have

systems which are so old and outdated they are unable to run even the most basic software programs, are not multi-media capable and cannot access the Internet. Mr. President, one of the more common computers in our schools today is the Apple IIc, a computer so archaic it is now on display at the Smithsonian.

While this technological deficiency affects all of our schools, the students who are in the most need are receiving the least amount of computer instruction and exposure.

According to the Secretary of Education, 75.9 percent of households with an annual income over \$75,000 have computers, compared to only 11 percent of households with incomes under \$10,000. This disparity exists when comparing households with Internet access as well. While 42 percent of families with annual incomes over \$75,000 have on-line capability, only 10 percent of families with incomes \$25,000 or less can access the Internet from their homes.

Rural areas and inner cities fall below the national average for households that have computers.

Nationwide, 40.8 percent of white households have computers, while only 19 percent of African-American and Hispanic households do. This disparity is increasing, not decreasing. And, Mr. President, this unfortunate trend is not confined simply to individual households, it is present in our schools as well.

Education should be a great equalizer, providing the means by which Americans can take advantage of all the opportunities this country can offer, regardless of background. Yet, Educational Testing Service statistics show schools with 81 percent or more economically disadvantaged students have only one multi-media computer for every 32 students, while a school with 20 percent or fewer economically disadvantaged students will have a multi-media computer for every 22 students. That is a difference of 10 students per computer. Furthermore, schools with 90 percent or more minority students have only one multimedia computer for every 30 students.

Mr. President, this is simply unacceptable.

The Taxpayers Relief Act of 1997 contains a provision, The 21st Century Classrooms of 1997, which allows a corporation to take a deduction from taxable income for the donation of computer technology, equipment and software.

Unfortunately, since The 21st Century Classrooms Act of 1997 has been implemented, there has not been a significant increase in corporate donations of computers and related equipment to K-12 schools. The current incentives do not provide enough tax relief to outweigh the costs incurred by the donors. Moreover, the restrictions limiting the age of eligible equipment to two years or less and the narrow definition of "original use" has greatly