

101.18 APPOINTMENT OF CONFEREES—S. 2

The SPEAKER pro tempore, Mr. McNULTY, by unanimous consent, announced the appointment of the following Members as managers on the part of the House to the conference with the Senate on the disagreeing votes of the two Houses on the amendments of the House to the bill of the Senate (S. 2) to promote the achievement of National Education Goals, to measure progress toward such goals, to develop national education standards and voluntary assessments in accordance with such standards and to encourage the comprehensive improvement of America's neighborhood public schools to improve student achievement: Messrs. FORD of Michigan, MILLER of California, KILDEE, WILLIAMS, MARTINEZ, OWENS of New York, HAYES of Illinois, PERKINS, SAWYER, Mes. LOWEY, UNSOELD, Mr. WASHINGTON, Mrs. MINK, Messrs. JEFFERSON, REED, ROEMER, OLVER, PASTOR, GOODLING, PETRI, Mrs. ROUKEMA, Messrs. GUNDERSON, HENRY, Ms. MOLINARI, Messrs. BOEHNER, KLUG, ARMEY, and CUNNINGHAM.

By unanimous consent, the Speaker reserved the authority to make additional appointments of conferees.

Ordered. That the Clerk notify the Senate of the foregoing appointments.

101.19 AIRLINE RESERVATION SYSTEM COMPETITION

The SPEAKER pro tempore, Mr. McNULTY, pursuant to House Resolution 541 and rule XXIII, declared the House resolved into the Committee of the Whole House on the state of the Union for the consideration of the bill (H.R. 5466) to amend the Federal Aviation Act of 1958 to enhance competition among air carriers by prohibiting an air carrier who operates a computer reservation system from discriminating against other travel agents which subscribe to the system, and for other purposes.

The SPEAKER pro tempore, Mr. McNULTY, by unanimous consent, designated Mr. SKAGGS as Chairman of the Committee of the Whole; and after some time spent therein,

The SPEAKER pro tempore, Mr. MONTGOMERY, assumed the Chair.

When Mr. HALL of Ohio, Acting Chairman, pursuant to House Resolution 541, reported the bill back to the House with an amendment adopted by the Committee.

The previous question having been ordered by said resolution.

The following amendment, reported from the Committee of the Whole House on the state of the Union, was agreed to:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Airline Competition Enhancement Act of 1992".

SEC. 2. COMPUTER RESERVATION SYSTEMS.

(a) IN GENERAL.—Title IV of the Federal Aviation Act of 1958 (49 U.S.C. App. 1371-1389) is further amended by adding at the end the following new section:

"SEC. 420. COMPUTER RESERVATIONS SYSTEMS.

"(a) PROHIBITIONS AGAINST VENDOR DISCRIMINATION.—

"(1) IN GENERAL.—No vendor, in the operation of its computer reservation system, may unjustly discriminate among participants in such system. For purposes of this subsection, unjust discrimination shall include, but not be limited to, practices prohibited by this subsection. A prohibition of a practice for which an effective date is specified in paragraph (2) shall take effect on such date.

"(2) SPECIFIED PROHIBITED CRS OPERATIONAL PRACTICES.—No vendor, in the operation of its computer reservation system, may—

"(A)(i) make available to subscribers an integrated display in which information is ordered or emphasized based upon factors relating to air carrier identity; or

"(ii) supply information from its computer reservations system to any person creating or attempting to create such an integrated display if the vendor knows or has reason to know that such person intends to create or attempt to create such an integrated display; except that the prohibition contained in this clause shall not apply to the extent that the vendor is supplying the information to a subscriber creating, in accordance with the conditions of the exception contained in subsection (c)(1), an integrated display using information from the system;

"(B) make available, after September 30, 1994, to a subscriber any subscriber transaction capability which is more functional, timely, complete, accurate, reliable, secure, or efficient, is easier for the subscriber to use or access, or provides to the subscriber a different level of confirmation of transactions, with respect to one participant than with respect to any other participant; except to the extent that the vendor is offering the other participant the opportunity to participate in such capability at the same price and terms as other participants and the participant has not accepted such offer;

"(C) make available, after September 30, 1994, to a participant any participant transaction capability which is more functional, timely, complete, accurate, reliable, secure, or efficient with respect to one participant than with respect to any other participant; except to the extent that the vendor is offering the other participant the opportunity to participate in such capability at the same price and terms as other participants and the participant has not accepted such offer;

"(D) charge any separate participant fee for, or require compliance with any terms or conditions relating to, the provision of any computer reservation system feature, function, or service which the vendor offers as a separate option to the participant for the purpose of complying with the requirements of this subsection, unless such fee, terms, or conditions are reasonable; or

"(E) directly or indirectly prohibit a subscriber from obtaining or using any other computer reservation system.

"(3) PROHIBITION AGAINST INDUCING DISCRIMINATION.—No vendor or air carrier shall require, or provide any incentives to induce, any subscriber to use information from a computer reservation system to create an integrated display in which information is ordered or emphasized based upon factors relating to air carrier identity.

"(4) USE OF THIRD-PARTY HARDWARE, SOFTWARE, AND DATA BASES.—

"(A) IN GENERAL.—Except on grounds of demonstrated technological incompatibility, no vendor may prohibit or unreasonably restrict, directly or indirectly—

"(i) the interconnection to its computer reservation system equipment of computer hardware or software supplied by a person other than such vendor; or

"(ii) the use by a subscriber, to access directly any other computer reservation system or data base, of hardware and communications lines supplied by any other vendor.

"(B) SPECIFIED PROHIBITIONS.—The practices prohibited by subparagraph (A) include, but are not limited to, the following:

"(i) The imposition of fees in excess of reasonable levels to certify or interconnect third-party equipment or to use equipment supplied by any other vendor to access any other computer reservation system or data base.

"(ii) Undue delays or redundant or unnecessary testing before certifying or interconnecting such equipment or access.

"(iii) The imposition of requirements that subscribers use the vendor's computer reservation system for any minimum number or percentage of the subscriber's bookings.

"(iv) Refusals to provide any services, compensation, or other benefits normally provided subscribers on account of the subscriber's using third-party equipment or the subscriber's using the same equipment for access to both the vendor's computer reservations system and other computer reservation systems and data bases.

"(v) The termination of a subscriber contract because of the subscriber's use of third-party equipment or the use of the same equipment for access to the vendor's computer reservations system and any other computer reservation systems or data bases.

"(5) EXTENSION OF CONTRACT AS CONDITION TO PROVIDING ADDITIONAL SYSTEM COMPONENTS.—No vendor may require, as a condition for providing to a subscriber additional computer reservation system components (including software and enhancements), that the term of the subscriber contract for previously provided system components be extended.

"(6) USE OF SYSTEM IN SALE OF AIR TRANSPORTATION SERVICES.—No vendor may require use of its computer reservation system by the subscriber in any sale by the subscriber of air transportation services of the vendor.

"(7) USE OF SYSTEM AS CONDITION TO COMPENSATION FOR SALE OF SERVICES.—No vendor may require that a subscriber use or subscribe to its computer reservation system as a condition to the receipt of any compensation for the sale of air transportation services by the subscriber.

"(8) CONDITIONAL PRICES.—No vendor may charge prices to subscribers conditioned in whole or in part on the identity of air carriers whose air transportation services are sold by the subscriber.

"(b) SUBSCRIBER CONTRACT RESTRAINTS.—

"(1) TERM OF CONTRACT.—

"(A) GENERAL RULE.—Except as provided in subparagraph (B), no subscriber contract provision shall be enforceable in law or equity after the 180th day following the date of the enactment of this section to the extent that such provision provides for the term of the contract to be more than 3 years.

"(B) GRANDFATHER OF CERTAIN EXISTING CONTRACTS.—This paragraph shall not apply to a contract—

"(i) which is in effect on the date of the enactment of this section,

"(ii) which is for a term of not more than 5 years, and

"(iii) with respect to which all parties to the contract have agreed, in writing, after such date of enactment and before the 180th day following such date of enactment, that the contract will be enforceable, subject to other paragraphs of this subsection, until the last day of its term.

"(2) OTHER PROVISIONS.—No subscriber contract provision shall be enforceable in law or equity to the extent that such provision—

"(A) forms a basis for a claim of actual or liquidated damages by the vendor in the

event of cancellation of the contract, except as follows:

“(i) damages related to the vendor’s actual cost of removing its equipment from the subscriber’s premises;

“(ii) the unamortized share of the vendor’s actual cost of installing such equipment in the subscriber’s premises exclusive of any element of capital investment in such equipment; and

“(iii) other amounts owed to the vendor by the subscriber during the unexpired term of the contract, but in no event including amounts which are in the nature of a penalty for cancellation or which otherwise become due upon cancellation;

“(B) extends, or provides for the extension of, the contract beyond its stated date of termination, whether because of the addition or deletion of equipment or because of some other event;

“(C) provides an expiration date later than the earliest expiration date of any other contract for computer reservations services or equipment between the same subscriber and vendor;

“(D) directly or indirectly requires that the subscriber use the vendor’s computer reservations system for a minimum volume of transactions, whether measured as an absolute number, a percentage of total transactions of any kind, or otherwise (including making failure to comply with such a requirement a breach or violation of the contract or a ground for termination of the contract); and

“(E) directly or indirectly requires the subscriber to use a minimum number or ratio of system components based upon or related to the number of system components leased from another vendor (including making failure to comply with such a requirement a breach or violation of the contract or a ground for termination of the contract).

“(c) PROHIBITION OF SUBSCRIBER MODIFICATION OF INFORMATION.—No subscriber may use computer software or hardware to modify information in a computer reservation system or derived from a computer reservation system in such a way as to produce—

“(1) integrated displays of such information in which information is ordered or emphasized based on factors relating to air carrier identity, except that the subscriber may use the software or hardware to create such displays of air transportation services—

“(A) if, before such use, the displays have been requested by a customer of the subscriber in writing;

“(B) if the request is kept on file by the subscriber until there has been a period of at least 2 years in which the customer has not purchased any services from the subscriber; and

“(C) if the software or hardware is used only with respect to such customer; or

“(2) displays of such information which provide subscriber transaction capability which violates subsection (a)(2)(B) or participant transaction capability which violates subsection (a)(2)(C).

“(d) REPORTING.—

“(1) QUARTERLY REPORTS.—Not later than the last day of the 1st calendar quarter following the date of the enactment of this section and of each calendar quarter following such 1st calendar quarter and ending on or before December 31, 1994, each vendor shall submit to the Secretary a report describing the manner in which the vendor proposes to achieve and is achieving compliance with subsections (a)(2)(A), (a)(2)(B), (a)(2)(C), and (a)(2)(D).

“(2) REPORT OF SECRETARY.—On or before July 31, 1993, the Secretary shall transmit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report,

based on the reports filed by vendors pursuant to paragraph (1) of this subsection—

“(A) which describes the progress which each vendor has made in achieving compliance with subsections (a)(2)(A), (a)(2)(B), (a)(2)(C), and (a)(2)(D);

“(B) which compares and contrasts the participant transaction capabilities and subscriber transaction capabilities, including the protocols of each vendor with each participant; and

“(C) which includes a tentative finding by the Secretary as to whether each vendor is making satisfactory progress toward, and is likely to achieve, compliance with each of such subsections in accordance with any time limit contained in such subsection. The Secretary shall provide each vendor a copy of the report transmitted under this paragraph within 30 days after the date of such transmittal.

“(3) SUPPLEMENTAL VENDOR REPORT.—If the report transmitted under paragraph (2) includes a finding of the Secretary that a vendor is not making satisfactory progress toward, or is not likely to achieve, compliance with subsection (a)(2)(A), (a)(2)(B), (a)(2)(C), or (a)(2)(D) in accordance with any time limit contained in such subsection, the Secretary shall require the vendor to submit to the Secretary a supplemental report describing the manner in which the vendor proposes to achieve compliance with such subsection.

“(4) MAINTENANCE OF RECORDS.—Not later than 90 days after the date of the enactment of this section, the Secretary shall issue regulations requiring each vendor to maintain such information concerning its computer reservation system as the Secretary determines is necessary to enable the Secretary to determine whether or not the vendor is making progress toward achieving compliance, or is in compliance, with this section. Such regulations shall establish the form and substance of the information to be maintained.

“(e) MONITORING OF PARTICIPANT FEES.—Not later than March 31, 1993, and each March 31 thereafter, the Secretary shall transmit, to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, a report on the participant fees charged by vendors during the preceding calendar year, including whether such fees represent an increase or decrease over the fees charged previously and whether, in the opinion of the Secretary, such fees are reasonable.

“(f) SPECIAL RULES FOR CERTAIN VIOLATIONS.—

“(1) APPLICABILITY.—The procedures and time limits set forth in this subsection shall apply to any complaint filed with the Secretary alleging a violation of this section (including any regulation issued to carry out this section or otherwise relating to computer reservation systems).

“(2) DEADLINE FOR DECISION WITH RESPECT TO A COMPLAINT.—Not later than the 90th day following the date of the filing of a complaint to which this subsection applies, the Secretary shall issue—

“(A) on the basis of the information filed with respect to the complaint and any other information available to the Secretary, an order which determines that there is not a material issue of fact with respect to the complaint and—

“(i) which finds that the violation has not occurred and dismisses the complaint; or

“(ii) which finds, after compliance with the procedures of section 1002(c) of this Act, that the violation has occurred and sets out the remedies and penalties that the Secretary determines are appropriate for the violation and the information forming the basis for such finding;

“(B) a consent order which sets out the remedies and penalties which the Secretary determines are appropriate and to which the alleged violator has agreed; or

“(C) for a determination of whether or not the violation has occurred and appropriate remedies and penalties for the violation if the violation has occurred, an order instituting a proceeding which includes an oral hearing on the record before an administrative law judge in accordance with section 554 of title 5, United States Code.

“(3) PARTIES TO AN ALJ PROCEEDING.—If the Secretary issues an order instituting a proceeding before an administrative law judge under this subsection, both the Department of Transportation and the person filing the complaint shall be parties to the proceeding if they so elect, and the administrative law judge may designate additional parties to the proceeding.

“(4) POWER OF ALJ TO COMPEL PRODUCTION OF DOCUMENTS.—An administrative law judge to whom a complaint under this subsection is assigned may compel the production of documents and other information necessary to determine whether the violation has or has not occurred.

“(5) DEADLINE FOR ALJ DECISION.—Not later than the 270th day following the date on which the Secretary issues an order instituting a proceeding before an administrative law judge under this subsection, the judge shall issue an order—

“(A) which finds that no violation has occurred and dismisses the complaint; or

“(B) which finds that a violation has occurred and sets out the remedies and penalties that the administrative law judge determines are appropriate for such violation.

“(6) DEADLINE FOR FINAL ORDER.—Not later than the 90th day following the date of issuance of an order by an administrative law judge under this subsection, the Secretary shall issue a final order with respect to the complaint. If the Secretary does not issue the final order by the last day of such 90-day period, the order of the administrative law judge shall be deemed to be a final order of the Secretary.

“(g) TREATMENT OF CERTAIN REDUCED CRS SERVICES.—If any computer reservation system service being provided to a participant in such system for a participant fee is reduced without a corresponding reduction in the participant fee, the participant fee shall be treated, for purposes of this section, as being increased by the vendor.

“(h) REGULATIONS.—

“(1) GENERAL AUTHORITY.—The Secretary may issue regulations to carry out the objectives of this section and such other regulations relating to computer reservation systems as the Secretary determines appropriate. Such regulations shall not be inconsistent with the provisions of this section.

“(2) ENFORCEABILITY.—The enforceability of this section shall not be affected by any delay or failure of the Secretary to issue regulations to carry out the objectives of this section.

“(i) DEFINITIONS.—For purposes of this section, the following definitions apply:

“(1) COMPUTER RESERVATIONS SYSTEM.—The term ‘computer reservations system’ means—

“(A) a computer system which is offered to subscribers for use in the United States and contains information on the schedules, fares, rules, or seat availability of 2 or more separately identified air carriers and provides subscribers with the ability to make reservations and to issue tickets; and

“(B) a computer system which was subject to the provisions of part 255 of title 14 of the Code of Federal Regulations (relating to computer reservation systems) on June 1, 1991.

“(2) **COMPUTER SYSTEM.**—The term ‘computer system’ means a unit of one or more computers, and associated software, peripherals, terminals, and means of information transfer, capable of performing information processing and transfer functions.

“(3) **INTERNAL RESERVATION SYSTEM.**—The term ‘internal reservation system’ means a computer system which contains information on airline schedules, fares, rules, or seat availability and is used by an air carrier to respond to inquiries made directly to the carrier by members of the public concerning such information and to make reservations arising from such inquiries.

“(4) **INTEGRATED DISPLAY.**—The term ‘integrated display’ means a computerized display of information which relates to air carrier schedules, fares, rules, or availability and is designed to include information pertaining to more than 1 separately identified air carrier. Such term excludes the display of data from the internal reservations system of an individual air carrier when provided in response to a request by a ticket agent relating to a specific transaction.

“(5) **PARTICIPANT.**—The term ‘participant’, as used with respect to a computer reservations system, means an air carrier which has its flight schedules, fares, or seat availability displayed through such system.

“(6) **PARTICIPANT FEE.**—The term ‘participant fee’ means any fee, charge, penalty, or thing of value contractually required to be furnished to a vendor by a participant for display of the flight schedules, fares, or seat availability of the participant through the computer reservation system of the vendor or for other computer reservation system services provided to the participant.

“(7) **PARTICIPANT TRANSACTION CAPABILITY.**—The term ‘participant transaction capability’ means a service, product, function, or facility with respect to any computer reservation system which is provided by a vendor to any participant and which is capable of benefiting the air transportation business of such participant, including the quality, reliability, and security of communications provided by the vendor linking such vendor’s computer reservation system to the computer system or data bases of any participant, the loading into the system of information on schedules, fares, rules, or seat availability, the booking or assignment of seats, the issuance of tickets or boarding passes, the retrieval of data from the system, or a means of determining the timeliness with which a participant will receive payment for air transportation sold through the system.

“(8) **PROTOCOL.**—The term ‘protocol’ means a set of rules or formats which govern the information transfer between and among computer reservation systems, participants, and subscribers.

“(9) **SUBSCRIBER.**—The term ‘subscriber’ means a ticket agent which uses a computer reservation system in the sale and issuance of tickets for air transportation.

“(10) **SUBSCRIBER CONTRACT.**—The term ‘subscriber contract’ means an agreement, and any amendment thereto, between a ticket agent and a vendor for the furnishing of computer reservations services to such subscriber.

“(11) **SUBSCRIBER TRANSACTION CAPABILITY.**—The term ‘subscriber transaction capability’ means any capability offered through a computer reservation system to a subscriber with respect to air transportation, including the capability of a ticket agent through a computer reservations system to view information on airline schedules, fares, rules, and seat availability or to book space, assign seats, or issue tickets or boarding passes for air transportation to be provided by air carriers.

“(12) **VENDOR.**—The term ‘vendor’ means any person who owns, controls, or operates a computer reservations system.”.

(b) **CONFORMING AMENDMENT TO TABLE OF CONTENTS.**—The table of contents contained in the first section of the Federal Aviation Act of 1958 is amended by adding at the end of the matter relating to title IV of such Act the following:

“Sec. 420. Computer reservations systems.

“(a) Prohibitions against vendor discrimination.

“(b) Subscriber contract restraints.

“(c) Prohibition of subscriber modification of information.

“(d) Reporting.

“(e) Monitoring of participant fees.

“(f) Special rules for certain nonfee violations.

“(g) Treatment of certain reduced CRS services.

“(h) Definitions.”.

SEC. 3. PROTECTION OF SMALL COMMUNITY AIRLINE PASSENGERS.

(a) **ACCESS TO HIGH DENSITY AIRPORTS.**—Section 419(b) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1389(b)) is amended by adding at the end the following new paragraph:

“(10) **ACCESS TO HIGH DENSITY AIRPORTS.**—

“(A) **NONCONSIDERATION OF SLOT AVAILABILITY.**—In determining what is basic essential air service and in selecting an air carrier to provide such service, the Secretary shall not give consideration to whether slots at a high density airport are available for providing such service.

“(B) **MAKING SLOTS AVAILABLE.**—If basic essential air service is to be provided to and from a high density airport, the Secretary shall ensure that a sufficient number of slots at such airport are available to the air carrier providing or selected to provide such service. If necessary to carry out the objectives of this subsection, the Secretary shall take such action as may be necessary to have such slots transferred or otherwise made available to the air carrier; except that the Secretary shall not be required to make slots available at O’Hare International Airport in Chicago, Illinois, if the number of slots available for basic essential air service to and from such airport is at least 132 slots.”.

(b) **TRANSFERS OF SLOTS AT HIGH DENSITY AIRPORTS.**—Section 419(b)(7) of such Act (49 U.S.C. App. 1389(b)(7)) is amended—

(1) by striking “TRANSFER OF OPERATIONAL AUTHORITY AT CERTAIN” and inserting “TRANSFERS OF SLOTS AT”;

(2) by striking “an airport at which the Administrator limits the number of instrument flight rule takeoffs and landings of aircraft” and inserting “a high density airport”;

(3) by striking “operational authority” and inserting “slots”;

(4) by striking “has to conduct a landing or takeoff” and inserting “have”; and

(5) by striking “such authority” the first place it appears and inserting “such slots”;

(6) by striking “such authority is” and inserting “such slots are”; and

(7) by inserting “basic essential” after “used to provide”.

(c) **DEFINITIONS.**—Section 419(k) of such Act (49 U.S.C. App. 1389(k)) is amended by adding at the end the following new paragraphs:

“(6) **HIGH DENSITY AIRPORT.**—The term ‘high density airport’ means an airport at which the Administrator limits the number of instrument flight rule takeoffs and landings of aircraft.

“(7) **SLOT.**—The term ‘slot’ means a reservation for an instrument flight rule takeoff or landing by an air carrier of an aircraft in air transportation.”.

SEC. 4. LIMITATION ON STATUTORY CONSTRUCTION WITH RESPECT TO EMPLOYMENT INVESTIGATIONS.

(a) **IN GENERAL.**—Section 316 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1357) is amended—

(1) by redesignating the second subsection (g), relating to air carrier and airport security personnel, and subsections (h), (i), (j), and (k) as subsections (h), (i), (j), (k), and (l), respectively; and

(2) in subsection (h)(1), as so redesignated, by adding at the end thereof the following new subparagraph:

“(D) **LIMITATION ON STATUTORY CONSTRUCTION.**—Nothing in the section shall require the Administrator to issue regulations requiring that employment investigations under this section include criminal history record checks if the Administrator determines that such record checks are not necessary to ensure air transportation security.”.

(b) **CONFORMING AMENDMENTS TO TABLE OF CONTENTS.**—The portion of the table of contents contained in the first section of such Act under the side heading

“Sec. 316. Air transportation security.” is amended—

(1) by redesignating items (g), (h), (i), (j), and (k) as items (h), (i), (j), (k), and (l), respectively; and

(2) by inserting after the item relating to subsection (f) the following:

“(g) Airport tenants security programs.”.

SEC. 5. RULEMAKING ON RANDOM TESTING FOR PROHIBITED DRUGS.

Not later than 120 days after the date of the enactment of this Act, the Secretary of Transportation shall initiate a rulemaking proceeding to consider whether there should be a reduction in the annualized rate of random testing for prohibited drugs now required by the Secretary for personnel engaged in aviation activities. A final decision in such rulemaking proceeding shall be issued not later than 1 year after such date of enactment.

SEC. 6. CLARIFICATION OF PFC APPLICABILITY.

Section 1113(e)(1) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1513(e)(1)) is amended by adding at the end thereof the following new sentence: “This subsection does not authorize the Secretary to grant a public agency authority to impose a fee for a passenger enplaning at an airport if the passenger did not pay for the air transportation which resulted in such enplanement, including any case in which the passenger obtained the ticket for the air transportation with a frequent flier award coupon without monetary payment.”.

SEC. 7. CANCELLATIONS AND ON-TIME PERFORMANCE BY COMMUTER AIR CARRIERS.

(a) **AMENDMENT OF REGULATIONS.**—Not later than 120 days after the date of the enactment of this Act, the Secretary of Transportation shall amend part 234 of title 14 of the Code of Federal Regulations to require commuter air carriers to comply with the provisions governing on-time performance in such part.

(b) **REPORTS.**—Not later than the 30th day following the last day of each calendar month beginning after the 120th day following the date of the enactment of this Act, the Secretary of Transportation shall publish a report containing the percentage of flights of each commuter air carrier which were canceled during such calendar month.

(c) **DEFINITION.**—In this section, the term “commuter air carrier” means an air carrier (as defined by section 101 of the Federal Aviation Act of 1958) that provides air service in accordance with a published schedule and that primarily operates aircraft designed

to have a maximum passenger seating capacity of 60 seats or less.

SEC. 8. DECLARATION OF POLICY.

(a) STRENGTHENING OF COMPETITION.—Section 102 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1302) is amended by adding at the end the following new subsection:

“(c) STRENGTHENING OF COMPETITION.—In selecting an air carrier to provide foreign air transportation from among competing applicants to provide such transportation, the Secretary shall consider the strengthening of competition among air carriers operating in the United States in order to prevent undue concentration in the air carrier industry, in addition to considering the factors specified in subsections (a) and (b) of this section.”.

(b) CONFORMING AMENDMENT.—The portion of the table of contents contained in the first section of such Act relating to section 102 is amended by adding at the end the following new item:

“(c) Strengthening of competition.”.

The bill, as amended, was ordered to be engrossed and read a third time, was read a third time by title.

The question being put, *viva voce*,

Will the House pass said bill?

The SPEAKER pro tempore, Mr. MONTGOMERY, announced that the yeas had it.

Mr. OBERSTAR demanded that the vote be taken by the yeas and nays, which demand was supported by one-fifth of the Members present, so the yeas and nays were ordered.

The vote was taken by electronic device.

It was decided in the affirmative { Yeas 230
Nays 160

¶101.20 [Roll No. 386]
YEAS—230

Abercrombie	Donnelly	Johnson (CT)
Alexander	Dooley	Johnson (SD)
Anderson	Dorgan (ND)	Jones (GA)
Andrews (ME)	Downey	Jones (NC)
Andrews (TX)	Early	Jontz
Applegate	Eckart	Kanjorski
Archer	Edwards (CA)	Kaptur
Aspin	Emerson	Kasich
Atkins	Engel	Kennedy
Bacchus	Espy	Kildee
Bateman	Evans	Klecicka
Beilenson	Ewing	Kolter
Bennett	Fazio	Kopetski
Bentley	Feighan	Kostmayer
Bereuter	Fields	Kyl
Berman	Foglietta	LaFalce
Blackwell	Ford (MI)	Lantos
Boehlert	Ford (TN)	Laughlin
Bonior	Frank (MA)	Levin (MI)
Borski	Gejdenson	Lewine (CA)
Boucher	Gekas	Lewis (GA)
Brooks	Gephardt	Lloyd
Brown	Gibbons	Long
Bruce	Gilchrest	Lowe (NY)
Bunning	Gillmor	Luken
Camp	Gilman	Machtley
Cardin	Glickman	Manton
Carper	Goodling	Martin
Carr	Guarini	Martinez
Chandler	Gunderson	Matsui
Clinger	Hall (OH)	Mazzoli
Coleman (MO)	Hamilton	McCloskey
Collins (MI)	Hammerschmidt	McDade
Conyers	Hansen	McEwen
Coughlin	Henry	McGrath
Coyne	Hertel	McHugh
Cramer	Hobson	McMillen (MD)
Darden	Horn	Meyers
de la Garza	Horton	Mfume
DeLauro	Hoyer	Mineta
DeLay	Hubbard	Mink
Dellums	Huckaby	Moakley
Derrick	Hughes	Molinari
Dickinson	Hunter	Mollohan
Dicks	Hutto	Moody
Dingell	Jacobs	Moran
Dixon	Jefferson	Morella

Mrazek	Ray
Murphy	Reed
Nagle	Rhodes
Neal (MA)	Ridge
Nichols	Riggs
Nowak	Rinaldo
Nussle	Ritter
Oakar	Roberts
Oberstar	Roe
Obey	Roemer
Olver	Roukema
Ortiz	Rowland
Orton	Russo
Owens (NY)	Sabo
Owens (UT)	Sanders
Pallone	Santorum
Pastor	Savage
Payne (NJ)	Sawyer
Pease	Scheuer
Pelosi	Schulze
Penny	Schumer
Perkins	Serrano
Peterson (FL)	Sharp
Peterson (MN)	Shaw
Petri	Shays
Pickett	Shuster
Pursell	Sikorski
Rahall	Skaggs
Ramstad	Skelton
Rangel	Slattery

Slaughter	Towns
Smith (NJ)	Traxler
Smith (TX)	Vento
Snowe	Walker
Solarz	Weber
Spratt	Wilson
Stark	
Stokes	
Studds	
Swift	
Tallon	
Taylor (NC)	
Thomas (GA)	
Trafficant	
Upton	
Vander Jagt	
Volkmer	
Vucanovich	
Waters	
Waxman	
Weiss	
Weldo	
Wheat	
Whitten	
Williams	
Wise	
Wolpe	
Wyden	
Young (FL)	

Yates
Yatron

So the bill was passed.

A motion to reconsider the vote whereby said bill was passed was, by unanimous consent, laid on the table.

Ordered, That the Clerk request the concurrence of the Senate in said bill.

¶101.21 ENERGY EFFICIENCY

On motion of Mr. SHARP, by unanimous consent, the bill (H.R. 776) to provide for improved energy efficiency; together with the amendment of the Senate thereto, was taken from the Speaker's table.

When on motion of Mr. SHARP, it was,

Resolved, That the House disagree to the amendment of the Senate and agree to the conference asked by the Senate on the disagreeing votes of the two Houses thereon.

Ordered, That the Clerk notify the Senate thereof.

¶101.22 MOTION TO INSTRUCT CONFEREES—H.R. 776

Mr. LENT moved that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on H.R. 776 be instructed to balance both energy conservation and energy efficiency with energy supply, achieve this goal in a manner consistent with environmental protection, and use market mechanisms and incentives rather than command-and-control regulations and government subsidies, within the scope of the conference.

After debate,

On motion of Mr. LENT, the previous question was ordered on the motion to instruct the managers on the part of the House.

The question being put, *viva voce*,

Will the House agree to said motion?

The SPEAKER announced that the yeas had it.

So the motion to instruct the managers on the part of the House was agreed to.

A motion to reconsider the vote whereby said motion was agreed to was, by unanimous consent, laid on the table.

¶101.23 APPOINTMENT OF CONFEREES—H.R. 776

Thereupon, the SPEAKER announced the appointment of the following Members as managers on the part of the House at said conference:

From the Committee on Energy and Commerce, for consideration of the House bill (except title XIX), and the Senate amendment (except title XX), and modifications committed to conference: Messrs. DINGELL, SHARP, MARKEY, TAUZIN, TOWNS, SWIFT, SYNARLENT, MOORHEAD, AND DANNE-MEYER; PROVIDED, THAT MR. BLILEY is appointed only for consideration of titles I, VII, XII, XVII, and XXXI of the House bill, and titles V, VI and XV of the Senate amendment;
Mr. FIELDS is appointed only for consideration of titles III, IV, V, XIV,

NAYS—160

Allard	Goss	Panetta
Allen	Gradison	Parker
Andrews (NJ)	Grandy	Patterson
Annuzio	Green	Paxon
Anthony	Hall (TX)	Payne (VA)
Armye	Hancock	Pickle
Baker	Harris	Porter
Ballenger	Hastert	Poshard
Barrett	Hayes (IL)	Price
Bevill	Hayes (LA)	Quillen
Bilbray	Hefley	Ravenel
Billirakis	Hefner	Regula
Bliley	Herger	Rogers
Boehner	Hochbrueckner	Rohrabacher
Brewster	Holloway	Ros-Lehtinen
Broomfield	Hopkins	Rose
Browder	Inhofe	Rostenkowski
Bryant	James	Roth
Burton	Johnson (TX)	Sangmeister
Bustamante	Johnston	Sarpalius
Byron	Kennelly	Saxton
Callahan	Klug	Schaefer
Campbell (CA)	Kolbe	Schiff
Clement	Lagomarsino	Schroeder
Coble	Lancaster	Sensenbrenner
Coleman (TX)	LaRocco	Sisisky
Collins (IL)	Leach	Skeen
Combest	Lehman (FL)	Smith (FL)
Condit	Lent	Smith (OR)
Cooper	Lewis (CA)	Spence
Costello	Lewis (FL)	Stallings
Cox (CA)	Lightfoot	Stearns
Cox (IL)	Lipinski	Stump
Crane	Livingston	Sundquist
Dannemeyer	Lowery (CA)	Swett
Davis	Marlenee	Synar
Doolittle	Mavroules	Tauzin
Dornan (CA)	McCandless	Taylor (MS)
Dreier	McCrery	Thomas (CA)
Duncan	McCurdy	Thomas (WY)
Durbin	McDermott	Thornton
Edwards (OK)	McMillan (NC)	Torres
Edwards (TX)	McNulty	Unsoeld
English	Michel	Valentine
Erdreich	Miller (OH)	Visclosky
Fascell	Miller (WA)	Walsh
Fawell	Montgomery	Washington
Fish	Moorhead	Wolf
Franks (CT)	Morrison	Wylie
Frost	Myers	Young (AK)
Gallegly	Natcher	Zeliff
Geran	Neal (NC)	Zimmer
Gonzalez	Oxley	
Gordon	Packard	

NOT VOTING—44

Ackerman	Flake	McCollum
AuCoin	Gallo	Miller (CA)
Barnard	Gaydos	Murtha
Barton	Gingrich	Olin
Boxer	Hatcher	Richardson
Campbell (CO)	Hoagland	Roybal
Chapman	Houghton	Smith (IA)
Clay	Hyde	Solomon
Cunningham	Ireland	Staggers
DeFazio	Jenkins	Stenholm
Dwyer	Lehman (CA)	Tanner
Dymally	Markey	Torricelli