from Indiana (Mr. BAYH) were added as cosponsors of S. Res. 221, a resolution recognizing National Historically Black Colleges and Universities and the importance and accomplishments of historically Black colleges and universities.

S. RES. 311

At the request of Mr. BROWNBACK, the name of the Senator from New Hampshire (Mr. SUNUNU) was added as a cosponsor of S. Res. 311, a resolution calling on the Government of the Socialist Republic of Vietnam to immediately and unconditionally release Father Thadeus Nguyen Van Ly, and for other purposes.

S. RES. 326

At the request of Mr. BIDEN, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. Res. 326, a resolution condemning ethnic violence in Kosovo.

S. RES. 330

At the request of Mr. WYDEN, the names of the Senator from Wisconsin (Mr. FEINGOLD), the Senator from Illinois (Mr. DURBIN), the Senator from Iowa (Mr. HARKIN) and the Senator from Minnesota (Mr. DAYTON) were added as cosponsors of S. Res. 330, a resolution expressing the sense of the Senate that the President should communicate to the members of the Organization of Petroleum Exporting Countries ('OPEC') cartel and non-OPEC countries that participate in the cartel of crude oil producing countries the position of the United States in favor of increasing world crude oil supplies so as to achieve stable crude oil prices.

AMENDMENT NO. 3036

At the request of Mr. BAUCUS, the name of the Senator from Ohio (Mr. VOINOVICH) was added as a cosponsor of amendment No. 3036 intended to be proposed to S. 1637, a bill to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes.

AMENDMENT NO. 3043

At the request of Mr. AKAKA, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of amendment No. 3043 intended to be proposed to S. 344, a bill expressing the policy of the United States regarding the United States relationship with Native Hawaiians and to provide a process for the recognition by the United States of the Native Hawaiian governing entity, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. EDWARDS:

S. 2303. A bill to help American families save, invest, and build a better future, and for other purposes; to the Committee on Finance.

Mr. EDWARDS. Mr. President, I rise to introduce the Better Future for American Families Act. Today's legislation will strengthen progressive tax credits to help middle-class families save, invest, and get ahead.

For more than 200 years, our country has been propelled by this single, powerful idea: All Americans should have the opportunity to rise as far as their hard work and God-given potential can take them. In the last generation, however, the American Dream of building something better has been replaced with the hope of just getting by.

Due to the rising costs of housing, health care, and other necessities, many families are no longer saving for the future. In fact, they need to borrow to get through the present. Personal bankruptcies reached an all-time high of 1.6 million a year in 2002. Almost one in five households approaching retirement can expect to retire in poverty, and this rate is even higher for African American and Hispanic households. The middle-class—the foundation of this country—is sinking.

If we want to create new wealth in this country, we should start by rewarding the work and responsibility of America's families. What's right for our economy, our democracy, and our society is consistent with our values as well: Every American should have the chance to be an owner—to buy a home, save for college, invest in America, or put money aside for a secure retirement.

In current law, there is a Saver's Credit that matches retirement savings of low-income families up to dollar-for-dollar. The credit has been a success, but it does suffer from some limitations.

First, the Saver's Credit will expire in 2006. The Republican budget plan fails to extend it, even as it extends other tax cuts enacted in 2001. My legislation would make it permanent.

Second, the credit phases out rapidly, providing only a small benefit to many middle-income families and creating high marginal tax rates for millions of savers. My legislation would expand benefits for families earning less than $50,000.

Finally, although 57 million taxpayers are eligible for the maximum credit on paper, 80 percent of them cannot actually benefit from it because they lack income tax liability. These are families that need help as much as anyone, and my legislation would make them eligible for the credit.

This legislation would make a real difference for American families. A family that saves the maximum under this plan every year from age 25 to retirement will have a nest egg of $200,000 on top of any other savings, pensions, and Social Security.

Here in Congress, it is our responsibility to make sure that families working for a living have the tools they need to move forward. My legislation is not about creating another government program to protect families; it is about helping families help themselves.

If we help families save, we can unleash a new era of possibilities with a stronger economy because we're saving and investing more; with families at ease because they have financial security; and with our children prospering because they have a strong foundation on which to build. I urge all of my colleagues to join me in supporting this effort.

I ask unanimous consent that the text of the legislation be printed in the RECORD.

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

S. 2393

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 ''Better Future for American Families Act''.

SEC. 2. MODIFICATIONS TO SAVER'S CREDIT.

(a) SAVER'S CREDIT.—Section 25B of the Internal Revenue Code of 1986 is amended by striking the heading thereof and inserting ''THE SAVER'S CREDIT.''.

(b) MODIFICATIONS TO APPLICABLE PERCENTAGE.—Subsection (b) of section 25B of the Internal Revenue Code of 1986 is amended to read as follows:

''(b) APPLICABLE PERCENTAGE.—For purposes of this section—

''(1) IN GENERAL.—The applicable percentage is 50 percent reduced (but not below zero) by 1 percentage point for each phaseout amount by which the taxpayer's adjusted gross income for the taxable year exceeds the threshold amount.

''(2) PHASEOUT AMOUNT; THRESHOLD AMOUNT.—The phaseout amount and the threshold amount shall be determined as follows:

In the case of an individual filing:	The phaseout amount is:	The threshold amount is:
A joint return	$400	$30,000
A head of household return.	$300	$22,500
Any other return.	$200	$15,000.''.

(c) REPEAL OF TERMINATION.—Section 25B of the Internal Revenue Code of 1986 is amended by striking subsection (h).

(d) CREDIT REFUNDABLE.—

(1) IN GENERAL.—Section 25B of the Internal Revenue Code of 1986, as amended by this Act, is hereby moved to subpart C of part IV of subchapter A of chapter 1 of such Code (relating to refundable credits) and inserted after section 35.

(2) CONFORMING AMENDMENTS.—

(A) Section 24(b)(3)(B) of the Internal Revenue Code of 1986 is amended by striking ''and 25B''.

(B) Section 25(e)(1)(C) of such Code is amended by striking '', 25B''.

(C) Section 26(a)(1) of such Code is amended by striking ''24, and 25B'' and inserting ''and 24''.

(D) Section 25B of such Code, as moved by paragraph (1), is redesignated as section 36.

(E) Section 904(h) of such Code is amended by striking ''24, and 25B'' and inserting '' and 24''.

(F) Section 1400C of such Code is amended by striking ''24, and 25B'' and inserting '' and 24''.

(G) The table of sections for subpart C of part IV of subchapter A of chapter 1 of such

Code is amended by striking the item relating to section 36 and inserting the following:

''Sec. 36. The Saver's Credit.

''Sec. 37. Overpayments of tax.''.

(H) The table of sections for subpart A of part IV of such Code is amended by striking the item relating to section 25B.

(I) Section 1324 of title 31, United States Code, is amended by inserting '', or enacted by the Better Future for American Families Act'' before the period at the end.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

By Mr. HAGEL (for himself and Mr. LIEBERMAN):

S. 2305. A bill to authorize programs that support economic and political development in the Greater Middle East and Central Asia and support for three new multilateral institutions, and for other purposes; to the Committee on Foreign Relations.

Mr. HAGEL. Mr. President, I rise today to introduce The Greater Middle East and Central Asia Development Act of 2004 with my colleague, Senator LIEBERMAN. This bill supports economic and private sector development in the countries of the Greater Middle East and Central Asia.

The terrorist attacks of September 11, 2001 signaled a turning point in United States foreign policy. Al-Qaida and affiliated groups have established a terrorist network with linkages in Afghanistan, Pakistan, throughout the Greater Middle East and Central Asia, and around the world. The war on terrorism requires that the United States consider the Greater Middle East and Central Asia as a strategic region with its own political, economic and security dynamics. While rich in cultural, geographic and language diversity, the Greater Middle East and Central Asia face common impediments to economic development and political freedom. Although poverty and economic underdevelopment alone do not ''cause'' terrorism, the expansion of economic growth, free trade, and private sector development can contribute to an environment that undercuts radical political tendencies that give rise to terrorism.

The economic problems of the Greater Middle East and Central Asia cannot be considered in isolation. We must work with the governments and peoples of the region on a cohesive program of political and economic reforms that builds a better future. We cannot lose the next generation to hopelessness and despair. Our initiatives must support progress toward market economies, enhanced trade, the development of democratic institutions, expansion of citizen-to-citizen contacts, educational reform, and private sector development. UN Secretary General Kofi Annan has said that we cannot reach the UN's goals for improving health, education, and living standards over the next 12 years ''without a strong private sector in the developing countries themselves, to create jobs and bring prosperity.'' This region needs more jobs, economic growth, a vibrant private sector, and good governance practices to help stabilize societies and lead to a stronger foundation for political reform and conflict prevention.

President Bush has committed the United States to a ''forward strategy of freedom'' in the Greater Middle East to combat terrorism and encourage reform in these countries. This is a multi-layered strategy, including increased spending and support for the National Endowment for Democracy, greater emphasis on public diplomacy, and initiating programs that support political liberalization and free markets. The G–8 summit in June and other forthcoming multi-lateral forums will provide opportunities to consult with our allies on many of these issues. Similarly, Senator DICK LUGAR, chairman of the Senate Foreign Relations Committee, has called for a Greater Middle East Twenty First Century Trust as part of a program of greater engagement with this region, and Senator JOSEPH BIDEN, ranking member on the committee, has proposed a Middle East Foundation to support political participation and civil society in the Middle East.

Our bill deepens and expands America's commitment to economic reform and private sector development in the Greater Middle East and Central Asia by authorizing $1 billion per year for five years and creating three new multilateral mechanisms: a Greater Middle East and Central Asia Development Bank to promote private sector development; a Greater Middle East and Central Asia Development Foundation to implement and administer economic and political programs; and a Trust for Democracy to provide small grants to promote development of civil society.

These are not traditional foreign aid programs. Our legislation seeks to help stimulate private sector development, promote strong market economies, invigorate trade relations within the region, and empower states to rebuild and open their economies. Through a combination of government initiative and flexible private sector financing, we can bring the resources and expertise needed to launch a new beginning for economic development to the Greater Middle East and Central Asia. Our bill also encourages the State Department and other relevant government agencies to consider new and creative approaches to coordination of political and economic support for the region.

Over the past 2 years, the United States has spent at least $120 billion on our military efforts in Iraq and Afghanistan. Investing in political and economic development is equally important in order to achieve stability in the Greater Middle East and Central Asia. Promoting trade and economic growth in the region complements our political and diplomatic objectives in the war on terrorism. People need hope for better lives. We cannot succeed in our war on terrorism until hope replaces despair among the next generation in the Greater Middle East and Central Asia.

Just this week, the editorial page of the Omaha World-Herald, my State's leading newspaper, supported the Bush administration's efforts to encourage economic openness among Muslim nations. Our bill today complements these worthy initiatives. Working with our allies to encourage free market development and political liberalization in the Muslim countries of the Greater Middle East and Central Asia would create, in the World-Herald's words, ''a win-win situation'' for the United States and those Muslim countries.

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. 2305

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 ''Greater Middle East and Central Asia Development Act of 2004''.

SEC. 2. PURPOSE.

The purpose of this Act is to authorize assistance for political freedom and economic development, particularly through private sector development, in the Greater Middle East and Central Asia, including contributions to and participation in 3 new entities: a Trust for Democracy, a Development Foundation, and a Development Bank.

SEC. 3. FINDINGS.

Congress makes the following findings:

(1) The terrorist attacks of September 11, 2001, signaled a turning point in United States foreign policy.

(2) Al Qaeda and affiliated groups have established a terrorist network with linkages in Afghanistan, Pakistan, throughout the Greater Middle East and Central Asia, and around the world.

(3) The war on terrorism requires that the United States consider the Greater Middle East and Central Asia as a strategic region with its own political, economic, and security dynamics.

(4) While rich in cultural, geographic, and language diversity, the Greater Middle East and Central Asia face common impediments to economic development and political freedom.

(5) Although poverty and economic underdevelopment do not alone cause terrorism, the expansion of economic growth, free trade, and private sector development can contribute to an environment that undercuts radical political tendencies that give rise to terrorism.

(6) Given the relationship between economic and political development and winning the global war on terror, America's support for freedom in the Greater Middle East and Central Asia must be matched with expanded and new programs of partnership with the people and governments of the region to promote good governance, political freedom, private sector development, and more open economies.

(7) The United States and other donors should support those citizens of the Greater Middle East and Central Asia who share our desire to undertake reforms that result in more open political and economic systems.

(8) Turkey, which should be supported in its aspirations for membership in the European Union, plays a pivotal and unique role

in efforts to bring economic development and stability to the Greater Middle East and Central Asia.

(9) The President should seek new mechanisms to work together with European and other nations, as well as with the countries of the Greater Middle East and Central Asia to promote political and economic development in the Greater Middle East and Central Asia.

(10) Because the dynamics of the Greater Middle East and Central Asia have a serious impact on global security, the North Atlantic Treaty Organization (NATO) should now shift its strategic focus to the region, including expanded roles in Iraq, Afghanistan, and the Mediterranean.

SEC. 4. DEFINITION; SPECIAL RULE.

(a) GREATER MIDDLE EAST AND CENTRAL ASIA DEFINED.—In this Act, the term ''Greater Middle East and Central Asia'' means the 22 nations of the Arab world (Algeria, Bahrain, Comoros, Djibouti, Egypt, Iraq, Jordan, Kuwait, Lebanon, Libya, Mauritania, Morocco, Oman, Palestine/West Bank/Gaza, Qatar, Saudi Arabia, Somalia, Sudan, Syria, Tunisia, United Arab Emirates, and Yemen), Afghanistan, Iran, Israel, Kazakhstan, Kyrgyzstan, Pakistan, Tajikistan, Turkey, Turkmenistan, and Uzbekistan.

(b) SPECIAL RULE.—A country listed in subsection (a) may not receive assistance under this Act if such country is identified as a country supporting international terrorism pursuant to section 6(j)(1)(A) of the Export Administration Act of 1979 (as in effect pursuant to the International Emergency Economic Powers Act; 50 U.S.C. 1701 et seq.), section 40(d) of the Arms Export Control Act (22 U.S.C. 2780(d)), section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371), or any other provision of law.

SEC. 5. AUTHORIZATION OF ASSISTANCE.

Notwithstanding any other provision of law, the President is authorized to provide assistance to countries of the Greater Middle East and Central Asia for the purpose of promoting economic and political freedoms, free trade, and private sector development, including the programs described in the following paragraphs:

(1) UNITED STATES CONTRIBUTION TO AND MEMBERSHIP IN A GREATER MIDDLE EAST AND CENTRAL ASIA DEVELOPMENT BANK.—The President is authorized to work with other donors and the countries of the Greater Middle East and Central Asia to establish a Greater Middle East and Central Asia Development Bank to promote private sector development, trade, including intra-regional trade, and investment in the Greater Middle East and Central Asia.

(2) CREATION OF A GREATER MIDDLE EAST AND CENTRAL ASIA DEVELOPMENT FOUNDATION.—The President is authorized to work with other donors and the countries of the Greater Middle East and Central Asia to establish a multilateral Greater Middle East and Central Asia Development Foundation to assist in the administration and implementation of assistance programs, including public-private programs, pursuant to this Act, with specific emphasis on programs at the grass-roots level, to include volunteer-based organizations and other nongovernmental organizations that support private sector development, entrepreneurship, and development of small- and medium-size enterprises and exchanges.

(3) CREATION OF TRUST FOR DEMOCRACY.—The President is authorized to establish, together with other donors and private sector and nongovernmental leaders from the Greater Middle East and Central Asia, a multilateral, public-private Trust for Democracy to support grass-roots development of civil society, democratic reform, good governance practices, and rule of law reform in the Greater Middle East and Central Asia. Private foundations shall be encouraged to participate in the Trust through the provision of matching funds.

SEC. 6. SENSE OF CONGRESS REGARDING COORDINATION OF ASSISTANCE TO COUNTRIES OF THE GREATER MIDDLE EAST AND CENTRAL ASIA.

Recognizing the importance of coordination of assistance to the countries of the Greater Middle East and Central Asia, and the strategic imperatives required by the war on terrorism, it is the sense of Congress that—

(1) the Secretary of State and the heads of other relevant Government agencies should consider new approaches to the coordination of the provision of political and economic support for the countries of the Greater Middle East and Central Asia; and

(2) the Secretary of State should consider appointing a Coordinator for Assistance to the Greater Middle East and Central Asia.

SEC. 7. PROGRAM REPORTS.

(a) REQUIREMENT FOR REPORTS.—Beginning on January 31, 2005, and annually thereafter, the President shall submit to Congress a report on the progress of the countries of the Greater Middle East and Central Asia, the Greater Middle East and Central Asia Development Bank, the Greater Middle East and Central Asia Development Foundation, and the Trust for Democracy in developing more open political and economic systems and the degree to which United States assistance has been effective at promoting these changes.

(b) CONTENT.—The reports required by subsection (a) shall include general information regarding such progress and specific information on the progress of each of the Greater Middle East and Central Asia Development Bank, the Greater Middle East and Central Asia Development Foundation, and the Trust for Democracy in—

(1) encouraging entrepreneurial development and supporting growth of small- and medium-size enterprises in the countries of the Greater Middle East and Central Asia;

(2) promoting private sector development, democratic political reform, good governance building, rule of law reform, and other appropriate goals in the countries of the Greater Middle East and Central Asia;

(3) fostering intra-regional trade and investment by United States businesses and financial institutions in the countries of the Greater Middle East and Central Asia;

(4) developing public-private partnerships to carry out the purpose of this Act; and

(5) encouraging the involvement of the countries of the Greater Middle East and Central Asia, and other donors in each institution.

SEC. 8. ENTERPRISE FUNDS REPORTS TO CONGRESS.

Not later than 1 year after the date of enactment of this Act, the President shall submit to Congress a comprehensive report evaluating the appropriateness of the establishment of enterprise funds for 1 or more countries of the Greater Middle East and Central Asia. The report shall evaluate whether and to what extent enterprise funds might be an effective mechanism for promoting economic reform and investment in the countries of the Greater Middle East and Central Asia.

SEC. 9. REPORT ON COORDINATION OF ASSISTANCE TO THE GREATER MIDDLE EAST AND CENTRAL ASIA.

Not later than 1 year after the date of enactment of this Act, the President shall submit to Congress a report that describes the measures that have been employed, and the measures that are planned to be employed, to improve the coordination within the Department of State and among the heads of the relevant Government agencies of the provision of support to the countries of the Greater Middle East and Central Asia.

SEC. 10. NOTIFICATIONS TO CONGRESS REGARDING ASSISTANCE.

Section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394–1) (relating to reprogramming notifications) shall apply with respect to obligations of funds made available to carry out this Act.

SEC. 11. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION OF APPROPRIATIONS.—In addition to funds otherwise available for such purpose and for the countries to which this Act applies, there are authorized to be appropriated to the Department of State to carry out the provisions of this Act, $1,000,000,000 for each of the fiscal years 2005 through 2009.

(b) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to subsection (a) shall remain available until expended.

Mr. LIEBERMAN. Madam President, I rise today, along with my friend and colleague from Nebraska, Senator HAGEL, to introduce the Greater Middle East and Central Asia Development Act of 2004. This would be a Marshall Plan for the Greater Middle East.

Let me put it in the context of the news we are receiving from Iraq today. While public opinion surveys that have been taken by independent groups have shown recently that the substantial majority of the people of Iraq, quite understandably, are grateful that Saddam Hussein is no longer in power, and while a majority of them are optimistic about their future—a better life for themselves and their children—it is clear, of course, every day there is a growing group of Saddam loyalists left over from the previous regime, and terrorists, fanatical jihadists, insurgents who will attack and kill Americans and Iraqis to stop the forward movement of progress and freedom and prosperity in Iraq.

We clearly have to respond to that with force in defense of our values, of liberty, of freedom for the Iraqis. We have, if you will allow me to use Scriptural words, to employ our swords. But it is also true in Iraq and throughout the world that we will only win the war on terrorism if we use not just our swords but plowshares as well. That is what this piece of legislation Senator HAGEL and I are introducing today is all about.

I want to speak for a few moments about it. Senator HAGEL will be over later in the day to offer his remarks on the bill.

Madam President, a half century ago, at the dawn of the cold war, Congress authorized the Marshall Plan for Europe—a bold initiative inspired by Secretary of State George Marshall and premised on a simple but transformational idea: that to stop communism, we had to rebuild and democratize Europe. The Marshall Plan offered monetary aid, of course, but it offered much more. It was a national commitment of American values to transform the future of Europe by offering the Europeans the blessings of liberty and prosperity, and thereby

linking, in the deepest way, Europe's future with our own. The same ideals and goals of the Marshall Plan can and must now be applied to the people of the Greater Middle East.

The predominantly Muslim countries of the Middle East and Central Asia have, unfortunately, emerged at this moment in history as the cradle of fanatical Islamic jihadist terrorism. There is a great civil war being fought in the Arab world between the peaceloving, law-abiding majority of Muslims and the minority of jihadists. This civil war unleashed the violent terrorist forces that led to September 11, 2001, the attacks on America; March 11, 2004, the attacks on Spain; and the repeated attacks in places such as Fallujah in Iraq that are occurring almost every day. The outcome of our war against Islamic terrorists will be determined by the way in which we use our swords and our plowshares to determine the outcome of the civil war in the Muslim world.

To stop al-Qaida and other terrorist groups from expanding this civil war and recruiting a new generation of killers, we must use all of our military power to capture and kill the enemy. We must drain the swamps of terrorists in Iraq and wherever they grow.

At the same time we must combat the conditions that fuel terrorism and drive recruits to al-Qaida and hate and despair. To do this we must seed the garden, not just drain the swamp, with freedom, hope, and economic opportunity. If we invest in the political and economic future of the Middle East and Central Asia in our time, as we did in Europe with the Marshall plan after the end of the Second World War and at the beginning of the cold war, we will expand democracy's reach, choke off the terrorists, strengthen our own national security, and move the world toward greater peace.

That is the underlying premise of the legislation Senator HAGEL and I are introducing today. It is designed to complement our swords in the war against terrorism with the plowshares of political and economic assistance.

Our legislation is not soft. It is not welfare. It is in fact a different kind of warfare on the battlefield of ideas and ideologies, visions for the future. Although there are compelling humanitarian reasons for offering assistance to the people of the Greater Middle East, there are also compelling American national security reasons for doing so. The political and economic assistance Senator HAGEL and I are proposing might be though of as additional weapons in America's arsenal in the fight against terrorists.

Let me summarize what our legislation contains. We advocate making a major financial investment in the future of the Middle East and Central Asia. How we propose making this investment is in some ways as significant as how much we propose investing. The key to the success of our Marshall plan for the Middle East, as it was of the Marshall plan for Europe, is it is not a detailed list of programs. It is a statement of values and purposes. It is the creation of a structure to carry out those values and purposes, and it is a commitment of American and international resources to realize those purposes.

Our legislation would create three new international institutions that will support economic and political development in the Greater Middle East and Central Asia, open institutions that will require participation by representatives of the countries benefiting from this support, a partnership. Institutionalizing involvement of a wide group of donors and recipients will promote better cooperation and give ownership and accountability to the impacted nations and to the private reformers in those nations—key ingredients to successful foreign assistance.

The first new institution Senator HAGEL and I would create is a trust for democracy for the Middle East that would support the development of civil society in the region, not unlike efforts we made to help those who had the dream of freedom and opportunity in countries of the former Soviet Union, now living to experience that dream. Modeled on the Balkan Trust for Democracy, this institution we propose would marshal the support of civic leaders and reformers as well as private foundations to provide grants to worthy grassroots projects that support free association and promote civic responsibility, the building blocks of democracy.

Second, Senator HAGEL and I would build a multilateral development foundation that would provide a second track for assistance, together with other donors, assistance that would be additional to that already being provided bilaterally by the U.S. and other international donors. This foundation will be a public place where we and other donors can come together with the countries of the region to set priorities together, to work together for the greater good of this troubled region. Many countries in the Greater Middle East are richer than they are developed, meaning their wealth has not translated to economic progress for most of the people. We would invite all governments in the region to sit on the board of this foundation, and we would ask all to contribute financially and programmatically to it.

Finally, our legislation would establish a new Middle East and Central Asia development bank, like the European Bank for Reconstruction and Development. This bank would include private sector participation and would underwrite large-scale infrastructure projects in the region. It would also have a microcredit lending facility and a project development facility.

We also believe it is important and necessary to make American assistance more effective. That is why we are calling for the establishment of an office of the coordinator for Greater Middle East and Central Asia at our Department of State. The creation of such an office would help ensure all assistance provided by any government agency of ours is in line with the overarching goals and objectives of our foreign policy. It would also give other donors and countries of the region a simple place to go when seeking information about the programs we would create.

With this collaborative structure in place, Senator HAGEL and I would authorize $5 billion in assistance over the next 5 years. That is no small sum. But it is in fact small in comparison to the tens of billions of dollars in today's money that were spent on the Marshall plan in Europe 50 years ago and the hundreds of billions of dollars we are spending now and will continue to have to spend for the military side of the war against terror. That figure, we believe, is the minimum required to have a positive, measurable impact in the region and to signal the seriousness of our intentions.

Earlier this month, civil society leaders from all over the Arab world gathered in Alexandria, Egypt to discuss an Arab reform agenda. At that meeting participants agreed on a declaration that calls for significant reforms that encompass the ''political, economic, social, and cultural aspects'' of society. The fact is the reforms those Arab world reformers seek are at least as far-reaching as those that are being suggested by others from the outside, including from the United States. I know there are similar reform efforts underway in Central Asia. They deserve our support.

In introducing this legislation today, Senator HAGEL and I hope to give new impetus to the discussions taking place in Washington and elsewhere about what we collectively can do to support political and economic reform in the Greater Middle East and to give the people in those great regions an alternative to a better life than the hatred and suicidal death al-Qaida offers.

The Bush administration has put forward serious proposal along the same lines as ours. It certainly has the same goals. This bill Senator HAGEL and I are introducing today is intended to build on that effort. We hope it helps shape the debate of the best method to implement, which should be one of partnership and collaboration along with a serious commitment of American resources.

In June, the United States will host the G–8 summit in Sea Island, GA. That summit will be followed by the U.S.-EU and NATO summits also in June. The future of the Greater Middle East will be placed high on the agenda of all those important meetings.

By introducing this legislation today, Senator HAGEL and I hope to enable our Government to go into these summits with the bipartisan support of the Congress and also to provide some direction as to what we believe should be done and how it might best be done.

Senator HAGEL and I hope our colleagues will take a look at this proposal and join us in cosponsoring it and sending thereby a message no less profound and no less necessary than the message of the Marshall plan half a century ago, that the United States is serious about improving the lives and expanding the freedoms of the millions of people who live in the Greater Middle East and Central Asia.

Today, that is our most urgent international imperative. At the dawn of the cold war, America answered the challenge of communism by seeding a garden of peace, hope, and prosperity in Europe. Today, at the dawn of our current war against terrorism, it is equally essential that we answer the inhumane, barbaric threats of terrorism and acts of terrorism with all necessary force, but also by seeding the same kind of garden of peace, hope, and prosperity in the Greater Middle East.

By Mr. MCCAIN (for himself and Mr. SUNUNU):

S. 2306. A bill to reauthorize, restructure, and reform the intercity passenger rail service program; to the Committee on Commerce, Science, and Transportation.

Mr. MCCAIN. Mr. President, today, joined by Senator SUNUNU, I am introducing legislation to fundamentally reform our Nation's intercity rail passenger program. The proposal adopts the core concepts for reform advanced by the administration in its Amtrak legislation—cost-sharing with the States, a network of trains that makes economic sense, and fair and open competition for Amtrak. However, in recognition of the magnitude and complexity of the task of restructuring Amtrak, the legislation takes a more moderate, realistic approach to reform. While I would prefer to see more accomplished in the next 6 years, enactment of the restructuring and reforms we are proposing today would represent meaningful progress toward creating an intercity passenger rail program that makes economic sense and meets the needs of the traveling public.

It is past time for Congress to come to terms with Amtrak's problems and why it is largely a failure. Year after year, for more than 3 decades, Congress has funded an essentially nationalized passenger railroad, that in most areas of the country neither meets a market demand nor provides needed public transportation. After 34 years and $27 billion in taxpayer subsidies, Amtrak still serves less than 1 percent of intercity travelers.

My colleagues and I may not agree on exactly how Amtrak should be restructured, but we should agree that what exists today is far from ideal. Amtrak loses over $1 billion annually. Its debt stands at almost $5 billion, a legacy the taxpayers will bear for years to come. It has mortgaged nearly every asset it owns, including a portion of New's York's Penn Station, to avoid bankruptcy. It operates routes, many of them in the middle of the night, that lose hundreds of dollars per passenger. And despite a Federal investment of $3.2 billion for high-speed service on the Northeast Corridor, the Acela service has been plagued by equipment and operating problems. In a report prepared at my request, the General Accounting Office recently found that Amtrak mismanaged the project, blatantly ignoring the Federal master plan and failing to complete 51 of the project's 72 work elements.

It is past time to end the status quo. If the collective wisdom of Congress is to continue to fund intercity passenger rail service, then we should do so in a manner that makes economic sense. The legislation we are introducing today would restructure the passenger rail program in a realistic way and provide responsible funding for existing service and new corridor development.

First, the legislation would make cost-sharing on shorter-distance corridor routes more equitable. Today, California, Washington, Oregon, and a number of other States play an active role in funding and managing passenger service on corridor routes in their States, while other States pay nothing. This legislation would require equitable cost-sharing for all corridor trains. By the end of the 6-year reauthorization period, States would be required to fund 70 percent of the operating losses on corridor services, the level of contribution already being made by California, the Pacific Northwest, Oklahoma, Missouri, and several other States. Furthermore, the Federal share of operating subsidies would be payable as grants to the States. Where States have taken an active role in managing Amtrak service, there has been more accountability, better customer service, and a higher level of efficiency.

Second, the legislation would restructure Amtrak's long distance routes. I am not proposing, as many of my colleagues would expect, to ''whack'' every long distance train. In fact, closure and consolidation would be a last resort under my proposal. The ultimate goal would be to reduce the annual operating subsidy required for these routes by at least 50 percent whether by restructuring the route, reducing operating expenses, contracting out service to a private operator, or securing State financial support. Amtrak operates 16 long distance trains, including the Sunset Limited, a train that runs through Arizona on its 3-day odyssey from Los Angeles to Orlando and loses over $400 per passenger. Reducing the burden of these trains on the taxpayer is one of my top priorities.

This proposal would also establish fair and open competition for Amtrak. If, after 34 years of being told by Amtrak that profitability is just a few years away or, more recently, that it is on a ''glide-path'' to self-sufficiency, we are now to conclude that Amtrak will always run operating and capital deficits. Our duty to the taxpayers is to ensure that service is operated as efficiently as possible to minimize subsidies. To achieve this goal, there must be fair and open competition for Amtrak from private sector companies and commuter authorities.

Some of my colleagues contend that the private sector would not be interested in operating passenger service, noting that Amtrak was created because the freight railroads did not wish to continue providing what had become unprofitable service with the development of air travel and the Interstate Highway System. But times have changed. Norfolk Southern recently told transportation officials in Georgia that it wants to be considered to run the State's planned commuter service between Atlanta and Macon. Herzon, a private company headquarted in Missouri, operates commuter services in Texas and California, and has been trying to bid against Amtrak to operate the ''Mules'' service between St. Louis and Kansas City. Further, 14 private corporations expressed interest in operating service following a Commerce Committee hearing in which the question of private sector interest was posed.

Fourth, this legislation would establish a process for corridor development modeled after the transit ''new starts'' program. Many States have expressed interest in developing new conventional or high-speed intercity passenger service in highly-traveled corridors. My proposal would evaluate new intercity services on a competitive basis and require that projects meet planning and design requirements similar to those that apply to the well-respected new starts program administered by the Federal Transit Administration. As the States assume more responsibility for operating subsidies, the amount of funding available for corridor development would increase. By year 6 of the reauthorization period, $800 million would be authorized for corridor development.

This legislation also addresses ownership, management, and maintenance of Northeast Corridor. As recommended by the administration, the bill proposes that the Federal Government assume ownership of the Northeast Corridor and implement a plan to restore the Corridor to a state of good repair. The Northeast Corridor States would be encouraged to adopt an interstate compact within 5 years and assume responsibility for the Corridor's management. Other States would be expected to manage their corridor services, and the Northeast Corridor should be no exception. Moreover, over 1,000 of the 1,200 or so trains operated daily on the Corridor are commuter trains, not intercity services. Until the interstate compact is in place, Amtrak would continue to operate and maintain the Corridor.

Finally, the legislation institutes reforms at Amtrak. Amtrak would be required to perform its services under

contract with the Federal Government or States, and would be required to develop a more accurate and transparent cost accounting system. As recommended by the DOT Inspector General, an effort would be made to restructure Amtrak's debt to reduce the cost to the taxpayers.

We encourage our colleagues to support this legislation. Reforming Amtrak and the way our intercity passenger rail program is now organized must be accomplished before Congress considers expanding intercity service. Simply throwing billions more at Amtrak as some of my colleagues propose—whether through appropriations, bonds, or some other funding scheme—will not solve the fundamental problems. We can and must do better.

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. 2306

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 ''Rail Passenger Service Restructuring, Reauthorization, and Development Act''.

SEC. 2. TABLE OF CONTENTS; AMENDMENT OF TITLE 49, UNITED STATES CODE.

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

(b) AMENDMENT OF TITLE 49.—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—NETWORK RESTRUCTURING AND COST-SHARING

SUBTITLE A—RESTRUCTURING

SEC. 101. FINDINGS, PURPOSE, AND GOALS.

Section 24101 is amended to read as follows:

''§ 24101. Findings, purpose, and goals

''(a) FINDINGS.—

''(1) It is in the public interest of the United States to encourage and promote the development of various modes of transportation and transportation infrastructure to efficiently maximize the mobility of passengers and goods.

''(2) Despite Federal subsidies of nearly $27 billion over the past 34 years, intercity rail passenger service still accounts for less than 1 percent of all intercity travel.

''(3) Intercity rail passenger service can be competitive with other modes of transportation and achieve a significant share of the travel market in short-distance corridors connecting metropolitan areas.

''(4) Rail passenger transportation can help alleviate overcrowding of airways and airports, and can provide needed intermodal connections to airports, bus terminals, and mass transit services.

''(5) Corridor routes account for approximately 85 percent of Amtrak's ridership but only one-third of Amtrak's operating losses, excluding depreciation.

''(6) A number of Amtrak's long-distance routes may be more efficiently operated and attract higher ridership as connected corridors.

''(7) Long-distance routes that cannot be restructured as connected corridors, do not receive State financial support, cannot be operated on a for-profit basis, or are not an essential link to the rest of the intercity passenger rail network, should be consolidated or discontinued.

''(8) Some States with corridor services provide significant financial support for such services, while other States with routes and all States with long-distance routes contribute nothing for such services. More equitable cost-sharing is needed to justify Federal investment in intercity rail passenger service.

''(9) The need to invest taxpayer dollars in intercity rail passenger service demands that fair and open competition be permitted for the provision of such services to ensure that service is provided in the most efficient manner without jeopardizing the safety of such operations.

''(10) A greater degree of cooperation is necessary among intercity passenger service operators, freight railroads, State, regional, and local governments, the private sector, labor organizations, and suppliers of services and equipment to achieve the performance sufficient to justify the expenditure of additional public money on intercity rail passenger service.

''(11) Transportation services provided by the private freight railroads are vital to the economy and national defense and should not be disadvantaged by the operation of intercity passenger rail service over their rights-of-way.

''(12) The Northeast Corridor is a valuable resource of the United States used by intercity and commuter rail passenger transportation and freight transportation and should be restored to a state of good repair.

''(b) PURPOSE.—The purpose of this part is to assist in the preservation and development of conventional and high-speed intercity rail passenger services where such services can play an important role in facilitating passenger mobility in the United States.

''(c) GOALS.—The goals of this part are—

''(1) to move toward a national network of interconnected short-distance passenger rail corridor services;

''(2) to return the Northeast Corridor to a state of good repair;

''(3) to establish a framework for the development of new conventional and high-speed rail services;

''(4) to allow for train services to be operated under contract to a State or group of States, with the operator of the service selected by the State or group of States;

''(5) to establish equitable cost-sharing for capital expenses and operating losses with the States; and

''(6) to encourage greater participation in the provision of intercity rail passenger services by the private sector.''.

SEC. 102. PASSENGER RAIL SERVICE RESTRUCTURING.

(a) IN GENERAL.—Chapter 243 is amended by inserting before section 24301 the following:

''§ 24300. Restructuring mandate

''(a) IN GENERAL.—Within 6 months after the date of enactment of the Rail Passenger Service Restructuring, Reauthorization, and Development Act, the Amtrak Reform Board shall restructure Amtrak as 2 independent entities, as follows:

''(1) THE NATIONAL RAILROAD PASSENGER CORPORATION.—One entity shall be the National Railroad Passenger Corporation, otherwise known as Amtrak, that shall provide overall supervision of the restructuring of the intercity passenger rail program.

''(2) THE AMERICAN PASSENGER RAILWAY CORPORATION.—The other entity shall be a for profit corporation, to be known as the American Passenger Railway Corporation, that shall be responsible for conducting the passenger operations, infrastructure maintenance, and related services, including operation of reservation centers and ownership and maintenance of rolling stock.

''(b) ARTICLES OF INCORPORATION AND OTHER DOCUMENTATION.—Within 6 months after the date of enactment of the Rail Passenger Service Restructuring, Reauthorization, and Development Act, the Amtrak Reform Board shall—

''(1) file appropriate articles of incorporation under State law for the American Passenger Railway Corporation; and

''(2) amend the articles of incorporation and bylaws of the National Railroad Passenger Corporation to reflect its changed functions and responsibilities.

''(c) ROLES AND RESPONSIBILITIES OF THE AMERICAN PASSENGER RAILWAY CORPORATION.—

''(1) RAILROAD ACTIVITIES.—Consistent with the business corporation law of the State of incorporation of the American Passenger Railway Corporation, the Corporation shall be qualified to undertake railroad activities of an operational or infrastructure nature.

''(2) RAIL OPERATIONS AND RELATED FUNCTIONS.—The American Passenger Railway Corporation—

''(A) shall have the exclusive right, until October 1, 2005, to continue to provide the intercity passenger services provided by Amtrak on the date of enactment of the Rail Passenger Service Restructuring, Reauthorization, and Development Act;

''(B) shall, beginning October 1, 2005, operate intercity passenger service only on a contractual basis under negotiated terms and conditions;

''(C) shall operate a national reservations system; and

''(D) subject to fulfillment of its contractual obligations, shall have the exclusive right, until management of the mainline of the Northeast Corridor between Boston, Massachusetts, and Washington, District of Columbia, is transferred to the interstate compact created under section 131 or to another entity, to provide the train operations, dispatching, maintenance, and infrastructure services that are being provided by Amtrak on the date of enactment of the Rail Passenger Service Restructuring, Reauthorization, and Development Act, but may provide such services beginning October 1, 2005, only on a contractual basis with the National Railroad Passenger Corporation under negotiated terms and conditions.

''(3) STATUS OF CORPORATION.—

''(A) The American Passenger Railway Corporation—

''(i) is a railroad carrier under section 20102(2) and chapters 261 and 281 of this title;

''(ii) shall be operated and managed as a for-profit corporation; and

''(iii) is not a department, agency, or instrumentality of the United States Government nor a Government corporation (as defined in section 103 of title 5).

''(B) Chapter 105 of this title does not apply to the American Passenger Railway Corporation, except that laws and regulations governing safety, employee representation for collective bargaining purposes, the handling of disputes between carriers and employees, employee retirement, annuity, and unemployment systems, and other dealings with employees apply to the American Passenger Railway Corporation to the same extent as they applied to Amtrak before the restructuring required by this section.

''(C) Subsections (c), (d), and (f) through (l) of section 24301 of this title shall apply to the Corporation.

''(4) CHIEF EXECUTIVE OFFICER.—Subject to further action by the board of directors of the American Passenger Railway Corporation, the individual who, on the date of enactment of the Rail Passenger Service Restructuring, Reauthorization, and Development Act, is President of Amtrak shall be offered the position of chief executive officer of the American Passenger Railway Corporation as soon as practicable after the corporation is established.

''(5) ISSUANCE OF STOCK AND ASSUMPTION OF DEBT.—The Corporation may not issue stock or incur debt without the express approval of the Secretary of Transportation.

''§ 24300A. American Passenger Railway Corporation board of directors

''(a) IN GENERAL.—

''(1) MEMBERSHIP.—The American Passenger Railway Corporation shall be governed by a board of directors consisting of 7 members appointed by the President, by and with the advice and consent of the Senate.

''(2) QUALIFICATIONS.—

''(A) IN GENERAL.—Members of the board shall be chosen from among individuals who have technical qualifications, professional standing, and demonstrated expertise in the field of transportation, corporate management, or financial management.

''(B) FEDERAL EMPLOYEES DISQUALIFIED.—No individual who is an officer or employee of the United States may serve as a member of the board.

''(3) TERM OF OFFICE.—Each member shall serve for a term of 5 years. An individual may not serve for more than 2 terms.

''(4) QUORUM.—A majority of the board members who have been lawfully appointed and qualified at any moment shall constitute a quorum for the conduct of business.

''(b) BYLAWS.—The board of directors shall adopt bylaws governing the corporation consistent with the provisions of this section and its articles of incorporation, and may amend, repeal, and otherwise modify the bylaws from time to time as necessary or appropriate.

''(c) TRANSITION BOARD MEMBERS.—Individuals who are serving as members of the Amtrak Reform Board on the day before the date on which the American Passenger Railway Corporation is established, with the exception of the Secretary of Transportation, shall serve as members of the board of directors of the American Passenger Railway Corporation until 4 members of that board have been appointed and qualified.

''§ 24300B. National Railroad Passenger Corporation board after restructuring

''(a) IN GENERAL.—After the American Passenger Railway Corporation is established, the Reform Board established under section 24302(a) shall be dissolved, and the National Railroad Passenger Corporation shall be governed by a board of directors consisting of—

''(1) the Secretary of Transportation;

''(2) the Federal Railroad Administrator or another officer of the United States within the Department of Transportation compensated under the Executive Schedule under title 5, United States Code, who is designated by the Secretary; and

''(3) the Federal Transit Administrator or another officer of the United States within the Department of Transportation compensated under the Executive Schedule under title 5, who is designated by the Secretary.

''(b) ROLES AND RESPONSIBILITIES.—

''(1) SUPERVISION AND MANAGEMENT.—After the board of directors described in subsection (a) takes office, the National Railroad Passenger Corporation shall—

''(A) provide overall supervision of the restructuring of the intercity passenger rail program;

''(B) manage residual Amtrak responsibilities; and

''(C) retain and manage Amtrak's legal rights, including its legal right of access to other railroads, and ownership of Amtrak's real property, until that property is transferred to the Secretary of Transportation under section 110 of the Rail Passenger Service Restructuring, Reauthorization, and Development Act.

''(2) CONTRACTS FOR SERVICE.—The National Railroad Passenger Corporation shall, by contract, permit an operator to provide intercity passenger rail service over any route operated by Amtrak on the date prior to the date the restructuring required by section 24300 becomes effective, at the frequencies in effect on that date, on its behalf and to use its right of access to any segment of rail line owned by another rail carrier needed for the operation of that train. The operator may be the American Passenger Railway Corporation or another operator, but there shall be no more than 1 intercity passenger rail operator at a time over any segment of rail line owned by another rail carrier, except in terminal areas as determined by the Secretary or as may otherwise be provided by agreement among the National Railroad Passenger Corporation, the operators, and the owner of the rail line.

''(3) USE OF AMTRAK NAME.—

''(A) IN GENERAL.—The National Railroad Passenger Corporation shall retain all legal rights pertaining to the name 'Amtrak,' and may, at its option, license or otherwise make the name 'Amtrak' commercially available in connection with intercity passenger rail and related services.

''(B) USE BY AMERICAN PASSENGER RAILWAY CORPORATION.—Amtrak shall by contract, permit the American Passenger Railway Corporation to market its services under the Amtrak name.

''(4) AMTRAK PERSONNEL.—All Amtrak employees shall become American Passenger Railway Corporation employees unless retained by the National Railroad Passenger Corporation. The American Passenger Railway Corporation shall succeed to the collective bargaining agreements in effect between Amtrak and labor organizations that are in effect on the day before the date on which that Corporation is established. An employee who elects employment with National Railroad Passenger Corporation shall become an employee of that Corporation, with only such rights regarding pay and benefits as that Corporation shall determine.

''(5) FREIGHT AND COMMUTER OPERATIONS.—The National Railroad Passenger Corporation shall ensure that the implementation of the restructuring required by section 24300 gives due consideration to the needs of freight and commuter operations that, as of the date of enactment of the Rail Passenger Service Restructuring, Reauthorization, and Development Act, operate on the Northeast Corridor using Amtrak rights-of-way.

''(6) ROLLING STOCK.—The National Railroad Passenger Corporation shall set the terms under which the American Passenger Railway Corporation must make available to any replacement operator the legacy equipment associated with any intercity passenger rail service provided as of the date of the restructuring required by section 24300.''.

(b) SPINNING-OFF OF RESERVATIONS SYSTEM.—Not later than 2 years after the date of enactment of the Rail Passenger Service Restructuring, Reauthorization, and Development Act, the Inspector General of the Department of Transportation shall submit to the Secretary of Transportation, the Senate Committee on Commerce, Science, and Transportation, and the House of Representatives Committee on Transportation and Infrastructure recommendations on the feasibility, advantages, and disadvantages of spinning off the national reservations system as a private for-profit entity.

(c) CONFORMING AMENDMENT.—The chapter analysis for chapter 243 is amended by inserting the following after the item relating to section 24309:

''24300. Restructuring mandate
''24300A. American Passenger Railway Corporation board of directors
''24300B. Amtrak board after restructuring''.

SEC. 103. DEFINITIONS.

Section 24102 is amended—

(1) by striking paragraph (2) and redesignating paragraphs (3) through (9) as paragraphs (2) through (8), respectively;

(2) by redesignating paragraphs (3) through (8), as redesignated, as paragraphs (4) through (9), respectively, and inserting after paragraph (2) the following:

''(3) 'corridor route' means—

''(A) a train route operated by Amtrak with a route length of 750 miles or less as of January 1, 2004; or

''(B) a new conventional or high-speed route eligible for funding under chapter 244 of this title.'';

(3) by redesignating paragraphs (6) through (9), as redesignated, as paragraphs (8)

through (11), respectively, and inserting after paragraph (5) the following:

''(6) 'long distance route' means a train route operated by Amtrak with a route length greater than 750 miles as of January 1, 2004.

''(7) 'legacy equipment' means the rolling stock required to provide intercity passenger rail service owned or leased by Amtrak on the day prior to the date on which the restructuring required by section 24300 is completed (as such date is determined by the Secretary).''.

SEC. 104. OPERATING GRANTS FOR CORRIDOR ROUTES.

(a) IN GENERAL.—Chapter 243 is amended by adding at the end the following:

''§ 24316. Operating grants for corridor routes

''(a) IN GENERAL.—

''(1) OPERATING GRANT AUTHORITY.—Beginning on October 1, 2005, the Secretary of Transportation may make grants to States for operating assistance under the authority of this section, and not under any other provision of law, to reimburse operators of the corridor routes operated by Amtrak on the day before the date on which the restructuring required by section 24300 is completed (as determined by the Secretary) for a portion of the operating subsidies required to operate those routes with the same train frequencies.

''(2) CONDITIONS.—A grant under this section shall be subject to the terms, conditions, requirements, and provisions the Secretary decides are necessary or appropriate for the purposes of this section, including limitations on what operating expenses are eligible for reimbursement.

''(b) FEDERAL SHARE OF OPERATING LOSSES.—

''(1) REIMBURSABLE AMOUNT.—A grant to a State under this section for any fiscal year may not exceed an amount equal to the lower of—

''(A) the applicable percentage of the Federal operating subsidy for that fiscal year; or

''(B) the percentage of the operating subsidy for a route not borne by a State during the last fiscal year ending before the date of enactment of the Rail Passenger Service Restructuring, Reauthorization, and Development Act.

''(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage of the operating subsidy for a fiscal year is—

''(A) 70 percent for fiscal year 2006;

''(B) 60 percent for fiscal year 2007;

''(C) 50 percent for fiscal year 2008;

''(D) 40 percent for fiscal year 2009; and

''(E) 30 percent for fiscal year 2010.

''(c) DETERMINATION OF EXPENSES ELIGIBLE FOR REIMBURSEMENT.—

''(1) ANNUAL DETERMINATION OF SUBSIDY.—On an annual basis, the Inspector General for the Department of Transportation shall analyze and advise the Secretary of Transportation as to the operating subsidy required on each corridor route operated by the American Passenger Railway Corporation under contract with a State without competitive bid. The operating loss on such routes shall—

''(A) reflect the fully allocated costs of operating the route, including an appropriate share of overhead expenses, including general and administrative expenses; and

''(B) exclude depreciation and interest expense on long-term debt.

''(2) AGGREGATION OF NORTHEAST CORRIDOR PROFITS AND LOSSES.—Operating profits and losses on corridor routes operated exclusively on the mainline of the Northeast Corridor extending from Washington, D.C. to Boston, MA may be aggregated for purposes of determining the operating subsidy required on the routes.

''(3) DETERMINATION WITH COMPETITIVE BIDDING.—Expenses eligible for Federal support pursuant to paragraph (b)(2) for reimbursement for a corridor route that has been competitively bid shall consist of the operating subsidy agreed upon by the State, group of States, or other entity and the operator.

''(d) EXCEPTION TO DATE COST-SHARING REQUIRED.—For any State whose legislature has not convened in regular session after the date of enactment of the Rail Passenger Service Restructuring, Reauthorization, and Development Act and before October 1, 2005, the additional cost-sharing requirements of this section shall become effective on October 1, 2006.

''(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this section—

''(1) $125,000,000 for fiscal year 2006;

''(2) $100,000,000 for fiscal year 2007;

''(3) $90,000,000 for fiscal year 2008;

''(4) $75,000,000 for fiscal year 2009; and

''(5) $50,000,000 for fiscal year 2010.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 243 is amended by adding at the end the following:

''24316. Operating grants for corridor routes''.

SEC. 105. OPERATING GRANTS FOR LONG DISTANCE ROUTES

(a) IN GENERAL.—Chapter 243, as amended by section 104, is amended by adding at the end the following:

''§ 24317. Operating grants for long distance routes

''(a) IN GENERAL.—

''(1) OPERATING GRANT AUTHORITY.—Beginning on October 1, 2005, the Secretary of Transportation may make grants to the American Passenger Railway Corporation or to a State providing financial support for a long distance route for operating assistance under the authority of this section, and not under any other provision of law, to reimburse operators of the long distance routes operated by Amtrak on the day before the date on which the restructuring required by section 24300 is completed (as determined by the Secretary) for a portion of the operating subsidies required to operate those routes with the same train frequencies.

''(2) CONDITIONS.—

''(A) A grant under this section shall be subject to the terms, conditions, requirements, and provisions the Secretary decides are necessary or appropriate for the purposes of this section, including limitations on what operating expenses are eligible for reimbursement.

''(B) The Secretary shall require the American Passenger Railway Corporation, as a condition of a grant under this section, to systematically reduce its route and system-wide overhead expenses by a minimum of 5 percent annually through fiscal year 2010. A contract between the National Railroad Passenger Corporation and the American Passenger Railway Corporation for the operation of a long distance route or routes must provide for a reduction in the annual operating subsidy to reflect the reduction in such expenses.

''(3) ANNUAL DETERMINATION OF SUBSIDY.—On an annual basis, the Inspector General for the Department of Transportation shall analyze and advise the Secretary of Transportation as to the operating subsidy required on each long distance route operated by the American Passenger Railway Corporation without competitive bid and the portion of the subsidy attributable to route and system-wide overhead expenses.

''(b) FEDERAL SHARE OF OPERATING LOSSES.—Pending restructuring of the long distance routes required by sections 106 through 108 of the Rail Passenger Service Restructuring, Reauthorization, and Development Act, the Federal share for an operating grant may be 100 percent of the qualifying operating subsidy for the route.

''(c) COST-SHARING PROCESS FOR LONG DISTANCE ROUTES.—Within 9 months after the date of enactment of the Rail Passenger Service Restructuring, Reauthorization, and Development Act, the Secretary shall develop a process to facilitate State cost-sharing on long distance routes. The process shall—

''(1) provide States the option of either—

''(A) receiving Federal grants, managing the service, and selecting the train operator; or

''(B) having the service managed by the Federal government with a train operator selected by the National Rail Passenger Corporation;

''(2) include a methodology to assist States interested in providing financial support in equitably allocating the share of a route's required operating subsidy among the affected States; and

''(3) be made available to the Long Distance Restructuring Commission established under section 106 of the Rail Passenger Service Restructuring, Reauthorization, and Development Act and the States to assist in the development of the restructuring plan under that section.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation to carry out this section—

''(1) $550,000,000 for fiscal year 2006;

''(2) $425,000,000 for fiscal year 2007;

''(3) $375,000,000 for fiscal year 2008;

''(4) $325,000,000 for fiscal year 2009; and

''(5) $300,000,000 for fiscal year 2010.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 243, as amended by section 104 of this Act, is amended by adding at the end the following:

''24317. Operating grants for long distance routes

SEC. 106. LONG DISTANCE ROUTE RESTRUCTURING COMMISSION.

(a) ESTABLISHMENT.—There is established an independent commission to be known as the Long Distance Route Restructuring Commission.

(b) DUTY.—

(1) IN GENERAL.—The Commission shall submit a plan to Congress for restructuring long distance intercity passenger rail routes in a manner that will reduce Federal operating subsidies on the routes by at least 50 percent by the end of fiscal year 2010 (as compared to the operating subsidies for those routes for fiscal year 2003) by—

(A) retaining routes that provide a unique service that can be contracted out by the National Railroad Passenger Corporation on a for-profit basis;

(B) restructuring other routes as linked corridor routes between major metropolitan areas; and

(C) consolidating or discontinuing service over remaining routes.

(2) PRESERVATION OF NATIONAL NETWORK.—The restructuring plan submitted by the Commission shall ensure that no corridor route is completely isolated from the rest of the intercity passenger rail network.

(3) EXCEPTIONS.—

(A) IN GENERAL.—A route will be excluded from consideration for restructuring, consolidation, or closure if a State or group of States commits, by contractual arrangement with the American Passenger Railway Corporation or another operator selected through a competitive process, to provide financial operating support at a level sufficient to offset at least

(i) 30 percent of the operating subsidy for fiscal year 2007;

(ii) 40 percent of the operating subsidy for fiscal year 2008; and

(iii) 50 percent of the operating subsidy thereafter.

(B) FAILURE OF SUPPORT.—If a State or group of States fails to provide the financial support to which it committed under this paragraph, then service over the route shall be discontinued.

(4) CONSULTATION REQUIRED.—In carrying out its duties, the Commission shall consult with the American Passenger Railway Corporation, State and local officials, freight railroads, companies with expertise in intercity passenger transportation, and other organizations with an interest in the restructuring of the long distance train routes.

(c) APPOINTMENT.—

(1) The Commission shall be composed of 7 members appointed by the President within 6 months after the date of enactment of this Act.

(2) The Commission members shall elect 1 member to serve as Chairman.

(d) TERMINATION.—The Commission shall terminate 90 days after the Commission's recommendations for consolidation and closure are submitted to Congress.

(e) VACANCIES.—A vacancy on the Commission shall be filled in the same manner as the original appointment.

(f) DETAILEES.—Upon the request of the Chairman of the Commission, the head of any Federal department or agency may detail personnel of that department or agency to the Commission to assist the Commission in carrying out its duties.

(g) COMPENSATION; REIMBURSEMENT.—Members of the Commission shall serve without pay, but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(h) OTHER AUTHORITY.—

(1) The Commission may procure by contract, to the extent funds are available, the temporary or intermittent services of experts or consultants pursuant to section 3109 of title 5, United States Code.

(2) The Commission may lease space and acquire personal property to the extent funds are available.

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the use of the Commission in carrying out its responsibilities under this section for each of fiscal years 2005 and 2006, $4,000,000, such sums to remain available until expended.

SEC. 107. CRITERIA FOR RESTRUCTURING.

(a) RESTRUCTURING AS LINKED CORRIDORS.—

(1) PREREQUISITE FOR RESTRUCTURING.—A long distance route or portion thereof may be recommended for restructuring as a linked corridor if—

(A) the origin-to-destination travel time of each corridor link in the new route, at conventional train speeds, including all station stops, will be competitive with other modes of transportation;

(B) each corridor link in the new route connects at least 2 major metropolitan areas or provides a link between 2 or more existing corridor routes;

(C) the route as restructured can be reasonably expected to attract at least 10 percent of the combined common carrier market in the markets served;

(D) the projected cash operating loss of each of the restructured links does not exceed 11 cents per passenger-mile on a fully allocated cost basis; and

(E) by the end of fiscal year 2010 the Federal operating subsidy will be reduced by at least 50 percent (as compared to the operating subsidy for the route for fiscal year 2003), taking into account commitments by the affected States to provide financial support for the route so that no Federal operating subsidy is available for any portion of a route for which there is no such State commitment.

(2) HOURS OF OPERATION.—In addition to the eligibility criteria in paragraph (1), any long distance routes recommended for restructuring as linked corridors shall be designed to operate between the hours of 6:00 a.m. and 11:00 p.m.

(3) MODIFICATION OF ROUTES.—With the concurrence of the affected States and the host railroad, the route and stations service by a restructured long distance route may be modified to improve ridership and financial performance.

(4) NEW CAPITAL PLANS.—As part of the restructuring plan for reconfigured routes, the Commission shall develop a capital plan, if additional capital is needed to reconfigure the route as linked corridors.

(b) CONTRACTING-OUT OF PROFITABLE LONG DISTANCE ROUTES AND SERVICES.—The Commission shall determine which long distance routes or services on such routes, including auto-ferry transportation, food service, and sleeping accommodations, could be contracted to a private operator on a for-profit basis. In making these determinations, the Commission shall solicit expressions of interest from the private sector in operating long distance routes or services, including the conditions under which private companies may be interested in operating such services.

(c) CONSOLIDATION AND CLOSURE.—The Commission shall make recommendations to Congress for consolidating and closing long distance train routes or portions of routes that cannot be restructured under subsection (a) or contracted out under subsection (b), to reduce the Federal operating subsidy required by at least 50 percent by the end of fiscal year 2010 (as compared to the operating subsidies for those routes for fiscal year 2003), taking into consideration—

(1) the operating loss on a fully allocated cost basis, including capital costs, of the route or portion thereof;

(2) the extent to which train service is the only available public transportation to the cities and towns along the route or portion thereof;

(3) whether an alternate route could significantly reduce operating losses and capital requirements or increase ridership;

(4) available capacity on the rights-of-way of the host railroad or railroads; and

(5) commitments by the affected States to provide financial support for the route or portion thereof.

(d) COOPERATION OF AMERICAN PASSENGER RAILWAY CORPORATION.—

(1) The American Passenger Railway Corporation shall cooperate and comply, subject to the agreement of the Commission to protect the confidentiality of proprietary information, with all requests for financial, marketing, and other information about the routes under consideration by the Commission.

(2) The Secretary of Transportation may withhold all or part of an operating or capital grant to the Corporation if the Secretary determines the American Passenger Railway Corporation is not cooperating with the Commission as required by this subsection.

(e) REPORT.—The Commission shall submit its recommendations for restructuring the long distance routes to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure within 18 months after the date of enactment of this Act. The report shall include a description of—

(1) the analysis performed by the Commission to reach its conclusions;

(2) options considered in the development of a restructuring plan; and

(3) the impact of the restructuring on employees of the American Passenger Railway Corporation for any long distance route restructured under this section.

SEC. 108. IMPLEMENTATION OF RESTRUCTURING PLAN.

(a) IN GENERAL.—The Secretary of Transportation shall implement the restructuring plan submitted to Congress by the Long Distance Route Restructuring Commission in its report pursuant to section 106 unless a joint resolution is enacted by the Congress disapproving such recommendations of the Commission before the earlier of—

(1) the end of the 60-day period beginning on the date the Commission submits its report to Congress; or

(2) the adjournment of Congress sine die for the session during which such report is submitted.

(b) CERTAIN DAYS DISREGARDED.—For purposes of subsection (a), the days on which either House of Congress is not in session because of an adjournment of more than 4 days to a day certain shall be excluded in the computation of a period.

(c) 1-YEAR IMPLEMENTATION PERIOD.—Unless disapproved under section (a), the Secretary of Transportation shall fully implement the plan within 1 year after the date on which the period described in subsection (a) expires.

SEC. 109. REDEMPTION OF COMMON STOCK.

(a) VALUATION.—The Secretary of Transportation shall arrange, at the National Railroad Passenger Corporation's expense, for a valuation of all Amtrak assets and liabilities with an estimated value in excess of $1,000,000 as of the date of enactment of this Act by the Secretary of the Treasury, or by a contractor selected by the Secretary of the Treasury. The valuation shall be conducted in accordance with the Uniform Standards of Professional Appraisal Practice of the Appraisal Foundation's Appraisal Standards Board and shall be completed within 1 year after the date of enactment of this Act.

(b) REDEMPTION.—

(1) Prior to the transfer of assets to the Secretary directed by section 110 of this Act, and within 3 months after the completion of the valuation under subsection (a), the National Railroad Passenger Corporation shall redeem all common stock in Amtrak issued prior to the date of enactment of this Act at the fair market value of such stock, based on the valuation performed under subsection (a).

(2) No provision of this Act, or amendments made by this Act, provide to the owners of the common stock a priority over holders of indebtedness or other stock of Amtrak.

(c) ACQUISITION THROUGH EMINENT DOMAIN.—In the event that the National Railroad Passenger Corporation and the owners of the Amtrak common stock have not completed the redemption of such stock within 3 months after the completion of the valuation under subsection (a), the National Railroad Passenger Corporation shall exercise its right of eminent domain under section 24311 of title 49, United States Code, to acquire that stock. The value assigned to the common stock under subsection (a) shall be deemed to constitute just compensation except to the extent that the owners of the common stock demonstrate that the valuation is less than the constitutional minimum value of the stock.

(d) AMENDMENT OF SECTION 24311.—Section 24311(a)(1) is amended—

(1) by striking ''or'' at the end of subparagraph (A);

(2) by striking ''Amtrak.'' in subparagraph (B) and inserting ''Amtrak; or''; and

(3) by adding at the end the following:

''(C) necessary to redeem Amtrak's common stock from any holder thereof, including a rail carrier.''.

(e) CONVERSION OF PREFERRED STOCK TO COMMON.—

(1) Subsequent to the redemption of the common stock in the corporation issued prior to the date of enactment of this Act, the Secretary of Transportation shall convert the one share of the preferred stock of the corporation retained under section 110 of this Act for 10 shares of common stock in the National Railroad Passenger Corporation.

(2) The National Railroad Passenger Corporation may not issue any other common stock, and may not issued preferred stock, without the express written consent of the Secretary.

(f) TERMINATION OF SECTION 24907 NOTE AND MORTGAGE AUTHORITY.—Section 24907 is amended by adding at the end the following:

''(d) TERMINATION OF AUTHORITY.—The authority of the Secretary to obtain a note of indebtedness from, and make a mortgage agreement with, the American Passenger Railway Corporation under subsection (a) is terminated as of the date of the transfer of assets under section 110 of the Rail Passenger Service Restructuring, Reauthorization, and Development Act.''.

SEC. 110. RETIREMENT OF PREFERRED STOCK; TRANSFER OF ASSETS.

(a) TRANSFER.—Not later than 30 days after the redemption or acquisition of stock under section 109 of this Act, the National Railroad Passenger Corporation shall, in return for the consideration specified in subsection (c), transfer to the Secretary of Transportation title to—

(1) the portions of the Northeast Corridor currently owned or leased by the Corporation as well as any improvements made to these assets, including the rail right-of-way, stations, track, signal equipment, electric traction facilities, bridges, tunnels, repair facilities, and all other improvements owned by the Corporation between Boston, Massachusetts, and Washington, District of Columbia (including the route through Springfield, Massachusetts, and the routes to Harrisburg, Pennsylvania, and Albany, New York, from the Northeast Corridor mainline);

(2) Chicago Union Station and rail-related assets in the Chicago Metropolitan area; and

(3) all other track and right-of-way, stations, repair facilities, and other real property owned or leased by the Corporation.

(b) EXISTING ENCUMBRANCES.—

(1) ASSUMPTION BY FEDERAL GOVERNMENT.—Any outstanding debt on the mainline of the Northeast Corridor (other than debt associated with rolling stock) shall become a debt obligation of the United States as of the date of transfer of title under subsection (a)(1).

(2) RESTRUCTURING.—Except as provided in paragraph (1), the obligation of the American Passenger Railway Corporation or its successors or assigns to repay in full any indebtedness to the United States incurred since January, 1990, is not affected by this Act or an amendment made by this Act.

(c) CONSIDERATION.—In consideration for the assets transferred to the United States under subsection (a), the Secretary shall—

(1) deliver to the National Passenger Railroad Corporation all but one share of the preferred stock of the corporation held by the Secretary and forgive the corporation's legal obligation to pay any dividends, including accrued but unpaid dividends as of the date of transfer, evidenced by the preferred stock certificates; and

(2) release the National Railroad Passenger Corporation from all mortgages and liens held by the Secretary that were in existence on January 1, 1990.

(d) AGREEMENT.—Prior to accepting title to the assets transferred under this section, the Secretary shall enter into a contract with American Passenger Railway Corporation under which American Passenger Railway Corporation will exercise care, custody, maintenance, and operational control of the assets to be transferred. The term of the contract shall be for 1 year, which shall be renewed annually without action on the part of either party unless canceled by either party with 90 days notice.

(e) FURTHER TRANSFERS.—

(1) The Secretary may, for appropriate consideration, transfer title to all or part of Chicago Union Station and rail-related assets in the Chicago metropolitan area acquired under this section to a regional public transportation agency that has significant operations in Chicago Union Station on the date of enactment of this Act.

(2) The Secretary may, for appropriate consideration, transfer to the underlying States title to real estate properties owned by the Corporation between Boston, Massachusetts, and Washington, District of Columbia, that constitute the route through Springfield, Massachusetts, and the routes to Harrisburg, Pennsylvania, and Albany, New York, from the Northeast Corridor mainline.

(3) The Secretary may, for appropriate consideration, transfer title to all or part of the assets acquired under subsection (a)(3) to a State, a public agency, a railroad, or other entity deemed appropriate by the Secretary.

(f) USE OF PROCEEDS.—Notwithstanding section 3302 of title 31, United States Code, any proceeds from the transfer of the assets described subsection (e) shall be credited as off-setting collections to the account that finances debt and interest payments to the American Passenger Railway Corporation. Funds available for corridor development under chapter 244 of title 49, United States Code, shall be increased by an amount equal to the amounts credited under the preceding sentence.

SEC. 111. REAL ESTATE AND ASSET SALES; OTHER.

(a) IN GENERAL.—Within 3 years after the date of enactment of this Act, the Secretary of Transportation shall transfer all stations, track, and other fixed facilities outside the Northeast Corridor mainline to which the Secretary has assumed title under section 110 of this Act, other than equipment repair facilities, to States, municipalities, railroads, or other entities for maximum consideration.

(b) USE OF PROCEEDS.—Notwithstanding section 3302 of title 31, United States Code, any proceeds from the transfer of assets under this section shall be credited as offsetting collections to the account that finances debt and interest payments to the American Passenger Railway Corporation. Funds available for corridor development under chapter 244 of title 49, United States Code, shall be increased by an amount equal to the amounts credited under the preceding sentence.

SUBTITLE B—NORTHEAST CORRIDOR

SEC. 131. INTERSTATE COMPACT FOR THE NORTHEAST CORRIDOR.

(a) CONSENT TO COMPACT.—

(1) IN GENERAL.—The States and the District of Columbia that constitute the Northeast Corridor, as defined in section 24102 of title 49, United States Code, may enter into a multistate compact, not in conflict with any other law of the United States, to be known as the Northeast Corridor Compact, to manage railroad operations and rail service and conduct related activities on the Northeast Corridor mainline between Boston, Massachusetts, and Washington, District of Columbia.

(2) CONGRESSIONAL APPROVAL REQUIRED.—The Northeast Corridor Compact shall be submitted to Congress for its consent. It is the sense of the Congress that rapid consent to the Compact is a priority matter for the Congress.

(b) COMPACT COMMISSION.—

(1) IN GENERAL.—There is hereby established a commission to be known as the Northeast Corridor Compact Commission. The Commission shall be composed of—

(A) 2 members (or their designees), to be selected by the Secretary of Transportation;

(B) 2 members (or their designees), to be selected by agreement of—

(i) the governors of Maryland, Delaware, Pennsylvania, New Jersey, New York, Connecticut, Rhode Island, and Massachusetts (hereinafter referred to as the ''participating States''); and

(ii) the mayor of the District of Columbia; and

(C) 1 member to be selected by the 4 members selected under subparagraphs (A) and (B).

(2) ADMINISTRATIVE PROVISIONS.—

(A) Members of the Commission shall be appointed for the life of the Commission.

(B) A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(C) Members shall serve without pay but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(D) The Chairman of the Commission shall be elected by the members.

(E) The Commission may appoint and fix the pay of such personnel as it considers appropriate.

(F) Upon the request of the Commission, the head of any department or agency of the United States may detail, on a reimbursable basis, any of the personnel of that department or agency to the Commission to assist it in carrying out its duties under this section.

(G) Upon the request of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services necessary for the Commission to carry out its responsibilities under this section.

(c) FUNCTIONS.—The Commission shall prepare for the consideration of and adoption by participating States, the District of Columbia, and the Secretary of Transportation an interstate compact that provides for—

(1) full authority for 99 years to succeed to the responsibilities of the National Railroad Passenger Corporation as manager of the Northeast Corridor, subject to the provisions of a lease from the Department of Transportation, including responsibility for—

(A) Corridor maintenance and improvement;

(B) the operation of intercity passenger rail service;

(C) making arrangements for operation of freight railroad operations and commuter operations;

(D) the use of the Corridor for non-rail purposes; and

(E) the Northeast Corridor financial operations;

(2) execution of a lease of the Northeast Corridor from the Department of Transportation, for a period of 99 years, subject to appropriate provisions protecting the lessor's interests, including reversion of all lease interests to the lessor in the event the lessee fails to meet its financial obligations or otherwise assume financial responsibility for Northeast Corridor functions; and

(C) participation by the Department of Transportation, as the non-voting representative of the United States.

(d) FINAL COMPACT PROPOSAL.—

(1) The Commission shall submit a final compact proposal to participating States, the District of Columbia, and the Federal Government not later than 18 months after the date of enactment of this Act.

(2) The Commission shall terminate on the 180th day following the date of transmittal of the final compact proposal under this subsection.

(e) GOVERNANCE AND FUNDING REQUIREMENTS FOR COMPACT.—

(1) The governance provisions of the compact shall provide a mechanism to ensure voting representation for the participating States and the District of Columbia and for non-voting representation for the Secretary of Transportation and a freight railroad that conducts operations on the Northeast Corridor as ex officio members participating in all Compact affairs.

(2) The provisions of the compact shall establish the financial obligations of each compact member and shall provide for each member's management of rail services in the Northeast Corridor.

(f) FEDERAL INTEREST REQUIREMENTS FOR COMPACT.—The provisions of the Compact shall hold the United States Government harmless as to the actions of the Compact under the lease of rights to the Northeast Corridor by the United States Government.

(g) COMPACT BORROWING AUTHORITY.—

(1) The borrowing authority provisions of the Compact may authorize it to issue bonds or other debt instruments from time to time at its discretion for purposes that include paying any part of the cost of rail service improvements, construction, and rehabilitation and the acquisition of real and personal property, including operating equipment, except that debt issued by the Compact may be secured only by revenues to the Compact and may not be a debt of a participating State, the District of Columbia, or the Federal Government.

(2) The debt authorized by this subsection shall under no circumstances be backed by the full faith and credit of the United States, and a grant made under the authority of this Act or under the authority of part C of subtitle V of title 49, United States Code, shall include an express acknowledgement by the grantee that the debt does not constitute an obligation of the United States.

(h) ADOPTION OF COMPACT; TURNOVER.—

(1) IN GENERAL.—The participating States and the District of Columbia shall adopt a final compact agreement within 5 years after the date of enactment of this Act, and the Compact shall thereafter assume responsibility for the Northeast Corridor operations on a date that is not later than 6 months after adoption of the Compact.

(2) OPERATIONS.—Upon leasing the Northeast Corridor to the Compact, the Secretary shall assign to the Compact and the Compact shall assume the then-current contract for operation of the Northeast Corridor. Upon the termination of that contract, the Compact may make such arrangements for operation of the Northeast Corridor as it sees fit consistent with its lease and this Act. If the Compact chooses to use a contractor other than the American Passenger Railway Corporation to operate trains on the Northeast Corridor, the contract shall be awarded competitively.

(3) MAINTENANCE.—Upon leasing the Northeast Corridor to the Compact, the Secretary shall assign to the Compact and the Compact shall assume the then-current contract for maintenance of the Northeast Corridor. Upon the termination of that contract, the Compact may make such arrangements for maintenance of the Northeast Corridor as it sees fit consistent with its lease and this Act. If the Compact chooses to use a contractor other than the American Passenger Railway Corporation to maintain the Northeast Corridor and provide related services, the contract shall be awarded competitively.

(4) NON-COMPACT ALTERNATIVE.—If the participating States and the District of Columbia do not adopt the final compact agreement and make it operational under the schedule set forth in this section, the Secretary of Transportation, through a competitive bidding process, shall contract with another public or private entity to manage the Northeast Corridor, with a goal of maximizing the return to the Federal government from such operations.

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation to carry out this section—

(1) $3,000,000 for fiscal year 2005, and

(2) $2,000,000 for fiscal year 2006,

such sums to remain available until expended.

SEC. 132. SHUT-DOWN OF COMMUTER OR FREIGHT OPERATIONS.

(a) IN GENERAL.—Section 11123 is amended by striking ''National Railroad Passenger Corporation'' each place it appears and inserting ''American Passenger Railway Corporation''.

(b) AUTHORIZATION OF APPROPRIATIONS.—From the funds made available for the American Passenger Railway Corporation for fiscal years 2005 through 2010, the Secretary of Transportation shall in each fiscal year hold in reserve from the amounts authorized by section 24402(g) of title 49, United States Code, such sums as may be necessary to carry out directed service orders issued under section 1123 of title 49, United States Code, to respond to the shut-down of commuter rail operations or freight operations due to a shut-down of operations by the American Passenger Railway Corporation. The Secretary shall make the reserved funds available through an appropriate grant instrument during the fourth quarter of each fiscal year to the extent that no grant orders have been issued by the Surface Transportation Board during that fiscal year prior to the date of transfer of the reserved funds or there is a balance of reserved funds not needed by the Board to pay for any directed service order in that fiscal year.

(c) EFFECTIVE DATE FOR SUBSECTION (a).—The amendment made by subsection (a) shall take effect on the date, determined by the Secretary of Transportation, on which the restructuring required by sections 24300 of title 49, United States Code, is completed.

SEC. 133. CAPITAL GRANTS FOR NORTHEAST CORRIDOR.

(a) IN GENERAL.—Chapter 243, as amended by section 105, is amended by adding at the end the following:

''§ 24318. Capital authorizations for the Northeast Corridor

''(a) IN GENERAL.—The Secretary of Transportation, in consultation with the American Passenger Railway Corporation, shall develop and implement a capital program to restore the mainline of the Northeast Corridor between Boston, Massachusetts, and Washington, District of Columbia, to a state of good repair, as defined by the Secretary.

''(b) AUTHORIZATION OF APPROPRIATIONS FOR CAPITAL PROJECTS ON THE NORTHEAST CORRIDOR.—There are authorized to be appropriated to the Secretary of Transportation to make capital grants under this section $200,000,000 for fiscal year 2005 and $300,000,000 for each of fiscal years 2006 through 2010.

''(c) ACHIEVEMENT OF STATE-OF-GOOD-REPAIR ON NORTHEAST CORRIDOR.—

''(1) USE OF FUNDS.—Sums authorized for the Northeast Corridor under subsection (b) may be used solely for the purpose of funding deferred maintenance and safety projects, including the negotiated Federal share for life-safety improvements in the New York Penn Station tunnels.

''(2) STATE OF GOOD REPAIR.—The Northeast Corridor shall be considered to be in a state of good repair upon the completion of the capital program developed under subsection (a).''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 243, as amended by section 105, is amended by adding at the end thereof the following:

''24318. Capital authorizations for the Northeast Corridor''.

SUBTITLE C—RELATED MATTERS

SEC. 151. FAIR AND OPEN COMPETITION.

(a) IN GENERAL.—The Secretary of Transportation shall consult with States that competitively bid intercity passenger rail services to ensure their bidding practices provide for fair and open competition for all bidders, including the American Passenger Railway Corporation. The Secretary may withhold all or a portion of a grant under this Act if the Secretary determines that the State's bidding processes do not treat all competitors fairly.

(b) USE OF FEDERAL OR STATE FUNDS.—The Secretary shall ensure that the American Passenger Railway Corporation may not use Federal or State financial support for a passenger rail route to subsidize a competitive bid to operate intercity passenger rail service on another route.

SEC. 152. ACCESS TO OTHER RAILROADS.

(a) TERMS AND CONDITIONS FOR ACCESS TO OTHER RAILROADS.—

(1) EXISTING ROUTES AND FREQUENCIES.—

(A) IN GENERAL.—The National Railroad Passenger Corporation shall be responsible for negotiating the terms and conditions under which—

(i) the American Passenger Railway Corporation, a State, or other entity may access the property of a rail carrier to provide intercity passenger rail service over routes operated by Amtrak on the day before the date, determined by the Secretary of Transportation, on which the restructuring required by sections 24300 of title 49, United States Code, is completed at the frequencies in effect on that day; and

(ii) the American Passenger Railway Corporation, freight railroads, commuter authorities, and other entities may obtain access to property owned by the United States Government to provide intercity, commuter, freight rail and other services, except that the National Railroad Passenger Corporation shall delegate its authority under this clause to the interstate compact authorized by section 131 after that compact has been adopted.

(B) PRESERVATION OF RAILROAD BENEFITS.—The access and liability terms and conditions of the contracts between the National Railroad Passenger Corporation and other rail carriers following the restructuring required by section 24300 of title 49, United States Code, shall be no less favorable to the railroads than the access and liability terms and conditions under contracts in effect on the day before the date, as so determined by the Secretary, on which the restructuring is completed.

(C) INCENTIVE PAYMENTS; PENALTIES.—The National Railroad Passenger Corporation shall retain a system of incentive payments and performance penalties in negotiating compensation payments to other rail carriers under subparagraph (A) that encourages on-time performance.

(3) CONDITIONS FOR NEW ROUTES AND TRAIN FREQUENCIES.—

(A) IN GENERAL.—The terms and conditions for the operation of a new intercity passenger rail route or frequency added after the date of enactment of this Act shall, except for the rental charge compensation to another rail carrier, be determined by negotiation and mutual agreement between the host railroad and the operator or sponsor of the route or frequency to be added.

(B) STANDARD OF COMPENSATION.—The standard of compensation for the rental change shall be fully allocated costs, excluding capital investments associated with an added route or frequency, when the on-time performance of the new route or train frequency meets or exceeds 95 percent of the goal set by the parties, net of delays not within the host railroad's control.

(C) FAILURE OF NEGOTIATION.—If the parties cannot agree on the terms of the rental charge, either party may petition the Surface Transportation Board to prescribe the terms under section 24308 of title 49, United States Code.

(b) FITNESS QUALIFICATIONS FOR PASSENGER RAIL.—

(1) IN GENERAL.—No person may operate intercity passenger rail service unless that person demonstrates to the satisfaction of the Secretary of Transportation that—

''(A) its intercity passenger rail operations will meet all applicable Federal safety rules and regulations;

''(B) it will operate the service on a sound financial basis; and

''(C) it has the technical expertise to operate intercity passenger rail service.''.

(2) MINIMUM STANDARDS.—Within 6 months after the date of enactment of this Act, the Secretary of Transportation shall by regulation establish minimum safety and financial qualifications for operators of intercity passenger rail service.

SEC. 153. LIMITATIONS ON RAIL PASSENGER TRANSPORTATION LIABILITY.

Section 28103 is amended by striking ''Amtrak shall maintain a total'' in subsection (c) and inserting ''each operator of intercity passenger rail service shall maintain''.

SEC. 154. TRAIN OPERATIONS INSURANCE POOL.

(a) IN GENERAL.—Chapter 281 is amended by adding at the end the following:

''§ 28104. Train operations insurance pool

''(a) IN GENERAL.—The Secretary of Transportation is authorized to encourage and otherwise assist insurance companies and other insurers that meet the requirements prescribed under subsection (b) of this section to form, associate, or otherwise join together in a pool—

''(1) to provide the insurance coverage required by section 28103; and

''(2) for the purpose of assuming, on such terms and conditions as may be agreed upon, such financial responsibility as will enable such companies and other insurers to assume a reasonable proportion of responsibility for the adjustment and payment of claims under section 28103.

''(b) REGULATIONS TO ESTABLISH INSURER QUALIFICATION REQUIREMENTS.—In order to promote the effective administration of the intercity rail passenger program, and to assure that the objectives of this chapter are furthered, the Secretary is authorized to prescribe requirements for insurance companies and other insurers participating in an insurance pool under subsection (a), including minimum requirements for capital or surplus or assets.

''(c) AUTHORITY TO COLLECT AND PAY PREMIUMS AND OTHER COSTS.—In order to provide adequate insurance coverage at affordable cost to operators of intercity passenger rail service at no cost to the United States, the Secretary is authorized to divide the insurance premiums and all other costs of forming and operating the insurance pool created pursuant to this section, including the costs of any contractors or consultants the Secretary may hire, among all the operators of intercity passenger rail service (including the American Passenger Railway Corporation) and collect from each operator of intercity passenger rail service the insurance premiums and other costs the Secretary has allocated to it. Notwithstanding any other provision of law, the Secretary may receive funds collected under this section directly from each operator of intercity passenger rail service, credit the appropriation charged for the insurance premiums and other costs of forming and operating the insurance pool, and use those funds to pay insurance premiums and other costs of forming and operating the insurance pool, including the costs of any contractors or consultants the Secretary may hire. The Secretary may advance such sums as may be necessary to pay insurance premiums and other costs of forming and operating the insurance pool from unobligated balances available to the Federal Railroad Administration for intercity passenger rail service, to be reimbursed from payments received from operators of intercity passenger rail service. Where the Secretary is making a grant of operating funds for a route, the Secretary may collect the insurance premiums and other costs the Secretary has allocated to it by withholding those funds from the grant and crediting them to the appropriation charged for the insurance premiums and other costs of forming and operating the insurance pool.

''§ 28105. Use of insurance pool, companies, or other private organizations for certain payments

''(a) AUTHORIZATION TO ENTER INTO CONTRACTS FOR CERTAIN RESPONSIBILITIES.—The Secretary of Transportation may enter into contracts with the pool formed or otherwise created under section 28104, or any insurance company or other private organizations, for the purpose of securing performance by such pool, company, or organization of any or all of the following responsibilities:

''(1) Estimating and later determining any amounts of payments to be made from the pool.

''(2) Receiving from the Secretary, disbursing, and accounting for payments of insurance premiums.

''(3) Making such audits of the records of any insurance company or other insurer, insurance agent or broker, or insurance adjustment organization as may be necessary to assure that proper payments are made.

''(4) Otherwise assisting in such manner as the contract may provide to further the purposes of this chapter.

''(b) TERMS AND CONDITIONS OF CONTRACT.—Any contract with the pool or an insurance company or other private organization under this section may contain such terms and conditions as the Secretary finds necessary or appropriate for carrying out responsibilities under subsection (a) of this section, and may provide for payment of any costs which the Secretary determines are incidental to carrying out such responsibilities which are covered by the contract.

''(c) COMPETITIVE BIDDING.—Any contract entered into under subsection (a) of this section may be entered into without regard to section 5 of title 41 or any other provision of law requiring competitive bidding.

''(d) FINDINGS OF SECRETARY.—No contract may be entered into under this section unless the Secretary finds that the pool, company, or organization will perform its obligations under the contract efficiently and effectively, and will meet such requirements as to financial responsibility, legal authority, and other matters as the Secretary finds pertinent.

''(e) TERM OF CONTRACT; RENEWALS; TERMINATION.—Any contract entered into under this section shall be for a term of 1 year, and may be made automatically renewable from term to term in the absence of notice by either party of an intention to terminate at the end of the current term; except that the Secretary may terminate any such contract at any time (after reasonable notice to the pool, company, or organization involved) if the Secretary finds that the pool, company, or organization has failed substantially to carry out the contract, or is carrying out the contract in a manner inconsistent with the efficient and effective administration of the intercity rail passenger program.''.

(b) CONFORMING AMENDMENTS.—

(1) Chapter 281 is amended by striking ''LAW ENFORCEMENT'' in the chapter heading and inserting ''LAW ENFORCEMENT; LIABILITY; INSURANCE''.

(2) The part analysis of subtitle V is amended by striking the item relating to chapter 281 and inserting the following:

''281. Law enforcement; liability; insurance ..... 28101''.

(3) The table of contents of the title is amended by striking the item relating to chapter 281 and inserting the following:

''281. Law enforcement; liability; insurance ..... 28101''.

(4) The chapter analysis for chapter 281 is amended by adding at the end the following:

''28104. Train operations insurance pool

''28105. Use of insurance pool, companies, or other private organizations for certain payments''.

SEC. 155. COLLECTIVE BARGAINING ARRANGEMENTS.

(a) STATUS AS EMPLOYER OR CARRIER.—

(1) IN GENERAL.—Any entity providing intercity passenger railroad transportation (within the meaning of section 20102 of title 49, United States Code) that begins operations after the date of enactment of this Act shall be considered an employer for purposes of the Railroad Retirement Act of 1974 (45 U.S.C. 231 et seq.) and considered a carrier for purposes of the Railway Labor Act (45 U.S.C. 151 et seq.).

(2) COLLECTIVE BARGAINING AGREEMENT.—Any entity providing intercity passenger railroad transportation (within the meaning of section 20102 of title 49, United States Code) that begins operations after the date of enactment of this Act and replaces intercity rail passenger service that was provided by another entity as of the date of enactment of this Act, shall enter into an agreement with the authorized bargaining agent or agents for employees of the predecessor provider that—

(A) gives each employee of the predecessor provider priority in hiring according to the employee's seniority on the predecessor provider for each position with the replacing entity that is in the employee's craft or class and is available within three years after the termination of the service being replaced;

(B) establishes a procedure for notifying such an employee of such positions;

(C) establishes a procedure for such an employee to apply for such positions; and

(D) establishes rates of pay, rules, and working conditions.

(3) REPLACEMENT OF EXISTING RAIL PASSENGER SERVICE.—

(A) NEGOTIATIONS.—An entity providing replacement intercity rail passenger service under paragraph (2) shall give written notice of its plan to replace existing rail passenger service to the authorized collective bargaining agent or agents for the employees of the predecessor provider at least 90 days prior to the date it plans to commence service. Within 5 days after the date of receipt of

such written notice, negotiations between the replacing entity and the collective bargaining agent or agents for the employees of the predecessor provider shall commence for the purpose of reaching agreement with respect to all matters set forth in subparagraphs (A) through (D) of paragraph (2). The negotiations shall continue for 30 days or until an agreement is reached, whichever is sooner. If at the end of 30 days the parties have not entered into an agreement with respect to all such matters, the unresolved issues shall be submitted for arbitration in accordance with the procedure set forth in subparagraph (B).

(B) ARBITRATION.—If an agreement has not been entered into with respect to all matters set forth in subparagraphs (A) through (D) of paragraph (2) as provided in subparagraph (A) of this paragraph, the parties shall select an arbitrator. If the parties are unable to agree upon the selection of such arbitrator within 5 days, either or both parties shall notify the National Mediation Board, which shall provide a list of 7 arbitrators with experience in arbitrating rail labor protection disputes. Within 5 days after such notification, the parties shall alternately strike names from the list until only one name remains, and that person shall serve as the neutral arbitrator. Within 45 days after selection of the arbitrator, the arbitrator shall conduct a hearing on the dispute and shall render a decision with respect to the unresolved issues set forth in subparagraphs (A) through (D) of paragraph (2). This decision shall be final, binding, and conclusive upon the parties. The salary and expenses of the arbitrator shall be borne equally by the parties, but all other expenses shall be paid by the party incurring them.

(C) SERVICE COMMENCEMENT.—An entity providing replacement intercity rail passenger service under paragraph (2) shall commence service only after an agreement is entered into with respect to the matters set forth in subparagraphs (A) through (D) of paragraph (2) or the decision of the arbitrator has been rendered.

(b) REGULATIONS.—Not later than 6 months after the date of the enactment of this Act, the Secretary of Transportation shall issue regulations for carrying out this section.

TITLE II—RAIL DEVELOPMENT

SEC. 201. CAPITAL ASSISTANCE FOR INTERCITY PASSENGER RAIL SERVICE.

(a) IN GENERAL.—Part C of subtitle V is amended by inserting after chapter 243 the following:

''CHAPTER 244—INTERCITY PASSENGER RAIL SERVICE CORRIDOR CAPITAL ASSISTANCE

''§ 24401. Definitions

''In this chapter:

''(1) APPLICANT.—The term 'applicant' means a State, a group of States, including an interstate compact formed under section 410 of the Amtrak Reform and Accountability Act of 1997 (49 U.S.C. 24101 note) or section 131 of the Rail Passenger Service Restructuring, Reauthorization, and Development Act, or a public corporation, board, commission, or agency established by one or more States designated as the lead agency of a State for providing intercity passenger rail service.

''(2) CAPITAL PROJECT.—The term 'capital project' means a project for—

''(A) acquiring or constructing equipment or a facility for use in intercity passenger rail service, expenses incidental to the acquisition or construction (including designing, inspecting, supervising, engineering, location surveying, mapping, environmental studies, and acquiring rights-of-way), alternatives analysis related to the development of such train services, capacity improvements on the property over which the service will be conducted, passenger rail-related intelligent transportation systems, highway-rail grade crossing improvements or closures on routes used for intercity passenger rail service, relocation assistance, acquiring replacement housing sites, and acquiring, constructing, relocating, and rehabilitating replacement housing;

''(B) rehabilitating or remanufacturing rail rolling stock and associated facilities used primarily in intercity passenger rail service;

''(C) leasing equipment or a facility for use in intercity passenger rail service, subject to regulations (to be prescribed by the Secretary of Transportation) limiting such leasing arrangements to arrangements that are more cost-effective than purchase or construction;

''(D) modernizing existing intercity passenger rail service facilities and information systems;

''(E) the introduction of new technology, through innovative and improved products, other than magnetic levitation; or

''(F) defraying, with respect to new service established under section 24402, the cost of rental charges to freight railroads.

''(3) INTERCITY CORRIDOR PASSENGER RAIL SERVICE.—The term 'intercity corridor passenger rail service' means the transportation of passengers between major metropolitan areas by rail, including high-speed rail (as defined in section 26105(2) of this title), at multiple daily frequencies in corridors of 300 miles or less in length or with trip times of 4 hours or less.

''(4) NET PROJECT COST.—The term 'net project cost' means that portion of the cost of a project than cannot be financed from revenues reasonably expected to be generated by the project.

''§ 24402. Capital investment grants to support new intercity passenger rail service

''(a) GENERAL AUTHORITY.—

''(1) GRANTS.—The Secretary of Transportation may make grants under this section to an applicant to assist in financing capital investments to establish or add additional train frequencies for new intercity corridor passenger rail service.

''(2) TERMS AND CONDITIONS.—The Secretary shall require that a grant under this section be subject to the terms, conditions, requirements, and provisions the Secretary decides are necessary or appropriate for the purposes of this section, including requirements for the disposition of net increases in value of real property resulting from the project assisted under this section.

''(3) APPLICATION WITH CHAPTER 53.—A grant under this section may not be made for a project or program of projects that qualifies for financial assistance under chapter 53 of this title.

''(b) PROJECT AS PART OF APPROVED PROGRAM.—

''(1) IN GENERAL.—The Secretary may not approve a grant for a project under this section unless the Secretary finds that the project is part of an approved corridor plan and program developed under section 135 of title 23 and that the applicant or recipient has or will have the legal, financial, and technical capacity to carry out the project (including safety and security aspects of the project), satisfactory continuing control over the use of the equipment or facilities, and the capability and willingness to maintain the equipment or facilities.

''(2) ELIGIBILITY INFORMATION.—An applicant shall provide sufficient information upon which the Secretary can make the findings required by this subsection.

''(3) PROPOSED OPERATOR JUSTIFICATION.—If an applicant has not selected the proposed operator of its service competitively, the applicant shall provide written justification to the Secretary showing why the proposed operator is preferred, taking into account price and other factors, and that use of the proposed operator will not increase the capital cost of the project.

''(4) RAIL AGREEMENT.—The Secretary of Transportation may not approve a grant under this section unless the applicant demonstrates that the railroad over which the intercity passenger rail service will operate concurs with the applicant's operating plans and infrastructure improvement requirements.

''(c) CRITERIA FOR GRANTS FOR INTERCITY CORRIDOR PASSENGER RAIL PROJECTS.—

''(1) IN GENERAL.—The Secretary may approve a grant under this section for a capital project only if the Secretary determines that the proposed project is—

''(A) justified, based on—

''(i) the results of an alternatives analysis and preliminary engineering; and

''(ii) a comprehensive review of its mobility improvements, environmental benefits, cost effectiveness, and operating efficiencies; and

''(B) supported by an acceptable degree of State and local financial commitment, including evidence of stable and dependable financing sources to construct, maintain, and operate the system or extension.

''(2) ALTERNATIVES ANALYSIS AND PRELIMINARY ENGINEERING.—In evaluating a project under paragraph (1)(A), the Secretary shall analyze and consider the results of the alternatives analysis and preliminary engineering for the project.

''(3) PROJECT JUSTIFICATION.—In evaluating a project under paragraph (1)(B), the Secretary shall consider—

''(A) the direct and indirect benefits and costs of relevant alternatives;

''(B) the ability of the service to compete with other modes of transportation;

''(C) the extent to which the project fills an unmet transportation need;

''(D) the ability of the service to fund its operating expenses from fare revenues;

''(E) population density in the corridor;

''(F) the technical capability of the grant recipient to construct the project;

''(G) factors such as congestion relief, improved mobility, air pollution, noise pollution, energy consumption, and all associated ancillary and mitigating cost increases necessary to carry out each alternative analyzed;

''(H) the level of private sector financial participation and risk sharing in the project;

''(I) differences in local land, construction, and operating costs in evaluating project justification; and

''(J) other factors that the Secretary determines appropriate to carry out this chapter.

''(4) LOCAL FINANCIAL COMMITMENT.—

''(A) EVALUATION OF PROJECT.—In evaluating a project under paragraph (1)(C), the Secretary shall require that—

''(i) the proposed project plan provides for the availability of contingency amounts that the Secretary determines to be reasonable to cover unanticipated cost increases;

''(ii) each proposed State or local source of capital and operating financing is stable, reliable, and available within the proposed project timetable; and

''(iii) State or local resources are available to operate the proposed service.

''(B) CONSIDERATIONS.—In assessing the stability, reliability, and availability of proposed sources of local financing under subparagraph (A), the Secretary shall consider—

''(i) existing grant commitments;

''(ii) the degree to which financing sources are dedicated to the purposes proposed;

''(iii) any debt obligation that exists or is proposed by the applicant for the proposed project or other intercity passenger rail service purpose; and

''(iv) the extent to which the project has a local financial commitment that exceeds the required non-Federal share of the cost of the project.

''(5) PROJECT EVALUATION AND RATING.—A proposed project may advance from alternatives analysis to preliminary engineering, and may advance from preliminary engineering to final design and construction, only if the Secretary finds that the project meets the requirements of this section and there is a reasonable likelihood that the project will continue to meet such requirements. In making such findings, the Secretary shall evaluate and rate the project as 'highly recommended', 'recommended', or 'not recommended', based on the results of alternatives analysis, the project justification criteria, and the degree of local financial commitment, as required under this subsection. In rating the projects, the Secretary shall provide, in addition to the overall project rating, individual ratings for each of the criteria established under the regulations issued under paragraph (5).

''(6) FULL FUNDING GRANT AGREEMENT.—A project financed under this subsection shall be carried out through a full funding grant agreement. The Secretary shall enter into a full funding grant agreement based on the evaluations and ratings required under this subsection. The Secretary shall not enter into a full funding grant agreement for a project unless that project is authorized for final design and construction.

''(d) LETTERS OF INTENT, FULL FUNDING GRANT AGREEMENTS, AND EARLY SYSTEMS WORK AGREEMENTS.—

''(1) LETTER OF INTENT.—

''(A) The Secretary may issue a letter of intent to an applicant announcing an intention to obligate, for a project under this section, an amount from future available budget authority specified in law that is not more than the amount stipulated as the financial participation of the Secretary in the project.

''(B) At least 60 days before issuing a letter under subparagraph (A) of this paragraph or entering into a full funding grant agreement, the Secretary shall notify in writing the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure, and the House of Representatives and Senate Committees on Appropriations of the proposed letter or agreement. The Secretary shall include with the notification a copy of the proposed letter or agreement as well as the evaluations and ratings for the project.

''(C) The issuance of a letter is deemed not to be an obligation under sections 1108(c) and (d), 1501, and 1502(a) of title 31, or an administrative commitment.

''(D) An obligation or administrative commitment may be made only when amounts are appropriated.

''(2) FULL FUNDING AGREEMENT.—

''(A) The Secretary may make a full funding grant agreement with an applicant. The agreement shall—

''(i) establish the terms of participation by the United States Government in a project under this section;

''(ii) establish the maximum amount of Government financial assistance for the project, which, with respect to a high-speed rail project, shall be sufficient to complete at least an operable segment;

''(iii) cover the period of time for completing the project, including a period extending beyond the period of an authorization; and

''(iv) make timely and efficient management of the project easier according to the law of the United States.

''(B) An agreement under this paragraph obligates an amount of available budget authority specified in law and may include a commitment, contingent on amounts to be specified in law in advance for commitments under this paragraph, to obligate an additional amount from future available budget authority specified in law. The agreement shall state that the contingent commitment is not an obligation of the Federal Government and is subject to subject to the availability of appropriations made by Federal law and to Federal laws in force on or enacted after the date of the contingent commitment. Interest and other financing costs of efficiently carrying out a part of the project within a reasonable time are a cost of carrying out the project under a full funding grant agreement, except that eligible costs may not be more than the cost of the most favorable financing terms reasonably available for the project at the time of borrowing. The applicant shall certify, in a way satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financing terms.

''(3) EARLY SYSTEMS WORK AGREEMENT.—

''(A) The Secretary may make an early systems work agreement with an applicant if a record of decision under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) has been issued on the project and the Secretary finds there is reason to believe—

''(i) a full funding grant agreement for the project will be made; and

''(ii) the terms of the work agreement will promote ultimate completion of the project more rapidly and at less cost.

''(B) A work agreement under this paragraph obligates an amount of available budget authority specified in law and shall provide for reimbursement of preliminary costs of carrying out the project, including land acquisition, timely procurement of system elements for which specifications are decided, and other activities the Secretary decides are appropriate to make efficient, long-term project management easier. A work agreement shall cover the period of time the Secretary considers appropriate. The period may extend beyond the period of current authorization. Interest and other financing costs of efficiently carrying out the work agreement within a reasonable time are a cost of carrying out the agreement, except that eligible costs may not be more than the cost of the most favorable financing terms reasonably available for the project at the time of borrowing. The applicant shall certify, in a way satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financing terms. If an applicant does not carry out the project for reasons within the control of the applicant, the applicant shall repay all Government payments made under the work agreement plus reasonable interest and penalty charges the Secretary establishes in the agreement.

''(4) LIMIT ON TOTAL OBLIGATIONS AND COMMITMENTS.—The total estimated amount of future obligations of the Government and contingent commitments to incur obligations covered by all outstanding letters of intent, full funding grant agreements, and early systems work agreements under this section, when combined with obligations under section 5309 of this title, may be not more than the amount authorized under section 5338(b) of this title, less an amount the Secretary reasonably estimates is necessary for grants under this section not covered by a letter. The total amount covered by new letters and contingent commitments included in full funding grant agreements and early systems work agreements may be not more than a limitation specified in law.

''(e) FEDERAL SHARE OF NET PROJECT COST.—

''(1) IN GENERAL.—

''(A) Based on engineering studies, studies of economic feasibility, and information on the expected use of equipment or facilities, the Secretary shall estimate the net project cost.

''(B) A grant for the project may be for up to 50 percent of the net project cost. The remainder shall be provided in cash from non-Federal sources.

''(f) UNDERTAKING PROJECTS IN ADVANCE.—

''(1) IN GENERAL.—The Secretary may pay the Federal share of the net capital project cost to an applicant that carries out any part of a project described in this section according to all applicable procedures and requirements if—

''(A) the applicant applies for the payment;

''(B) the Secretary approves the payment; and

''(C) before carrying out a part of the project, the Secretary approves the plans and specifications for the part in the same way as other projects under this section.

''(2) INTEREST COSTS.—The cost of carrying out part of a project includes the amount of interest earned and payable on bonds issued by the applicant to the extent proceeds of the bonds are expended in carrying out the part. The amount of interest includable as cost under this paragraph may not be more than the most favorable interest terms reasonably available for the project at the time of borrowing. The applicant shall certify, in a manner satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financial terms.

''(3) USE OF COST INDICES.—The Secretary shall consider changes in capital project cost indices when determining the estimated cost under paragraph (2) of this subsection.

''(g) FUNDING.—THERE ARE AUTHORIZED TO BE APPROPRIATED TO THE SECRETARY OF TRANSPORTATION FOR PURPOSES OF THIS SECTION—

''(1) $525,000,000 for fiscal year 2006,

''(2) $525,000,000 for fiscal year 2007,

''(3) $650,000,000 for fiscal year 2008,

''(4) $750,000,000 for fiscal year 2009, and

''(5) $800,000,000 for fiscal year 2010,

such sums to remain available until expended.

''§ 24403. Project management oversight

''(a) PROJECT MANAGEMENT PLAN REQUIREMENTS.—To receive Federal financial assistance for a major capital project under this chapter, an applicant shall prepare and carry out a project management plan approved by the Secretary of Transportation. The plan shall provide for—

''(1) adequate recipient staff organization with well-defined reporting relationships, statements of functional responsibilities, job descriptions, and job qualifications;

''(2) a budget for the project, including the project management organization, appropriate consultants, property acquisition, utility relocation, systems demonstration staff, audits, and miscellaneous payments the recipient may be prepared to justify;

''(3) a construction schedule for the project;

''(4) a document control procedure and recordkeeping system;

''(5) a change order procedure that includes a documented, systematic approach to handling the construction change orders;

''(6) organizational structures, management skills, and staffing levels required throughout the construction phase;

''(7) quality control and quality assurance functions, procedures, and responsibilities for construction, system installation, and integration of system components;

''(8) material testing policies and procedures;

''(9) internal plan implementation and reporting requirements;

''(10) criteria and procedures to be used for testing the operational system or its major components;

''(11) annual updates of the plan, especially related to project budget and project schedule, financing, and ridership estimates; and

''(12) the recipient's commitment to submit a project budget and project schedule to the Secretary each month.

''(b) PLAN APPROVAL.—

''(1) 60-DAY DECISION.—The Secretary shall approve or disapprove a plan not later than 60 days after it is submitted. If the approval process cannot be completed within 60 days, the Secretary shall notify the recipient, explain the reasons for the delay, and estimate the additional time that will be required.

''(2) EXPLANATION OF DISAPPROVAL.—If the Secretary disapproves a plan, the Secretary shall inform the applicant of the reasons for disapproval of the plan.

''(c) SECRETARIAL OVERSIGHT.—

''(1) IN GENERAL.—The Secretary may use no more than 0.5 percent of amounts made available in a fiscal year for capital projects under this chapter to enter into contracts to oversee the construction of such projects.

''(2) USE OF FUNDS.—The Secretary may use amounts available under paragraph (1) of this subsection to make contracts for safety, procurement, management, and financial compliance reviews and audits of a recipient of amounts under paragraph (1).

''(3) FEDERAL SHARE.—The Federal Government may pay the entire cost of carrying out a contract under this subsection.

''(d) ACCESS TO SITES AND RECORDS.—Each recipient of assistance under this chapter shall provide the Secretary and a contractor the Secretary chooses under subsection (b) of this section with access to the construction sites and records of the recipient when reasonably necessary.

''§ 24404. Inclusion of projects in Budget

''Beginning with fiscal year 2005, the Secretary of Transportation shall transmit to the Office of Management and Budget for inclusion in the President's budget submission for the fiscal year a list of projects recommended for funding under section 24402 for the fiscal year.

''§ 24405. Local share and maintenance of effort

''(a) IN GENERAL.—Notwithstanding any other provision of law, a recipient of assistance under section 24402 may use, as part of the local matching funds for a capital project, the proceeds from the issuance of revenue bonds.

''(b) MAINTENANCE OF EFFORT.—The Secretary of Transportation shall approve the use of proceeds from the issuance of revenue bonds for the non-Federal share of the net project cost only if the aggregate amount of financial support for intercity passenger rail service from the State is not less than the average annual amount provided by the State during the preceding 3 years.

''§ 24406. Grants for maintenance and modernization

''(a) IN GENERAL.—The Secretary of Transportation may make capital grants for renewal and modernization of intercity passenger rail services to—

''(1) the American Passenger Railway Corporation for services it operates under contract with the Secretary of Transportation; or

''(2) to States for intercity passenger rail services operated under a contract with the American Passenger Railway Corporation or another train operator.

''(b) USE OF FUNDS.—Grants under this section may be used—

''(1) to purchase, lease, rehabilitate, or remanufacture rolling stock and associated facilities used primarily in intercity passenger rail service;

''(2) to modernize existing intercity passenger rail service facilities and information systems; or

''(3) to defray the cost of rental charges to freight railroads for the addition of train frequencies.

''(c) FEDERAL SHARE.—For fiscal years 2005 through 2010, the Federal share for a capital grant under this section may be 100 percent, except that the Federal share for a grant made under subsection (b)(3) may not exceed 50 percent. After fiscal year 2010, the Federal share for a capital grant under this section may not exceed 80 percent.

''(d) ALLOCATION FORMULA.—Funds made available by this section shall be allocated equitably among the States based on a formula to be determined by the Secretary.

''(e) SLEEPING AND DINING CARS.—Pending the restructuring of long distance routes under sections 106 through 108 of the Rail Passenger Service Restructuring, Reauthorization, and Development Act, capital grants may be made to the American Passenger Railway Corporation for sleeping and dining cars only to the extent necessary to maintain the equipment in working order and not for the purpose of refurbishing, rebuilding, or renewing such equipment to extend the equipment's useful life.

''(f) LONG DISTANCE RESTRUCTURING PLAN.—Unless the restructuring plan submitted by the Long Distance Route Restructuring Commission under section 106 of the Rail Passenger Service Restructuring, Reauthorization, and Development Act is disapproved by Congress, from the sums authorized for capital projects outside of the Northeast Corridor, the Secretary may reserve up to $20,000,000 in each of fiscal years 2007 through 2010 to assist in the restructuring of long distance routes as linked corridors, and the Federal share of such assistance shall be 100 percent.

''(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation $200,000,000 for each of fiscal years 2005 through 2010 to carry out this section.''.

SEC. 202. REGULATIONS IMPLEMENTING CHAPTER 244.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation shall issue final regulations under chapter 244 of title 49, United States Code.

''(b) SPECIFIC REQUIREMENTS.—The regulations under chapter 244 of title 49, United States Code, shall include—

''(1) the manner in which the Secretary will evaluate and rate projects based on the results of alternatives analysis, project justification, and the degree of local financial commitment, as required by section 24402 of that title;

''(2) a definition of 'major capital project' for purposes of section 24403;

''(3) a requirement that project oversight begin during the preliminary engineering stage of a project, unless the Secretary finds it more appropriate to begin oversight during another stage of a project, to maximize the transportation benefits and cost savings associated with project management oversight;

''(4) a deadline by which all grant applications for a fiscal year shall be submitted that is early enough to permit the Secretary to evaluate all timely applications thoroughly before making grants;

''(5) a formula based on infrastructure ownership, boardings, and passenger-miles traveled in the prior fiscal year by which the funds authorized for modernization of existing services will be allocated among the States; and

''(6) a requirement that, if a State does not apply for its share of formula grant funds under paragraph (5) of this subsection in a timely manner, those funds will be made available to other States.

TITLE III—REFORMS

SEC. 301. MANAGEMENT OF SECURED DEBT.

Except as approved by the Secretary of Transportation to refinance existing secured debt, Amtrak (until the American Passenger Railway Corporation is established) and the American Passenger Railway Corporation thereafter, may not enter into any obligation secured by assets after the date of enactment of this Act. This section does not prohibit unsecured lines of credit used for working capital purposes.

SEC. 302. EMPLOYEE ASSISTANCE.

(a) TRANSITION FINANCIAL INCENTIVES.—

(1) IN GENERAL.—To reduce operating expenses in preparation for competition from other rail carriers, the American Passenger Railway Corporation may institute a program under which it may, at its discretion, provide financial incentives to employees who voluntarily terminate their employment with the Corporation and relinquish any legal rights to receive termination-related payments under any contractual agreement with the Corporation.

(2) CONDITIONS FOR FINANCIAL INCENTIVES.—As a condition for receiving financial assistance grants under this section, the American Passenger Railway Corporation shall certify to the Secretary of Transportation that—

(A) the financial assistance results in a net reduction in the total number of employees equal to the number receiving financial incentives;

(B) the financial assistance results in a net reduction in total employment expense equivalent to the total employment expenses associated with the employees receiving financial incentives; and

(C) the total number of employees eligible for termination-related payments will not be increased without the express written consent of the Secretary.

(3) AMOUNT OF FINANCIAL INCENTIVES.—The financial incentives authorized under this section may not exceed 1 year's base pay.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation $25,000,000 for each of fiscal years 2005, 2006, and 2007 to make grants to the American Passenger Railway Corporation to fund financial incentive payments to employees under this subsection.

(b) LABOR PROTECTION FOR EMPLOYEES OF THE AMERICAN PASSENGER RAILWAY CORPORATION.—

(1) IN GENERAL.—The American Passenger Railway Corporation shall be responsible for obligations imposed by law or collective bargaining agreement for compensation and benefits payable to its employees terminated in connection with the restructuring of passenger rail service under this Act and the amendments made by this Act. The responsibility of the American Passenger Railway Corporation under the preceding sentence,

and the obligations for which it is responsible under that sentence, may not be transferred to any other entity in connection with such restructuring by contract or otherwise.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation for the use of the American Passenger Railway Corporation in meeting its responsibility under paragraph (1) $75,000,000 for each of fiscal years 2007 through 2010.

(3) NOT AN OBLIGATION OF THE UNITED STATES.—Notwithstanding paragraph (2), nothing in paragraph (1) shall be construed to mean that any labor protection obligation of the American Passenger Railway Corporation under that paragraph is an obligation of the United States Government.

SEC. 303. TERMINATION OF AUTHORITY FOR GSA TO PROVIDE SERVICES TO AMTRAK.

Section 1110 of division A of H.R. 5666 (114 Stat. 2763A-202), as enacted by section 1(a)(4) of the Consolidated Appropriations Act, 2001, is repealed.

SEC. 304. AMTRAK REFORM BOARD OF DIRECTORS.

Section 24302 is amended by adding at the end the following:

''(d) ASSET TRANSITION COMMITTEE.—

''(1) IN GENERAL.—The Reform Board shall form an asset transition committee comprised of the Secretary or the Secretary's designee, and 2 other members, or 1 other member if 2 other members are not lawfully appointed.

''(2) POWERS AND DUTIES.—In addition to other powers and duties assigned by the board, the Asset Transition Committee has the duty to ensure that the public interest is served in board decisions and Amtrak management actions that change the use of or status of—

''(A) the contractual right of access of Amtrak to rail lines of other railroads;

''(B) Amtrak's secured debt;

''(C) Northeast Corridor real property and assets; and

''(D) rolling stock.

''(3) APPROVAL REQUIRED.—The board may not take an action with regard to the assets or secured debt specified in paragraph (2), or permit Amtrak management action with regard to those assets, that is not approved by the asset transition committee.''.

SEC. 305. LIMITATIONS ON AVAILABILITY OF GRANTS.

(a) IN GENERAL.—Chapter 243, as amended by section 136 of this Act is amended by inserting after section 24318 the following:

''§ 24319. Limitations on availability of grants

''(a) IN GENERAL.—In addition to any other requirement imposed under this title, grants under this subtitle are subject to the following conditions:

''(1) The Secretary of Transportation may approve funding to cover operating losses or operating expenses (including advance purchase orders) only after receiving and approving a grant request for each specific train route to which the grant relates.

''(2) Each such grant request shall be accompanied by a detailed financial analysis, revenue projection, and capital expenditure program justifying the Federal support to the Secretary's satisfaction.

''(3) Not later than December 31st prior to each fiscal year in which a grant under this subtitle is to be made, the grant recipient shall transmit a business plan for operating and capital improvements to be funded in the fiscal year under section 24104(a) to the Secretary of Transportation, the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Transportation and Infrastructure of the House of Representatives, and the House of Representatives and Senate Committees on Appropriations.

''(4) The business plan shall include—

''(A) targets, as applicable, for ridership, revenues, and capital and operating expenses;

''(B) a separate accounting for such targets—

''(i) on the Northeast Corridor;

''(ii) each intercity train route;

''(iii) as a group for long distance trains and corridor services; and

''(iv) commercial activities, including contract operations and mail and express; and

''(C) a description of the work to be funded, along with cost estimates and an estimated timetable for completion of the projects covered by the business plan.

''(5) Each month of each fiscal year in which grants are made under this subtitle, the grant recipient shall submit a supplemental report in electronic format regarding the business plan, which shall describe the work completed to date, any changes to the business plan, and the reasons for such changes, to the Secretary of Transportation, the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Transportation and Infrastructure of the House of Representatives, and the House of Representatives and Senate Committees on Appropriations.

''(6) None of the funds authorized by this subtitle or the Rail Passenger Service Restructuring, Reauthorization, and Development Act may be disbursed for operating expenses, including advance purchase orders and capital projects not approved by the Secretary nor in the business plan submitted by the grant recipient under paragraph (3).

''(7) The grant recipient shall display the business plan required by paragraph (3) and all subsequent supplemental plans required by paragraph (5) on its website within a reasonable time after they are submitted to the Secretary and the Congress under this section.

''(8) The Secretary may not make any grant under this subtitle, until the grant recipient agrees to continue abiding by the provisions of paragraphs (1), (2), (5), (9), and (11) of the summary of conditions on the direct loan agreement of June 28, 2002, until the loan is repaid.

''(9) With respect to any route on which intercity passenger rail service is provided on the day before the date on which the restructuring required by section 24300 is completed (as determined by the Secretary), the American Passenger Railway Corporation shall make available to any replacement operator the legacy equipment that is associated with the service on the route. The equipment shall be made available on such terms as the National Railroad Passenger Corporation determines are fair, reasonable, and in the public interest.

''(10) The American Passenger Railway Corporation shall provide interline reservations services to any other provider of intercity passenger rail transportation on the same basis and at the same rates as those services were provided to the operating entities that provide passenger rail service within Amtrak as of the date of enactment of the Rail Passenger Service Restructuring, Reauthorization, and Development Act.

''(b) GRANT RECIPIENT.—In this section, the term 'grant recipient' means—

''(1) Amtrak, until the date on which the American Passenger Railway Corporation is established; and

''(2) the American Passenger Railway Corporation, after it is established.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 243 is amended by inserting after the item relating to section 24318 the following:

''24319. Limitations on availability of grants''.

SEC. 306. REPEAL OF OBSOLETE AND EXECUTED PROVISIONS OF LAW.

(a) IN GENERAL.—The following sections are repealed:

(1) Section 24701.

(2) Section 24706.

(3) Section 24901.

(4) Section 24902.

(5) Section 24904.

(6) Section 24906.

(7) Section 24909.

(b) AMENDMENT OF SECTION 24305.—Section 24305 is amended—

(1) by striking paragraph (2) of subsection (a) and redesignating paragraph (3) as paragraph (2); and

(2) by inserting ''With regard to items acquired with funds provided by the Federal Government,'' before ''Amtrak'' in subsection (f)(2).

(c) CONFORMING AMENDMENTS.—The chapter analyses for chapters 243, 247, and 249 are amended, as appropriate, by striking the items relating to sections 24307, 24701, 24706, 24901, 24902, 24904, 24906, 24908, and 24909.

SEC. 307. ESTABLISHMENT OF FINANCIAL ACCOUNTING SYSTEM.

(a) IN GENERAL.—The Inspector General of the Department of Transportation shall employ an independent financial consultant—

(1) to assess Amtrak's financial accounting and reporting system and practices as of the date of enactment of this Act;

(2) to design and assist the American Passenger Railway Corporation in implementing a modern financial accounting and reporting system, on the basis of the assessment, that will produce accurate and timely financial information in sufficient detail—

(A) to enable the American Passenger Railway Corporation to assign revenues and expenses appropriately to each of its lines of business and to each major activity within each line of business activity, including train operations, equipment maintenance, ticketing, and reservations;

(B) to aggregate expenses and revenues related to infrastructure and distinguish them from expenses and revenues related to rail operations; and

(C) to provide ticketing and reservation information on a real-time basis.

(b) VERIFICATION OF SYSTEM; REPORT.—The Inspector General of the Department of Transportation shall review the accounting system designed and implemented under subsection (a) to ensure that it accomplishes the purposes for which it is intended. The Inspector General shall report his findings and conclusions, together with any recommendations, to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.

(c) SEPARATE FINANCIAL STATEMENTS FOR NORTHEAST CORRIDOR INFRASTRUCTURE.—Beginning with fiscal year 2006, the American Passenger Railway Corporation shall issue separate financial statements for activities related to the infrastructure of the Northeast Corridor.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation $2,500,000 for fiscal year 2005 to carry out subsection (a), such sums to remain available until expended.

SEC. 308. RESTRUCTURING OF LONG-TERM DEBT AND CAPITAL LEASES.

(a) IN GENERAL.—The Secretary of the Treasury, in consultation with the Secretary of Transportation and Amtrak, shall restructure Amtrak's indebtedness as of the date of enactment of this Act.

(b) DEBT REDEMPTION.—The Secretary of Transportation, in consultation with the Secretary of the Treasury, shall enter into negotiations with the holders of Amtrak

debt, including leases, that is outstanding on the date of enactment of this Act for the purpose of restructuring that debt. The Secretary, in consultation with the Secretary of the Treasury, shall secure agreements for repayment on such terms as the Secretary deems favorable to the interests of the Government.

(c) CRITERIA.—In redeeming or restructuring Amtrak's indebtedness, the Secretaries and Amtrak—

(1) shall ensure that the restructuring imposes the least practicable burden on taxpayers; and

(2) take into consideration repayment costs, the term of any loan or loans, and market conditions.

(d) EARLY REDEMPTION PLAN.—Within 1 year after the date of enactment of this Act, the Secretary of Transportation and the Secretary of the Treasury shall transmit to the Congress—

(1) a plan for the early redemption of Amtrak debt; and

(2) a proposal for covering the costs associated with the early redemption.

(e) AMTRAK PRINCIPAL AND INTEREST PAYMENTS.—

(1) PRINCIPAL ON DEBT SERVICE.—Unless the Secretary of Transportation and the Secretary of the Treasury restructure or redeem the debt, there are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak (before the date, determined by the Secretary of Transportation, on which the restructuring required by section 24300 of title 49, United States Code, is completed) and the American Passenger Railway Corporation (after that date) for retirement of principal on loans for capital equipment, or capital leases, not more than the following amounts:

(A) For fiscal year 2005, $110,000,000.
(B) For fiscal year 2006, $115,000,000.
(C) For fiscal year 2007, $205,000,000.
(D) For fiscal year 2008, $165,000,000.
(E) For fiscal year 2009, $155,000,000.
(F) For fiscal year 2010, $150,000,000.

(2) INTEREST ON DEBT.—Unless the Secretary of Transportation and the Secretary of the Treasury restructure or redeem the debt, there are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak (before the date, determined by the Secretary of Transportation, on which the restructuring required by section 24300 of title 49, United States Code, is completed) and the American Passenger Railway Corporation (after that date) for the payment of interest on loans for capital equipment, or capital leases, the following amounts:

(A) For fiscal year 2005, $155,000,000.
(B) For fiscal year 2006, $150,000,000.
(C) For fiscal year 2007, $140,000,000.
(D) For fiscal year 2008, $130,000,000.
(E) For fiscal year 2009, $125,000,000.
(F) For fiscal year 2010, $115,000,000.

(3) REDUCTIONS IN AUTHORIZATION LEVELS.—Whenever action taken by the Secretary of the Treasury under subsection (c) results in reductions in amounts of principle and interest that Amtrak must service on existing debt, Amtrak shall submit to the Senate Committee on Commerce, Science and Transportation, the House of Representatives Committee on Transportation and Infrastructure, the Senate Committee on Appropriations, and House of Representatives Committee on Appropriations revised requests for amounts authorized by paragraphs (1) and (2) that reflect the such reductions.

(g) LEGAL EFFECT OF PAYMENTS UNDER THIS SECTION.—The payment of principal and interest secured debt with the proceeds of grants under subsection (f) shall not—

(1) modify the extent or nature of any indebtedness of the National Railroad Passenger Corporation to the United States in existence of the date of enactment of this Act;

(2) change the private nature of Amtrak's or its successors' liabilities; or

(3) imply any Federal guarantee or commitment to amortize Amtrak's outstanding indebtedness.

SEC. 309. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary of Transportation for the benefit of Amtrak for fiscal year 2005 $750,000,000 for operating expenses.

By Mr. GRASSLEY:

S. 2307. A bill to amend the Federal Food, Drug, and Cosmetic Act with respect to the importation of prescription drugs by importers, and by individuals for personal use, and for other purposes; to the Committee on Finance.

Mr. GRASSLEY. Mr. President, I would like to pose a question to the Chamber today.

What would you call it if Americans were paying up to 300 percent more for the same product as consumers from other countries were paying? Back in Iowa, we would call that ''highway robbery.'' Yet, highway robbery is what is happening every day in this country, and it is happening over prescription drugs.

Yes, prescription drugs are being sold at prices that are 30 to 300 percent higher in the United States than in places like Canada or Europe.

Here are some examples.

The price in Canada of Nexium which is for heart burn and ulcers, is about 40 percent of the price in the U.S. Nexium would cost about $120 for 28 20-milligram capsules if you bought it here in the States. If you order the same Nexium from Canada, you'd pay about $51.

Here is another example: The price in Canada for Vioxx which is for arthritis pain, is also about 40 percent of the price in the U.S. If you purchased 30 12.5-milligram tablets in Canada, you would pay about $36 and here in a U.S. pharmacy, you would pay about $86.

And why is that, Mr. President? The reason is the importation of prescription drugs, those very same drugs that patients are using in Canada, and Australia, and Japan, is illegal in this country. So consumers in other countries get price breaks from the drug manufacturers and the American public doesn't.

One way to look at this is that by paying those higher prices, the American public is paying more than its fair share for the cost of research and development for future new drugs. That is not fair.

This means when a new drug comes on the market, the American consumer has paid for the research but consumers in other countries benefit from the new therapy.

I have supported amendments to permit Canadian drug purchases before. We have had numerous votes in this Chamber on legalizing importation. We had a vote most recently during the Medicare debate.

Last year, the House overwhelmingly passed a drug reimportation bill by a vote of 243 to 186. But, in the end, the conference report for the Medicare bill watered down the possibility of legal importation such that it was meaningless.

I was very disappointed about that. I think it was victory by subterfuge for the pharmaceutical industry.

So, I decided to roll up my sleeves and go to work on drafting my own bill that would address the problems surrounding importation. In fact, I was working very closely since the beginning of the year with my friend and colleague from Massachusetts, Senator KENNEDY. We were working together until 3 weeks ago to create a bipartisan piece of legislation. We made a lot of progress. We still had some issues to work out but we were very close to having a final agreement.

With my leadership on the Finance Committee, and Senator KENNEDY's leadership on the HELP Committee, let alone his expertise on the Food, Drug, and Cosmetics Act, I figured we had a good shot at getting something done.

Our discussions certainly created a lot of buzz around town. I had reporters and all manner of interest groups asking me and my staff about the bill and when we would introduce it. But those discussions have since evaporated. Apparently, the Democratic caucus was concerned that things were moving too quickly or that too much momentum was building behind a bipartisan effort. What I do know is that our bipartisan product was no longer the priority.

I was disappointed about that too. Senator KENNEDY and I work well together. In fact, we are joining forces even now to get the Family Opportunity Act to the floor and passed out of the Senate.

You can understand why I was discouraged to learn that Senator DASCHLE had determined lowering the costs of prescription drugs through importation was going to be a partisan issue.

Members can understand why I was discouraged to learn that Senator DASCHLE determined lowering the cost of prescription drugs through importation was going to be a partisan issue. This reminded me of what happened in the year 2002 with the Medicare prescription drug debate. There, too, Senator DASCHLE became concerned that the Finance Committee—then chaired by my friend, Senator BAUCUS—would report a bipartisan prescription drug benefit for seniors.

Senator DASCHLE, in 2002, as the majority leader, bypassed the Finance Committee and took the prescription drug bill straight to the floor. That is not how we get legislation passed in the Senate, and everyone around here knows it. As I say so often to my colleagues, nothing gets done in the Senate if it is not bipartisan or at least somewhat bipartisan.

In the year 2002, it resulted in a very partisan debate in the Senate over

competing Medicare drug benefit proposals. There were multiple partisan proposals by the Senator from Florida, Mr. GRAHAM. I had a proposal supported by both Republicans and Democrats. The Democratic caucus fought our bill, which was dubbed the tripartisan bill because one of the key authors, Senator JEFFORDS from Vermont, sits in the body as an Independent.

What happened in the final analysis in 2002? The Senate did not pass a Medicare drug benefit proposal that year. The debate fell apart in partisan bickering in the Senate. That happened because partisan politics intervened to prevent a bipartisan compromise.

It looks to me that this is what is happening now on the issue of the importation of drugs into the United States to help our seniors. When we go to the pharmacist to pick up a prescription, I don't remember the pharmacist asking if you are a Republican or a Democrat. When you pay your health insurance premium, I don't think the insurance company looks for an ''R'' or a ''D'' by your name before they accept your payment.

No, I don't see the importation of drugs as a partisan issue. Being forced to pay higher prescription prices because there is a lack of competition in the global pharmaceutical industry is not a partisan issue. That is why I decided to move ahead and introduce the bill I am introducing today.

This bill I am introducing today in a large degree is the bill on which I worked very closely with Senator KENNEDY when our efforts got superseded by the Democratic caucus. I made a few changes, but this bill is basically what Senator KENNEDY and I were working on together before partisan politics got in the way. I thought what we had was a good proposal. We were close to having all the details worked out. I am going ahead and introducing that bill today by myself.

Let me explain the bill. Quite simply, it would legalize immediately the importation of prescription drugs from Canada. After 2 years, consumers would be able to order their drugs from other countries, as well. It creates a practical and safe system to do it.

Today the law prohibits the importation of prescription drugs until the Secretary of Health and Human Services certifies that importation can be done safely. Under current resources and under current authority, the Food and Drug Administration has not been able to provide such assurance on the safety of drugs coming in from other countries. We have had Health and Human Service Secretaries in both the Clinton administration and the Bush administration. This is not Republicans protecting pharmaceuticals, if you want to look at it this way. It is both Democrat Presidents and Republican Presidents making a decision that the certification and safety of drug importation was not legally permitted.

Even though the law says you can import drugs, because of the lack of certification, they cannot come into the country. More and more people have been getting prescriptions filled in Canada, regardless of what the law says. Technically, that is illegal today.

The Food and Drug Administration and our customs officials have been looking the other way. The Food and Drug Administration has said there are serious safety issues with drug importation from other countries. They say this because no public health authority is overseeing many of the prescriptions coming in from other countries. In fact, the Canadian Government has said it will not take responsibility for assuring the safety of drugs being shipped to the United States from Canada. They have basically told the U.S. consumer: You are on your own from the standpoint of safety—I suppose, as far as the Food and Drug Administration, efficacy as well as safety.

Today, importation is no longer limited to organized bus trips across the border to pharmacies in Canada. Instead, it is becoming a booming mail-order pharmacy operation with customers all over the United States. We see press accounts on a regular basis describing Americans who log on to the Internet to purchase drugs from Canada and elsewhere.

The Permanent Subcommittee on Investigations of the Senate Committee on Governmental Affairs conducted an investigation into drug importation. They found about 40,000 parcels containing prescription drugs come through JFK Airport every day. JFK Airport houses the largest international mail branch in the United States. From Miami, 30,000 packages of drugs come into the United States; 20,000 packages come into Chicago each day of the year. About 28 percent of the drugs coming in are controlled substances. These are addictive drugs that require close supervision from physicians.

From where are most of these drugs coming? I was surprised to hear it was not only Canada, but also Brazil, India, Pakistan, the Netherlands, Spain, Portugal, Mexico, and Romania.

My bill immediately halts unsafe importation from rogue operators but permits individuals to obtain prescriptions from licensed Canadian pharmacies on an interim basis while the Food and Drug Administration gets a new drug importation system up and it runs well.

The American public is tired of waiting for the Federal Government to take action to legalize importation and to assure the safety of imported drugs. Under my bill, the Food and Drug Administration is required to issue final regulations for the new drug importation system within 90 days of enactment. Under the new importation system, individuals and pharmacies could purchase qualified drugs for import into the United States from foreign exporters that register with the Food and Drug Administration. To be registered, the foreign exporters must demonstrate compliance with safety measures, must submit to the jurisdiction of U.S. courts, and take other steps to assure the safety of imported drugs.

A user fee charged to registered exporters would provide the financing needed for the Food and Drug Administration to register and oversee foreign drug exporters and assure the state of imported drugs.

The drugmakers do not want to see their lower priced products from other countries coming into the United States. That is certain because the present laws do not permit this competition to them. They would say it undermines their profits here. They will want to do everything they can to stop drug importation.

Even though this bill might pass, these companies will find some way to keep these drugs out of the country. So I have to deal with that fact in this legislation.

So under my bill, drugmakers that take steps to prevent importation of their products from these registered drug importers will lose their tax deduction for their advertising costs.

Now, that is going to upset the trade associations that deal with advertising. That is going to upset TV and newspapers and magazines that get a lot of money from advertising. I have had a long history of supporting the deductibility of advertising expenses as a legitimate business expense. I have not changed my mind in regard to that, not at all. In fact, I have a history of voting against amendments that are offered on the floor of the Senate that would make advertising not deductible.

But we are not talking about not allowing the deductibility of advertising costs. Only if a company tries to do something illegal and keep drugs from coming in from out of this country, then they will pay the penalty of not having their advertising costs deducted. But I assume, when we pass this bill, these drug companies are going to abide by this law. There will not be one cent of advertising that cannot be deducted as a legitimate expense, so I do not want the advertising fraternity to get upset with this legislation, when I have been a backer of the legitimate writeoff of advertising expenses.

Now, this not only has the stick that I just described, but we have a carrot as well, to encourage companies to abide by this law and not try to keep imported drugs from coming into this country by some sort of requirement they would put on supplies outside the country not to ship drugs into this country; and that is, they will get a 20-percent benefit—a 20-percent benefit—by having an increase in their R&D tax credit.

I am going to discuss that further, but going back to the advertising costs, I do sense, from my people in Iowa—at every town meeting some person complains about the advertising of

drugs on TV. I defend the advertising of drugs on TV because that is commercial free speech. I think our citizenry ought to be as educated about drugs as they can be, so they are not beholden to their own doctor or doctors for what might be applied. I think we ought to have an educated patient group, so this advertising is very good. But I still have to say that my Iowa constituents are pretty fed up with all those drug ads they see on TV, and how they are probably adding to the cost of prescription drugs.

I am fully in favor of this free speech, and I do not, in any way, want to prohibit companies from running the ads they want to run. But if drug companies are not going to allow U.S. consumers to have access to these lower prices in other countries, then, under this legislation, they would lose the tax deduction for the cost of those advertisements.

Now, on the other hand, I said there is a carrot out there. The drugmakers complain to us that these lower prices might take money from research and development. They would rightly say: Where are we going to get the money to have the next generation of ''magic'' drugs that we have? We want that to happen, because when I buy a drug today, my mother or grandmother, when they bought pills, paid for that research for the generation of drugs I take. I want my children and grandchildren to have a new generation of drugs for the future. So we do not want to hurt research and development.

So my bill, then, creates an incentive for drug companies that do not fight this importation of drugs. Companies that do not prevent importation from registered exporters will get a 20-percent increase in their R&D tax credit. I hope everybody will think that is very fair.

I have a more detailed summary of this bill that I am going to put in the RECORD. I ask unanimous consent that this summary and a question and answer document be printed in the RECORD following my statement.

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

(See exhibit 1.)

Mr. GRASSLEY. I believe that free trade principles argue in favor of permitting the importation from Canada and perhaps from other developed countries as long as we can implement a system for safe importation.

Today, there is no assurance of safety—no one is watching the store—and products are coming in from all over the world.

My legislation has two objectives. First, it will put an immediate end to the unregulated and unsafe situations of drug imports that we have today by default. This is key because the situation today threatens the safety of our Nation's drug supply and puts patients who obtain these drugs at risk of harm.

Second, the legislation will provide the Food and Drug Administration with the resources and authority to ensure the safety of imported drugs, and importation will only be permitted by registered exporters who submit to the Food and Drug Administration authority.

Now, this bill will get referred to the Finance Committee because it has tax provisions in it, but the bulk of my bill falls under the jurisdiction of the HELP Committee, and my friend, Senator GREGG, as chairman of that committee, has announced he will hold a markup this year on a drug importation bill.

I do not intend to assert jurisdiction over this proposal, and I believe we should rely upon that regular committee process to work. That is how we get legislation passed in the Senate. Because that is where bipartisanship is formulated, at the committee level.

I hope my colleagues will look at this bill. I wanted to get these ideas out here for discussion. I hope some of my colleagues will want to cosponsor this bill. It is time we got this done, and this is the year to get it done, particularly following upon the vote that was in the House of Representatives last year.

We must not let partisan politics get in the way, and I think it is getting a little bit in the way right now. I hope we overcome that. I hope I am able to develop a relationship with Democrats, once again, to work on this bill in a bipartisan way. If we do not do this, I think there is going to be a penalty paid at the ballot box in November.

The American consumers are waiting. Let's get the job done.

I ask unanimous consent that a summary be printed in the RECORD.

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

EXHIBIT 1

OVERVIEW OF KEY ELEMENTS

Legalizes reimportation (or importation) of prescription drugs from FDA approved exporters. To be approved, registered exporters must agree to meet safety requirements and to permit FDA inspectors on their premises full time to ensure compliance.

Creates a ''fast-track'' regulatory process for FDA to implement the importation system quickly.

Importation of qualified prescription drugs from Canada is immediately legalized while the new importation system is developed and implemented by FDA.

Under the new system, individuals, pharmacies, and drug wholesalers are permitted to legally import prescription drugs from registered foreign exporters:

Individuals may order drugs from a registered exporter pursuant to a valid prescription issued by a U.S. doctor and filled by a pharmacist whose licensing requirements are equivalent to those required in the U.S. or by a dispensing pharmacist duly licensed by a state.

Commercial shipments are permitted only to licensed pharmacists for resale directly to consumers and by drug wholesalers who can sell to pharmacies as they do today.

Drugs imported to U.S. pharmacies and drug wholesalers must be FDA approved drugs produced in the United States or in FDA inspected manufacturing facilities in other counties. FDA is required to provide the proper labeling for drugs for importation.

The FDA through its inspectors is responsible for tracing all drugs exported to the U.S. back to their original manufacturing plant and ensuring that they have been stored and transported safely from that plant.

Individuals may also purchase drugs that are bioequivalent to FDA-approved brand name drugs that are produced by the same brand-name manufacturer.

These drugs are drugs not technically approved by the FDA but the foreign government has approved the drug and that drug has the same active ingredient or ingredients as the FDA-approved drug and the same route of administration, dosage form, and strength.

If a drug manufacturer believes, however, that the non-FDA approved drug is not bioequivalent to the FDA approved drug, then it must submit a petition to the FDA to show that (a) the differences result in a product that is not bioequivalent to the drug approved in the U.S., and (b) that such differences are due to scientifically and legally valid differences in the regulatory requirements of the U.S. and the country(ies) in which the apparently similar drug is marketed. The manufacturer is required to pay a user fee sufficient to cover the cost of the FDA's review of the petition and supporting documentation.

A User Fee charged to registered exporters provides the financing to provide the resources to FDA to ensure the safety of imported drugs.

User fees charged to registered exporters would be sufficient to cover all costs including those incurred for inspection and verification within the United States, at the exporter's premises and any other location where the drugs have been stored prior to entry into the U.S.

The FDA would be required to verify the source and inspect the intermediate handlers of all drugs intended for export into the United States.

FDA would also be required to determine by a statistically significant sample that the recipients held valid prescriptions (individuals ordering 90-day supply or less) or verify that recipient was a licensed pharmacy that only dispensed drugs to individuals.

The FDA would also be required to supply valid U.S. labeling upon request of the registered exporter and affix or supervise the affixing of seals, markings or tracking technology that would inform border personnel that such imports were lawful to be entered as labeled.

Drugs not permitted for importation include controlled substances and certain other drugs not appropriate for importation because of storage, significant safety concerns, or drugs that are more likely to be counterfeited.

Provisions to Protect Safety of the Public

Unauthorized imports would be treated as contraband and would be seized and destroyed upon entry without notice.

For the first two years, importation would be limited to Canada. The Department of Health and Human Services would submit a report to Congress in the second year, and unless Congress changed the law, countries from which importation is permitted would be expanded to include, the European Union, the European Free Trade Association, Japan, Australia, and New Zealand. Other countries meeting statutory criteria could also be added to the list by the Secretary.

The legislation continues to prohibit the import or reimport of drugs supplied free or at nominal cost to charitable or humanitarian organizations including the United

Nations or a government of a foreign country.

Requires pedigrees from the manufacturer to the dispensing pharmacist for all prescription drugs sold within the U.S. or to an exporter authorized to export drugs into the U.S.

Requires the automatic suspension of an exporter's registration for any attempted entry of non-qualified or unsafe drugs with restricted ability to seek re-instatement in the future.

Requires that registered exporters submit to the jurisdiction of the U.S. federal court system and provides a mechanism for civil actions against the property of persons that import non-qualified drugs.

Repeals the provision in the Controlled Substances Act that permits the personal import of scheduled drugs, which is a significant source of illegal drug trade in the U.S.

Tax Incentives for Manufacturers to Facilitate Reimportation

Incentive To Not Prevent Reimportation: Manufacturers that do not take any action, directly or indirectly, to prevent reimportation receive a 20% increase in R&D tax credit for that year.

Penalty For Preventing Reimportation: Manufacturers that take any action, directly or indirectly, to prevent authorized reimportation lose the business expense deduction for advertising expenses.

QUESTIONS AND ANSWERS ABOUT THE BILL

Question. What are the goals of the legislation?

Answer. The legislation has two objectives. First, it would put an immediate end to the unregulated and unsafe situation with drug imports that exists today. Second, the legislation would provide the Food and Drug Administration (FDA) with the resources and authority to ensure the safety of imported drugs.

Question. How does the bill work?

Answer. Current law prohibits the importation of prescription drugs until the Secretary of Health and Human Services (HHS) certifies that importation can be done safely. Using current resources and authority, the FDA has not been able to provide an assurance of safety of imported drugs.

The bill immediately halts unsafe importation but permits individuals to obtain prescriptions from Canadian pharmacies on an interim basis while FDA gets the new drug importation system up and running.

Under the bill, the FDA is required to issue final regulations for the new system within 90 days of enactment. Under the new importation system, individuals, pharmacies, and drug wholesalers could purchase qualified drugs for import into the U.S. from foreign exporters that register with the FDA. To obtain a registration, a foreign exporter must demonstrate compliance with safety measures, must submit to jurisdiction of U.S. courts, and take others steps to assure safety of imported drugs. A user fee charged to registered exporters would provide the financing needed for FDA to register and oversee foreign drug exporters and ensure the safety of imported drugs.

Question. How will patients get their prescriptions filled at an overseas drug exporter?

Answer. First of all, consumers that want to have their prescriptions filled at an overseas prescription drug exporter will be able to go to the FDA website and find a list of companies that have passed FDA's requirements to become a registered exporter. Just as for filling a prescription in the U.S. today, the patient must have a valid prescription written by a health care professional licensed in a state to prescribe drugs. The patient will then compare drug prices at the different registered exporters to find the best price available. To get the prescription filled, the patient will have to contact that exporter and either mail or fax the prescription to them.

Alternatively, the registered exporter could call the patient's prescriber and get the prescription over the phone. This is the same process as mail order pharmacies in the U.S. use today.

A pharmacist at the registered exporter would fill the prescription according to the prescriber's instructions. The registered exporter may only fill the prescription with brand-name drugs, meaning these are the same drugs as those approved by the FDA and manufactured by the same company as approved by the FDA for sale in the U.S.

Individuals can also have a prescription filled that is technically not an FDA-approved drug, but the drug has the same active ingredients, dosage form, strength, and route of administration as the FDA-approved drug and is made by the same manufacturer as the FDA-approved drug. These drugs are manufactured by the same brand-name manufacturer and are made for sale in the market of the approved country.

The registered exporter is required to verify that the drug can be traced back to the original manufacturer and the drug must have been stored and handled properly. The FDA, through its on-site inspectors, will also be verifying that the prescription drugs being dispensed to patients meet FDA's criteria.

Once the prescription is filled, the registered exporter will place a label or other markings on the package for shipping that identify the shipment as being in compliance with FDA's safety requirements and all registration conditions. These markings will be designed by FDA and may include track-and-trace technologies and anti-counterfeiting measures. When the package enters the U.S., that marking will signify to Customs officials that the product was dispensed from a registered exporter and can therefore be permitted to enter the country. Packages with drugs that lack this marking will be seized by Customs and destroyed.

Question. Can the importation of prescription drugs from other countries be expanded?

Answer. Yes. In the second year of the importation program, HHS would be required to submit a report to Congress on the safety of the program and its impact on trade. Unless Congress acted, the program would be expanded in year three to include importation from the European Union, the European Free Trade Association, Japan, Australia and New Zealand. Other countries that meet specific statutory criteria may also be added to the list.

Question. What is the complete list of countries that would be permitted in the third year of the program?

Answer. There are currently 15 members of the European Union: Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, Portugal, Spain, Sweden, The Netherlands, and the United Kingdom. Beginning on May 1, 2004, there will be 10 new member states in the European Union: Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia, and Slovenia. There are 4 member countries in the European Free Trade Association: Iceland, Liechtenstein, Norway, and Switzerland.

Question. How much does this program cost?

Answer. The infrastructure needed to guarantee the safety of the imported prescriptions would be financed through user fees. User fees would be paid by registered exporters, which could be the overseas pharmacies or prescription drug wholesalers, for example. Congressional Budget Office has not yet officially scored the bill.

Question. Now that the bill is introduced, what comes next?

Answer. Because the bill contains tax provisions, it has been referred to the Finance Committee. Senate leadership has expressed an interest in developing legislation this year to allow the importation of prescription drugs. Because the bulk of the legislation falls within the jurisdiction of the Health, Education, Labor & Pensions (HELP) Committee, it is expected that HELP will take the lead in reporting any legislation.

Question. How is this bill different than other legislation on importation?

Answer. While the idea of importation of prescription drugs from foreign countries enjoys broad bipartisan support, the issue of safety continues to remain a major barrier to allowing importation to move forward. Secretaries of HHS from both the Clinton and Bush Administrations have determined that safe importation of prescription drugs cannot be guaranteed with the authority and resources the FDA has today. Many bills presume that importation is safe and that FDA and the public should not be overly alarmed. However, there is a legitimate concern about unsafe pharmaceuticals entering the U.S. every day. Hundreds of thousands of packages enter our country on a daily basis, with little or no ability for the U.S. Customs Service or the FDA to guarantee these drugs are safe and effective. Rather than ignore the safety issue, this bill responds to the concerns raised by FDA and others and creates a way to ensure safe access to lower cost prescriptions.

Question. How does this bill lower the costs of prescription drugs Americans have to pay?

Answer. United States consumers pay 30 to 300 percent more for their prescriptions drugs than those in other countries. Drug manufacturers are forced to sell their products at lower prices in other countries and try to re-coup their profits by making Americans pay higher prices for the same products. This bill recognizes that competition in the global marketplace can work to lower prescription drug costs. If lower cost pharmaceuticals are made available to Americans, drug companies will be forced to rethink their pricing strategy and won't be able to gouge consumers in the United States.

Question. What mechanisms does the bill propose to guarantee safety?

Answer. The bill would allow importation of qualified drugs only from registered exporters, whose actions will be held accountable in U.S. Federal courts.

Registered exporters must have an FDA-approved compliance plan that demonstrates they are meeting the safety requirements established in the bill or by FDA. Exporters must permit FDA inspectors to be present onsite on a continuous day-to-day basis and FDA is required to have assigned inspectors to that exporter. FDA will conduct day-to-day onsite monitoring of the exporter at the place of business for the exporter including any warehouses owned or operated by the exporter and FDA will have access to inspect the exporters records to ensure compliance. Only where an exporter has demonstrated a track record of compliance will FDA be permitted to perform periodic inspections. The FDA must verify the chain of custody for each qualifying drug from the manufacturer of the drug to the exporter.

Only licensed pharmacists at the registered exporter will be allowed to dispense prescriptions with a valid U.S. prescription from a U.S. physician. Commercial shipments can only be received and resold by licensed pharmacists. Unauthorized imports

would be treated as contraband and would be seized and destroyed upon entry without notice. Under the bill, an exporter's registration would automatically be suspended for any attempted entry of non-qualified or unsafe drugs and these exporters can be barred from seeking re-instatement in the future. The bill would allow for importation first from Canada in order to test the safety of the system and determine whether additional controls are needed before expansion to additional counties.

Question. How does the bill prevent drug manufacturers from gaming the system?

Answer. Drug manufacturers that take any action, directly or indirectly, to prevent authorized importation will see a loss of their tax deduction for advertising expenses. Drug manufacturers that do NOT take action, directly or indirectly, to prevent importation will see a 20 percent increase in their research and development tax credit for that year.

By Mr. CORZINE (for himself, Mr. REED, Mr. BINGAMAN, Mr. LAUTENBERG, and Ms. CANTWELL):

S. 2308. A bill to provide for prompt payment and interest on late payments of health care claims; to the Committee on Health, Education, Labor, and Pensions.

Mr. CORZINE. Mr. President, I rise today to introduce legislation to ensure that managed care plans and other private health insurers pay health care claims in a timely fashion. I thank my colleagues Senators LAUTENBERG, REED, BINGAMAN and CANTWELL for joining me in introducing this bill.

This legislation seeks to address the very serious backlog of HMO payments that hospitals and physicians are facing in my State of New Jersey and across the country. Specifically, the legislation requires private health plans to pay manually filed claims within 30 days and electronically filed claims within 14 days. Insurers that fail to meet these time frames would be required to pay interest for every day the claims went unpaid. Insurers that knowingly violate these prompt payment requirements would be subject to monetary penalties.

A Federal prompt pay law is critical to ensuring that our health care providers maintain adequate cash flows and are able to continue functioning. The need for such a law cannot be understated. In my State of New Jersey, almost half of all hospitals are operating in the red, and that number is growing. Physicians and hospitals are experiencing a severe medical malpractice crisis, which is further limiting their resources. Untimely payment of claims has only compounded this problem.

According to a survey of 50 New Jersey hospitals, only 39 percent of manually-filed clean claims are paid within 40 days. These institutions cannot afford to wait indefinitely for reimbursement for services they have provided. Each year, hundreds of millions of dollars in HMO payments to hospitals are held up for months at a time, worsening provider fiscal woes.

The problem of late payments has reached such a crisis that 47 States, including New Jersey, have enacted ''prompt pay'' laws to require insurers to pay their bills within a specific time frame. Unfortunately, New Jersey's law, like most similar State laws, is largely ineffective because it lacks strong enforcement provisions and offers no incentives for private insurers to comply. Furthermore, State prompt-pay laws only apply to non-ERISA regulated plans, which only cover approximately 50 percent of New Jersey insureds.

Shouldn't we hold private insurers to the same standards that regular citizens must adhere to? If you don't pay your health insurance premium when it's due, the company will simply cancel your policy. If you're late making your credit care payments, your credit care company charges you interest. Why shouldn't private health insurers also be penalized for making late payments?

In my view, it only makes sense to hold insurance companies to the same type of standards to which we hold Medicare. Medicare must pay claims within thirty days of receiving them. Why should private insurers be immune from any such time limits?

The bottom line is that patients, hospitals and other health care providers should not have to shoulder the burden of unpaid claims. My legislation will ensure that private insurers assume the financial responsibilities for the health coverage they are being paid to provide.

I ask unanimous consent that the text of the legislation be printed in the RECORD.

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

S. 2308

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 ''Prompt Payment of Health Benefits Claims Act of 2004''.

SEC. 2. AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

(a) IN GENERAL.—Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1185 et seq.) is amended by adding at the end the following:

''SEC. 714. PROMPT PAYMENT OF HEALTH BENEFITS CLAIMS.

''(a) TIMEFRAME FOR PAYMENT OF COMPLETE CLAIM.—A group health plan, and a health insurance issuer offering group health insurance coverage in connection with a group health plan, shall pay all complete claims and uncontested claims—

''(1) in the case of a claim that is submitted electronically, within 14 days of the date on which the claim is submitted; or

''(2) in the case of a claim that is not submitted electronically, within 30 days of the date on which the claim is submitted.

''(b) PROCEDURES INVOLVING SUBMITTED CLAIMS.—

''(1) IN GENERAL.—Not later than 10 days after the date on which a complete claim is submitted, a group health plan, and a health insurance issuer offering group health insurance coverage in connection with a group health plan, shall provide the claimant with a notice that acknowledges receipt of the claim by the plan or issuer. Such notice shall be considered to have been provided on the date on which the notice is mailed or electronically transferred.

''(2) CLAIM DEEMED TO BE COMPLETE.—A claim is deemed to be a complete claim under this section if the group health plan or health insurance issuer involved does not provide notice to the claimant of any deficiency in the claim within 10 days of the date on which the claim is submitted.

''(3) INCOMPLETE CLAIMS.—

''(A) IN GENERAL.—If a group health plan or health insurance issuer determines that a claim for health care expenses is incomplete, the plan or issuer shall, not later than the end of the period described in paragraph (2), notify the claimant of such determination. Such notification shall specify all deficiencies in the claim and shall list all additional information or documents necessary for the proper processing and payment of the claim.

''(B) DETERMINATION AFTER SUBMISSION OF ADDITIONAL INFORMATION.—A claim is deemed to be a complete claim under this paragraph if the group health plan or health insurance issuer involved does not provide notice to the claimant of any deficiency in the claim within 10 days of the date on which additional information is received pursuant to subparagraph (A).

''(C) PAYMENT OF UNCONTESTED PORTION OF A CLAIM.—A group health plan or health insurance issuer shall pay any uncontested portion of a claim in accordance with subsection (a).

''(3) OBLIGATION TO PAY.—A claim for health care expenses that is not paid or contested by a group health plan or health insurance issuer within the timeframes set forth in this subsection shall be deemed to be a complete claim and paid by the plan or issuer in accordance with subsection (a).

''(c) DATE OF PAYMENT OF CLAIM.—Payment of a complete claim under this section is considered to have been made on the date on which full payment is received by the health care provider.

''(d) INTEREST SCHEDULE.—

''(1) IN GENERAL.—With respect to a complete claim, a group health plan or health insurance issuer that fails to comply with subsection (a) shall pay the claimant interest on the amount of such claim, from the date on which such payment was due as provided in this section, at the following rates:

''(A) 1½ percent per month from the 1st day of nonpayment after payment is due through the 15th day of such nonpayment;

''(B) 2 percent per month from the 16th day of such nonpayment through the 45th day of such nonpayment; and

''(C) 2½ percent per month after the 46th day of such nonpayment.

''(2) CONTESTED CLAIMS.—With respect to claims for health care expenses that are contested by the plan or issuer, once such claim is deemed complete under subsection (b), the interest rate applicable for noncompliance under this subsection shall apply consistent with paragraphs (1) and (2).

''(e) PRIVATE RIGHT OF ACTION.—Nothing in this section shall be construed to prohibit or limit a claim or action not covered by the subject matter of this section that any claimant has against a group health plan, or a health insurance issuer.

''(f) ANTI-RETALIATION.—Consistent with applicable Federal or State law, a group health plan or health insurance issuer shall not retaliate against a claimant for exercising a right of action under this section.

''(g) FINES AND PENALTIES.—

''(1) FINES.—

''(A) IN GENERAL.—If a group health plan or health insurance issuer offering group health insurance coverage, willfully and knowingly violates this section or has a pattern of repeated violations of this section, the Secretary shall impose a fine not to exceed $1,000 per claim for each day a response is delinquent beyond the date on which such response is required under this section.

''(B) REPEATED VIOLATIONS.—If 3 separate fines under subparagraph (A) are levied within a 5-year period, the Secretary is authorized to impose a penalty in an amount not to exceed $10,000 per claim.

''(2) REMEDIAL ACTION PLAN.—Where it is established that the group health plan or health insurance issuer willfully and knowingly violated this section or has a pattern of repeated violations, the Secretary shall require the group health plan or health insurance issuer to—

''(A) submit a remedial action plan to the Secretary; and

''(B) contact claimants regarding the delays in the processing of claims and inform claimants of steps being taken to improve such delays.

''(h) DEFINITIONS.—In this section:

''(1) CLAIMANT.—The term 'claimant' means a participant, beneficiary or health care provider submitting a claim for payment of health care expenses.

''(2) COMPLETE CLAIM.—The term 'complete claim' is a claim for payment of covered health care expenses that—

''(A) in the case of a claim involving a health care provider that is an institution or other facility or agency that provides health care services, is a properly completed billing instrument that consists of—

''(i) the Health Care Financing Administration 1450 (UB–92) paper form, or its successor, as adopted by the NUBC, with data element usage consistent with the usage prescribed in the UB–92 National Uniform Billing Data Elements Specification Manual, and, for claims submitted before October 1, 2002, any State-designated data requirements that are determined and approved by the State uniform billing committee of the State in which the health care service or supply is furnished; or

''(ii) the electronic format for institutional claims (and accompanying implementation guide) adopted as a standard by the Secretary of Health and Human Services pursuant to section 1173 of the Social Security Act (42 U.S.C. 1320d–2); and

''(B) in the case of claim involving a health care provider that is a physician or other individual who is licensed, accredited, or certified under State law to provide specified health care services, is a properly completed billing instrument that—

''(i) the Health Care Financing Administration 1500 paper form, or its successor, as adopted by the NUCC and further defined by data element specifications contained in the NUCC implementation guide or, if such specifications are not issued by the NUCC, the data element specifications contained in the Medicare Carriers Manual Part 4 (HCFA–Pub 14–4) sections 2010.1 through 2010.4; or

''(ii) the electronic format for professional claims (and accompanying implementation guide) adopted as a standard by the Secretary of Health and Human Services pursuant to section 1173 of the Social Security Act (42 U.S.C. 1320d–2).

''(3) CONTESTED CLAIM.—The term 'contested claim' means a claim for health care expenses that is denied by a group health plan or health insurance issuer during or after the benefit determination process.

''(4) HEALTH CARE PROVIDER.—The term 'health care provider' includes a physician or other individual who is licensed, accredited, or certified under State law to provide specified health care services and who is operating with the scope of such licensure, accreditation, or certification, as well as an institution or other facility or agency that provides health care services and is licensed, accredited, or certified to provide health care items and services under applicable State law.

''(5) INCOMPLETE CLAIM.—The term 'incomplete claim' means a claim for health care expenses that cannot be adjudicated because it fails to include all of the required data elements necessary for adjudication.

''(6) NUBC.—The term 'NUBC' means the National Uniform Billing Committee.

''(7) NUCC.—The term 'NUCC' means the National Uniform Claim Committee.''.

SEC. 3. AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT.

(a) GROUP MARKET.—Subpart 2 of part A of title XXVII of the Public Health Service Act (42 U.S.C. 300gg–4 et seq.) is amended by adding at the end the following:

''SEC. 2707. PROMPT PAYMENT OF HEALTH BENEFITS CLAIMS.

''(a) TIMEFRAME FOR PAYMENT OF COMPLETE CLAIM.—A group health plan, and a health insurance issuer offering group health insurance coverage in connection with a group health plan, shall pay all complete claims and uncontested claims—

''(1) in the case of a claim that is submitted electronically, within 14 days of the date on which the claim is submitted; or

''(2) in the case of a claim that is not submitted electronically, within 30 days of the date on which the claim is submitted.

''(b) PROCEDURES INVOLVING SUBMITTED CLAIMS.—

''(1) IN GENERAL.—Not later than 10 days after the date on which a complete claim is submitted, a group health plan, and a health insurance issuer offering group health insurance coverage in connection with a group health plan, shall provide the claimant with a notice that acknowledges receipt of the claim by the plan or issuer. Such notice shall be considered to have been provided on the date on which the notice is mailed or electronically transferred.

''(2) CLAIM DEEMED TO BE COMPLETE.—A claim is deemed to be a complete claim under this section if the group health plan or health insurance issuer involved does not provide notice to the claimant of any deficiency in the claim within 10 days of the date on which the claim is submitted.

''(3) INCOMPLETE CLAIMS.—

''(A) IN GENERAL.—If a group health plan or health insurance issuer determines that a claim for health care expenses is incomplete, the plan or issuer shall, not later than the end of the period described in paragraph (2), notify the claimant of such determination. Such notification shall specify all deficiencies in the claim and shall list all additional information or documents necessary for the proper processing and payment of the claim.

''(B) DETERMINATION AFTER SUBMISSION OF ADDITIONAL INFORMATION.—A claim is deemed to be a complete claim under this paragraph if the group health plan or health insurance issuer involved does not provide notice to the claimant of any deficiency in the claim within 10 days of the date on which the additional information is received pursuant to subparagraph (A).

''(C) PAYMENT OF UNCONTESTED PORTION OF A CLAIM.—A group health plan or health insurance issuer shall pay any uncontested portion of a claim in accordance with subsection (a).

''(3) OBLIGATION TO PAY.—A claim for health care expenses that is not paid or contested by a group health plan or health insurance issuer within the timeframes set forth in this subsection shall be deemed to be a complete claim and paid by the plan or issuer in accordance with subsection (a).

''(c) DATE OF PAYMENT OF CLAIM.—Payment of a complete claim under this section is considered to have been made on the date on which full payment is received by the health care provider.

''(d) INTEREST SCHEDULE.—

''(1) IN GENERAL.—With respect to a complete claim, a group health plan or health insurance issuer that fails to comply with subsection (a) shall pay the claimant interest on the amount of such claim, from the date on which such payment was due as provided in this section, at the following rates:

''(A) 1½ percent per month from the 1st day of nonpayment after payment is due through the 15th day of such nonpayment;

''(B) 2 percent per month from the 16th day of such nonpayment through the 45th day of such nonpayment; and

''(C) 2½ percent per month after the 46th day of such nonpayment.

''(2) CONTESTED CLAIMS.—With respect to claims for health care expenses that are contested by the plan or issuer, once such claim is deemed complete under subsection (b), the interest rate applicable for noncompliance under this subsection shall apply consistent with paragraphs (1) and (2).

''(e) PRIVATE RIGHT OF ACTION.—Nothing in this section shall be construed to prohibit or limit a claim or action not covered by the subject matter of this section that any claimant has against a group health plan, or a health insurance issuer.

''(f) ANTI-RETALIATION.—Consistent with applicable Federal or State law, a group health plan or health insurance issuer shall not retaliate against a claimant for exercising a right of action under this section.

''(g) FINES AND PENALTIES.—

''(1) FINES.—

''(A) IN GENERAL.—If a group health plan or health insurance issuer offering group health insurance coverage willfully and knowingly violates this section or has a pattern of repeated violations of this section, the Secretary shall impose a fine not to exceed $1,000 per claim for each day a response is delinquent beyond the date on which such response is required under this section.

''(B) REPEATED VIOLATIONS.—If 3 separate fines under subparagraph (A) are levied within a 5-year period, the Secretary is authorized to impose a penalty in an amount not to exceed $10,000 per claim.

''(2) REMEDIAL ACTION PLAN.—Where it is established that the group health plan or health insurance issuer willfully and knowingly violated this section or has a pattern of repeated violations, the Secretary shall require the health plan or health insurance issuer to—

''(A) submit a remedial action plan to the Secretary; and

''(B) contact claimants regarding the delays in the processing of claims and inform claimants of steps being taken to improve such delays.

''(h) DEFINITIONS.—In this section:

''(1) CLAIMANT.—The term 'claimant' means an enrollee or health care provider submitting a claim for payment of health care expenses.

''(2) COMPLETE CLAIM.—The term 'complete claim' is a claim for payment of covered health care expenses that—

''(A) in the case of a claim involving a health care provider that is an institution or other facility or agency that provides health care services, is a properly completed billing instrument that consists of—

''(i) the Health Care Financing Administration 1450 (UB–92) paper form, or its successor, as adopted by the NUBC, with data element usage consistent with the usage prescribed in

the UB–92 National Uniform Billing Data Elements Specification Manual, and, for claims submitted before October 1, 2002, any State-designated data requirements that are determined and approved by the State uniform billing committee of the State in which the health care service or supply is furnished; or

''(ii) the electronic format for institutional claims (and accompanying implementation guide) adopted as a standard by the Secretary of Health and Human Services pursuant to section 1173 of the Social Security Act (42 U.S.C. 1320d–2); and

''(B) in the case of claim involving a health care provider that is a physician or other individual who is licensed, accredited, or certified under State law to provide specified health care services, is a properly completed billing instrument that—

''(i) the Health Care Financing Administration 1500 paper form, or its successor, as adopted by the NUCC and further defined by data element specifications contained in the NUCC implementation guide or, if such specifications are not issued by the NUCC, the data element specifications contained in the Medicare Carriers Manual Part 4 (HCFA–Pub 14–4) sections 2010.1 through 2010.4; or

''(ii) the electronic format for professional claims (and accompanying implementation guide) adopted as a standard by the Secretary of Health and Human Services pursuant to section 1173 of the Social Security Act (42 U.S.C. 1320d–2).

''(3) CONTESTED CLAIM.—The term 'contested claim' means a claim for health care expenses that is denied by a group health plan or health insurance issuer during or after the benefit determination process.

''(4) HEALTH CARE PROVIDER.—The term 'health care provider' includes a physician or other individual who is licensed, accredited, or certified under State law to provide specified health care services and who is operating with the scope of such licensure, accreditation, or certification, as well as an institution or other facility or agency that provides health care services and is licensed, accredited, or certified to provide health care items and services under applicable State law.

''(5) INCOMPLETE CLAIM.—The term 'incomplete claim' means a claim for health care expenses that cannot be adjudicated because it fails to include all of the required data elements necessary for adjudication.

''(6) NUBC.—The term 'NUBC' means the National Uniform Billing Committee.

''(7) NUCC.—The term 'NUCC' means the National Uniform Claim Committee.''.

(b) INDIVIDUAL MARKET.—Part B of title XXVII of the Public Health Service Act (42 U.S.C. 300gg–41 et seq.) is amended—

(1) by redesignating the first subpart 3 (relating to other requirements) as subpart 2; and

(2) by adding at the end of subpart 2 the following:

''SEC. 2753. STANDARDS RELATING TO PROMPT PAYMENT OF HEALTH BENEFITS CLAIMS.

''The provisions of section 2707 shall apply to health insurance coverage offered by a health insurance issuer in the individual market in the same manner as they apply to health insurance coverage offered by a health insurance issuer in connection with a group health plan in the small or large group market.''.

SEC. 4. AMENDMENTS TO THE SOCIAL SECURITY ACT.

(a) MEDICARE.—

(1) MEDICARE ADVANTAGE PLANS.—Section 1857(f) of the Social Security Act (42 U.S.C. 1395w–27(f)) is amended—

(A) in paragraph (1), by striking ''consistent with the provisions of sections 1816(c)(2) and 1842(c)(2)'' and inserting ''consistent with the provisions of section 2707 of the Public Health Service Act''; and

(B) in paragraph (2)—

(i) in the second sentence, by inserting ''and to reflect the amount of any fines or penalties imposed pursuant to the provisions of section 2707(g) of the Public Health Service Act'' before the period at the end; and

(ii) by inserting before the second sentence the following new sentence: ''Payment of such amounts shall include any interest due pursuant to the provisions of section 2707(d) of the Public Health Service Act.''.

(2) PRESCRIPTION DRUG PLANS.—Section 1860D–12(b)(3) of the Social Security Act (42 U.S.C.1395w–112(b)(3)) is amended—

(A) by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively; and

(B) by inserting after subparagraph (D) the following new subparagraph:

''(E) PROMPT PAYMENT BY MEDICARE ADVANTAGE ORGANIZATION.—Section 1857(f).''.

(b) MEDICAID.—Section 1932(f) of the Social Security Act (42 U.S.C. 1396u–2(f)) is amended by striking ''the claims payment procedures described in section 1902(a)(37)(A), unless the health care provider and the organization agree to an alternate payment schedule'' and inserting ''section 2707 of the Public Health Service Act''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 2004.

SEC. 5. PREEMPTION.

The provisions of this Act shall not supersede any contrary provision of State law if the provision of State law imposes requirements, standards, or implementation specifications that are equal to or more stringent than the requirements, standards, or implementation specifications imposed under this Act, and any such requirements, standards, or implementation specifications under State law that are equal to or more stringent than the requirements, standards, or implementation specifications under this Act shall apply to group health plans and health insurance issuers as provided for under State law.

SEC. 7. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in this section, the amendments made by this Act shall apply with respect to group health plans and health insurance issuers for plan years beginning after December 31, 2004.

(b) SPECIAL RULE FOR COLLECTIVE BARGAINING AGREEMENTS.—In the case of a group health plan maintained pursuant to one or more collective bargaining agreements between employee representatives and one or more employers ratified before the date of the enactment of this Act, the amendments made by this Act shall not apply to plan years beginning before the later of—

(1) the date on which the last of the collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of the enactment of this Act), or

(2) January 1, 2005.

For purposes of paragraph (1), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement of the amendments made by this section shall not be treated as a termination of such collective bargaining agreement.

SEC. 7. SEVERABILITY.

If any provision of this Act, or an amendment made by this Act, is held by a court to be invalid, such invalidity shall not affect the remaining provisions of this Act, or amendments made by this Act.

By Mr. DORGAN:

S. 2309. A bill to amend the Internal Revenue Code of 1986 to provide for a refundable wage differential credit for activated military reservists; to the Committee on Finance.

Mr. DORGAN. Mr. President, I rise today to introduce legislation to provide a financial safety net for the families of our young men and women who proudly serve in the Nation's military Reserve and National Guard.

Our country is demanding that our military reservists and members of the National Guard play a more crucial and sustained role in supplementing the activities of our traditional armed forces than at any other time in our recent history. In response to the Iraq War and homeland security needs, the country has called up hundreds of thousands of our Reserve and National Guard members for extended tours of duty of up to 18 months.

Today, roughly 175,000 members of the reserve components are on active duty. About 40 percent of the troops now going into Iraq are reservists. Reserve component leaders expect the total number of guardsmen and reservists on active duty for the war on terrorism to remain above 100,000 for the next two years.

Since September 11, 2001, more than 60 percent of North Dakota's guardsmen and reservists have been called to duty. One of the issues I hear most often about from those service members and their families is how hard it is for them to make ends meet on their military incomes.

When Guard members or reservists are mobilized, it has an enormous impact not only on their lives, but also on the lives of their loved ones. In many cases when an individual is mobilized, his or her family may experience a significant loss of income. This is because active duty military compensation often falls below what reservists earn in civilian income. These income losses are often exacerbated by the additional family expenses that are associated with military activation, such as the cost of long distance phone calls and the need for extra day care.

Clearly this is a major financial problem for many reservists and their families. The Pentagon's Reserve Forces Policy Board says that a significant number of mobilized Reserve component members earn less than their private sector and civilian salaries while on active duty. The most recent information provided on mobilization income loss comes from a Pentagon survey in the year 2000. Some 41 percent of guardsmen and reservists who were mobilized that year reported income losses ranging from $350 per month to more than $3,000 per month. Self-employed reservists reported an average income loss of $1,800 per month. Physicians and registered nurses in private practice reported an average income loss of as much as $7,000 per month.

Those were big losses. But when that survey was conducted in 2000, reservists were mobilized for an average of

only 3.6 months. Today mobilizations of 14 to 18 months are common. So the annual losses in wages are much, much bigger.

The loss of income that reservists and guardsmen incur when they are ordered to leave their good-paying private sector or civilian jobs to serve their country often creates an unmanageable financial burden. This further disrupts the lives of their families who are already trying to cope with the emotional stress and hardship caused by the departure of a beloved spouse, or parent who has been ordered to active duty.

In the mid-1990s the Pentagon tried to address this problem by offering members of the National Guard and Reserve the opportunity to buy insurance to protect against income loss upon mobilization. The program sold coverage for income losses of up to $5,000 per month. Unfortunately, the program was poorly planned and executed, and Congress had to appropriate substantial money to bail out the program before it was terminated. Since then the private sector has shown little interest in reviving the mobilization income insurance program.

We need to find another way to deal with the issue. I believe that the federal government should try to help alleviate the financial havoc created for activated reservists, guardsmen, and their families. The bill I am introducing today will help in this endeavor.

Specifically, my legislation provides a fully refundable, 100-percent income tax credit of up to $20,000 annually to a military reservist on active duty based upon the difference in wages paid in his or her private sector or civilian job and the military wages paid upon mobilization. For this purpose, a qualified military reservist is a member of the National Guard or Ready Reserve who is mobilized and serving for more than 90 days. The benefit of this activated military reservist tax credit is available for tax years beginning after December 31, 2003.

We owe a great deal to those Americans who put on their uniforms and serve in the military in the most difficult of circumstances. We can never fully repay that debt. However, we can do much more to remove the immediate financial burden that many National Guard and Reserve families experience when a family member is ordered to active duty. This legislation will provide those families with some much-needed financial assistance. I urge my colleagues in the Senate to support my efforts to get this tax relief measure enacted into law as soon as possible.

By Mrs. FEINSTEIN (for herself, Mr. NELSON of Florida, and Mr. REED):

S. 2310. A bill to promote the national security of the United States by facilitating the removal of potential nuclear weapons materials from vulnerable sites around the world, and for other purposes; to the Committee on Armed Services.

Mrs. FEINSTEIN. Mr. President, I rise today to introduce legislation to address one of the critical security issues in the post 9/11 world: the existence of hundreds of vulnerable facilities around the world with nuclear materials. If keeping weapons of mass destruction, WMD, out of the hands of terrorists is at the top of our foreign policy agenda, then removing weapons-usable material from facilities where it is susceptible to terrorist theft or should diversion be a top priority for U.S. national security policy.

Yet, currently, there is no single, integrated U.S. government program, with a defined budget and resources, to facilitate the removal of these materials. The legislation I introduce today with Senators BILL NELSON, and REED will: establish a presidential task force in the Department of Energy on nuclear removal; provide a specific mandate for a program to remove nuclear materials from vulnerable sites around the world as quickly as possible; provide specific direction to allow the use of flexible incentives, tailored to each site, to secure host-country cooperation in removing the nuclear materials, and; authorize $40 million in Fiscal Year 2005 to carry out the functions of this bill.

There are hundreds of facilities around the world that store from kilograms to tons of plutonium or highly enriched uranium, HEU. The State Department has identified 24 of these locations as high priority sites.

President Bush singled out terrorist nuclear attacks on the United States as the defining threat our nation will face in the future. In making the case against Saddam Hussein, he argued: ''If the Iraqi regime is able to produce, buy, or steal an amount of uranium a little bigger than a softball, it could have a nuclear weapon in less than a year.''

What he did not mention is that with the same amount of uranium, al Qaeda, Hezbollah, Hamas, or any terrorist organization could do the same and smuggle the weapon across U.S. borders. And the fact that AQ Khan's network put actual bomb designs on the black market only heightens the need to make sure the ingredients are not available.

In response to this threat, the Administration has focused its efforts on removing vulnerable international nuclear materials through four projects: the take-back to Russia of HEU fuels from Soviet-supplied reactors; the on-going effort to convert Soviet-designed research reactors from HEU to non-bomb-grade fuels; the decades-long effort to convert U.S.-supplied research reactors from HEU to LEU, and; the on-going effort to take back U.S.-supplied HEU.

This represents an important first step, but I am deeply concerned that these efforts are not sufficient and do not adequately address the seriousness of the issue.

The current approach will take 10–20 years to complete at the current rate of about 1 facility per year. This is a time frame out of synch with near-term dangers.

Under the current approach to the take-back of Soviet-supplied HEU, there have been only two successful HEU removals in more than two years, at Vinca and at Pitesti. But the Vinca operation also required the contribution of $5 million from the Nuclear Threat Initiative to complete, because of the administration's claim of inadequate authority to pursue various activities to facilitate Serbian cooperation.

The U.S.-Russian bilateral agreement on a broader take-back effort has taken years to complete—and even once final Russian government approval is secured, there are a wide range of other issues delaying progress within Russia, including the need to prepare environmental assessments of types that have never before been done in Russia, that will require sustained, high-level pressure to overcome.

U.S. efforts to convert HEU-fueled reactors within Russia are still moving slowly on the technical front, in part because of insufficient funding, and we are only now beginning to take the first steps toward providing incentives directly to facilities to give up their HEU.

The scope of the HEU conversion effort in Russia is inadequate. It covers only research reactors. Outside the scope of current efforts are critical assemblies, pulsed powered reactors, and civilian and military naval fuels. This leaves numerous vulnerable HEU stockpiles scattered across the FSU.

Under the current U.S. HEU take-back effort, the return of U.S.-origin HEU fuels, if no new incentives are offered, tons of U.S.-supplied HEU will remain abroad when the program is complete, this is DOE's official projection.

Under the current U.S. HEU reactor conversion effort, if no new incentives are offered, scores of U.S.-supplied reactors may continue to use HEU indefinitely.

A report released last year from the John F. Kennedy School of Government at Harvard University described a scenario in which a 10 kiloton nuclear bomb is smuggled into Manhattan and detonated resulting in the loss of 500,000 people and causing $1 trillion in direct economic damage.

We must do everything in our power to prevent such an event from ever occurring.

We need a presidential task force in the Department of Energy on nuclear removal. We must provide a specific mandate for a program to remove nuclear materials from vulnerable sites around the world as quickly as possible and provide specific direction to allow the use of flexible incentives, tailored to each site, to secure host-country cooperation in removing the nuclear materials.

And, yes, we need additional funding to get the job done.

This legislation will give our government the direction, tools, and resources necessary to remove nuclear materials from vulnerable sites around the world in an expeditious manner. We have little time to spare. I urge my colleagues to support this bill.

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. 2310

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

SECTION 1. REMOVAL OF POTENTIAL NUCLEAR WEAPONS MATERIALS FROM VULNERABLE SITES WORLDWIDE.

(a) SENSE OF CONGRESS.—It is the sense of Congress that removing potential nuclear weapons materials from vulnerable sites around the world would reduce the possibility that such materials could fall into the hands of al Qaeda or other groups and states hostile to the United States, and should be a top priority for achieving the national security of the United States.

(b) TASK FORCE ON NUCLEAR MATERIAL REMOVAL.—(1) The President shall establish in the Department of Energy a task force to be known as the Task Force on Nuclear Material Removal (in this section referred to as the ''Task Force'').

(2) The head of the Task Force shall be the Director of the Task Force on Nuclear Material Removal, who shall be appointed by the President for that purpose.

(3) The Director of the Task Force shall report directly to the Deputy Administrator for Defense Nuclear Nonproliferation of the National Nuclear Security Administration regarding the activities of the Task Force under this section.

(4)(A) The Secretary of Energy, the Administrator for Nuclear Security, and the Deputy Administrator for Defense Nuclear Nonproliferation shall assign to the Task Force personnel having such experience and expertise as is necessary to permit the Task Force to carry out its mission under this section.

(B) The Secretary of Energy and the Administrator for Nuclear Security shall jointly consult with the Assistant to the President for National Security Affairs, the Secretary of State, the Secretary of Defense, the Chairman of the Nuclear Regulatory Commission, the heads of other appropriate departments and agencies of the Federal Government, and appropriate international organizations in order to identify and establish mechanisms and procedures to ensure that the Task Force is able to draw quickly on the capabilities of the departments and agencies of the Federal Government and such international organizations to carry out its mission under this section.

(C) Mechanisms under subparagraph (B) may include the assignment to the Task Force of personnel of the Department of Energy and of other departments and agencies of the Federal Government.

(5) The President may establish within the Executive Office of the President a mechanism for coordinating the activities of the Task Force under this section.

(c) MISSION.—The mission of the Task Force shall be to ensure that potential nuclear weapons materials are entirely removed from the most vulnerable sites around the world as soon as practicable after the date of the enactment of this Act.

(d) ASSISTANCE.—To assist the Task Force in carrying out its mission under this section, the Secretary of Energy may—

(1) provide funds to remove potential nuclear weapons materials from vulnerable sites, including funds to cover the costs of—

(A) transporting such materials from such sites to secure facilities;

(B) providing interim security upgrades for such materials pending their removal from their current sites;

(C) managing such materials after their arrival at secure facilities;

(D) purchasing such materials;

(E) converting such sites to the use of low-enriched uranium fuels;

(F) assisting in the closure and decommissioning of such sites; and

(G) providing incentives to facilitate the removal of such materials from vulnerable facilities;

(2) arrange for the shipment of potential nuclear weapons materials to the United States, or to other countries willing to accept such materials and able to provide high levels of security for such materials, and dispose of such materials, in order to ensure that United States national security objectives are accomplished as quickly and effectively as possible; and

(3) provide funds to upgrade security and accounting at sites where, as determined by the Secretary, potential nuclear weapons materials will remain for an extended period in order to ensure that such materials are secure against plausible potential threats, and will remain so in the future.

(e) REPORT.—(1) Not later than 30 days after the submittal to Congress of the budget of the President for fiscal year 2006 pursuant to section 1105(a) of title 31, United States Code, the Secretary of Energy, in coordination with other relevant Federal Government and international agencies, shall submit to Congress a report that includes the following:

(A) A list of the sites determined by the Task Force to be of the highest priorities for removal of potential nuclear weapons materials, based on the quantity and attractiveness of such materials at such sites and the risk of theft or diversion of such materials for weapons purposes.

(B) An inventory of all sites worldwide where highly-enriched uranium or separated plutonium is located, including, to the extent practicable, a prioritized assessment of the terrorism and proliferation risk posed by such materials at each such site, based on the quantity of such materials, the attractiveness of such materials for use in nuclear weapons, the current level of security and accounting for such materials, and the level of threat (including the effects of terrorist or criminal activity and the pay and morale of personnel and guards) in the country or region where such sites are located.

(C) A strategic plan, including measurable milestones and metrics, for accomplishing the mission of the Task Force under this section.

(D) An estimate of the funds required to complete the mission of the Task Force under this section, set forth by year until anticipated completion of the mission.

(E) The recommendations of the Secretary on whether any further legislative actions or international agreements are necessary to facilitate the accomplishment of the mission of the Task Force.

(F) Such other information on the status of activities under this section as the Secretary considers appropriate.

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

(f) POTENTIAL NUCLEAR WEAPONS MATERIAL DEFINED.—In this section, the term ''potential nuclear weapons material'' means plutonium, highly-enriched uranium, or other material capable of sustaining an explosive nuclear chain reaction, including irradiated materials if the radiation field from such materials is not sufficient to prevent the theft and use of such materials for an explosive nuclear chain reaction.

(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Department of Energy for fiscal year 2005 for activities of the National Nuclear Security Administration in carrying out programs necessary for national security for purposes of defense nuclear nonproliferation activities, $40,000,000 to carry out this section.

By Ms. SNOWE (for herself, Mrs. FEINSTEIN, Mr. BINGAMAN, and Ms. CANTWELL):

S. 2311. A bill to provide for various energy efficiency programs and tax incentives, and for other purposes; to the Committee on Finance.

Ms. SNOWE. Mr. President, I rise today, along with Senators FEINSTEIN, BINGAMAN, and CANTWELL, to introduce the Efficient Energy through Certified Technologies and Electricity Reliability Act, or EFFECTER Act of 2004. This legislation is urgently needed to help prevent the painful disruption of electric power blackouts, to save American consumers billions of dollars in wasted energy costs, to create jobs, and eventually, to avoid the needless emission of more greenhouse gas pollution than comes from our Nation's entire automotive fleet. According to a vast majority of the international scientific community, these anthropogenic, or manmade gases, especially carbon dioxide, are triggering dramatic changes in the Earth's climate system.

This legislation will increase the security and reliability of the electric grid, while reducing natural gas and electricity prices though a gradual reduction in demand. Targeted tax incentives and standards for energy efficiency in commercial buildings, both new and retrofitted, will support the reduction in demand, as will the construction of new and retrofitted homes, including rental housing, and the use of more energy efficient appliances.

Last March 4, 2003, I introduced, along with Senator FEINSTEIN and others, the EFFECT Act of 2003, legislation that provided tax incentives for advanced levels of energy efficiency and peak power savings technologies in the buildings in which we live, work, and learn. Buildings consume some 35 percent of energy nationwide and are responsible for the emissions of a comparable percentage of pollution; very importantly, they account for more than one-half of the Nation's energy cost. I am pleased that many of these provisions were incorporated into the Senate energy bill that passed the Senate last fall, as I believe incentives provided through the tax system are necessary to complement existing energy efficiency policies at the Federal and State levels.

The EFFECTER Act of 2004 that we are introducing today goes even further to encourage the EFFECT Act's tax incentives provided in the Senate's energy bill. It encourages administrative improvements, cost-efficiencies, and it also reflects a number of consensus provisions from H.R. 6, the Omnibus Energy Conference Report. These provisions mirror simple, common sense solutions, such as the mandatory electricity reliability provisions that have been held hostage to the ineffective ideas in the energy bill for some 4 years. We provide requirements for electric generating and transmission companies that encourage them to cooperate with each other on a mandatory basis, since—as we discovered last summer—relying on ''a gentleman's agreement'' doesn't work.

The legislation also includes the Energy Savings Performance Contracts program, whose authorization expired in October of 2003. The ESPC program promotes consensus energy efficiency standards and reforms in Government contracting that save the taxpayers money. This bill requires the Federal Government, through its agencies, to acquire the most cost-effective as well as energy efficient products and to design buildings that can also save the Government money. Through what many characterized as an arcane scoring method, the CBO had incorporated a $3 billion cost increase into the program. However, in its wisdom, the Senate, in the FY05 Budget Resolution, appropriately directed the ESPS to score at zero. The result is a zero cost to this provision.

The EFFECTER Act of 2004 addresses some of our largest energy problems head-on. Its incentives for energy efficiency are more effective and expedient than those in the energy bills currently being debated, yet they cost less to the Government. Indeed, over the long-term, they save the Federal Government money.

Last August our country suffered a costly and harmful blackout that affected some 40 million Americans. Now, more than 6 months later, we have take little effective action to reduce the likelihood that additional blackouts could threaten lives and damage our economy again this year or any time in the near future. Our country currently has a need for more electric power plants, but we also need to protect our present electricity system from overload caused by wasted power use. By not pulling power from the grid at peak times in the next 10 years, the EFFECTER Act of 2004 will help America's building owners save more electricity—electriicty equivalent to the amount that would be produced by 350 new power plants of 400 MW capacity.

Since last summer, natural gas and oil prices have skyrocketed. These high prices hurt Americans two ways: jobs are lost when high fuel prices force industry to cut back on production, and high heating bills strain family and business budgets. Saving wasted energy is one of the easiest and least costly ways to save money and save jobs. This legislation will save American families and business owners over $30 billion dollars annually by 2015, and prevent the waste of over 3.3 quads of natural gas annually—over 12 percent of total gas use.

We all recognize the importance of increasing employment. Energy efficiency creates jobs both through manufacturing, designing and installing efficiency measures and through additional consumer and business spending—spending consumers can afford when their energy bills are lower. The EFFECTER Act of 2004 will produce over a half million new jobs in the American economy.

As a Nation, we are engaged in a difficult debate about reducing greenhouse gas emissions, an effort we believe will protect the world's climate while assuring continued productivity for our economy. By reducing energy use that otherwise would be wasted in inefficient buildings, this legislation will reduce greenhouse gas pollution in an amount equivalent to the reduction that would occur if we took 25 percent of the cars off America's roads.

These energy, money, and pollution saving solutions focus first on promoting fast acting energy efficiency both for natural gas and for peak electricity, which in turn also contributes to natural gas demand. Dramatic energy savings can be obtained by a carefully crafted package of low cost market-based incentives and consensus efficiency standards. I believe we have crafted just such a package and I urge my colleagues to support this bipartisan bill that uses tested, performance-based and cost-effective approaches that truly help solve our most immediate energy problems.

By Mr. GRAHAM of Florida (for himself, Mrs. CLINTON, Mrs. BOXER, Mr. NELSON of Florida, Mr. SCHUMER, Mr. LAUTENBERG, Mr. HOLLINGS, and Mrs. LINCOLN):

S. 2313. A bill to amend the Help America Vote Act of 2002 to require a voter-verified permanent record or hardcopy under title III of such Act, and for other purposes; to the Committee on Rules and Administration.

Mr. GRAHAM of Florida. Mr. President, the people of the United States learned many things from the election of 2000. I believe the most important lesson was that voting equipment should produce a clear paper record of each voter's intentions for use in a manual recount. Americans remember well that the outcome of the 2000 presidential election was determined by whether a ''chad'' was hanging, pregnant, or dimpled.

More recently we have found that, despite the passage of election reform legislation in 2002 called the Help America Vote Act, our electoral system is still experiencing difficulties. The 2004 presidential primaries have produced accounts of voting irregularities. This is especially distressing considering another national election is just months away. Voters in several States, including California, Maryland, Georgia and my own State of Florida have experienced problems casting their votes and seeing them accurately counted.

On the Tuesday, March 9, 2004, presidential primary in Palm Beach County, FL, the ''oops factor'' again reared its ugly head, casting doubt in the minds of many Floridians about whether or not their votes actually counted. An error on the part of poll workers—pressing the wrong button to activate voting machines—prevented many from voting in the Democratic primary. A technological error in the tabulation of ballots in Bay County, FL showed Congressman DICK GEPHARDT winning the primary by a 2-to-1 margin. Fortunately, Bay County uses a paper ballot system so they could refer to their paper trail to rectify the error.

This is not the first election since 2000 where the value of a paper record has been apparent. Just this past January, victory in a South Florida Republican primary election for a vacant seat in the State legislature was determined by just 12 votes. In that election, 137 blank ballots were cast on electronic voting machines that do not produce a paper record. A candidate requested a manual recount, only to find such a recount impossible without paper records verifying the intent of those 137 voters.

In Georgia's Presidential Primary, ''smart cards'' containing ballot information for electronic machines were left unprogrammed. Technical irregularities in Maryland elections prevented at least one voter form voting—and he wrote about it in the Washington Post.

These incidents and many others are clear evidence that we need voting machines that produce an individual paper record for all votes cast. While the Help America Vote Act (HAVA) included provisions requiring paper records for manual audits, we have come to find out that voting jurisdictions are not interpreting these provision the way Congress intended.

I am pleased to join Senators CLINTON and BOXER in introducing the Restore Elector Confidence in Our Representative Democracy Act (RECORD Act). This legislation will ensure that all voting jurisdictions will have machines that produce voter-verifiable paper records, so that they will be as prepared as they can be to count every vote come this November. It is critical that Congress take every possible step to prevent any resemblance between Election Day 2000 and Election Day 2004.

Once a month I spend a day working side-by-side with the people of Florida. On Saturday, March 6, 2003, I spent my 399th Workday as an elections worker for the Miami-Dade County Division of Elections. Veteran Supervisor of Elections Connie Kaplan assured me that

electronic voting machines are accurate. The things I learned on the job reinforced that assessment. But several voters expressed confusion about the layout of the electronic ballots, and uncertainty about whether or not their votes had been cast. It was clear to me that voters would be more confident that their votes would be counted if there were a paper record of those votes. In light of reported irregularities and security concerns, this voter apprehension is legitimate. In order to be certain about the accuracy and security of computer voting systems we need a paper record to confirm every vote cast.

Modern society is replete with electronic machines that provide the most basic services: ATMs, train ticket vending machines, gasoline pay-at-the-pump stations. All of these machines produce paper records. The votes of America's citizens are at least as important as these transactions. People do not and should not blindly trust the accuracy of computer voting technologies. Congress must pass the RECORD Act so that Americans can have confidence that their votes will be counted.

Mrs. CLINTON. Mr. President, I am pleased to join Senator GRAHAM in introducing the ''Restore Elector Confidence in Our Representative Democracy Act of 2004'' (''RECORD'' Act) because there is no civic action more important in a democracy than voting. Yet right now, many Americans have concerns about the integrity of the electoral system. We must restore trust in our voting, and we must do it now.

Electronic voting systems, specifically touch-screen voting machines, are being increasingly used across the nation. Indeed, according to Election Data Services, it is estimated that this November, at least 50 million voters this year will vote on touch-screen voting machines.

These machines have benefits but there are major concerns with the security of these machines and the current ability of voters to verify their votes through a paper record. This legislation effectively addresses both of these vitally important issues.

In New York, electronic voting is on the horizon. Some machines will be used next year in the New York City mayoral race. As New Yorkers start to use this new technology, I want them to be absolutely certain their right to elect the leaders of their choice won't be at risk for want of a simple fix like this.

When you use an ATM, you get a paper receipt. Right now, when you cast an electronic vote, you get nothing. You have no way of knowing that the selections you've made on the touch screen will be recorded and counted.

This legislation will ensure that voters will be able to verify a paper ballot that accurately reflects their intentions and that will be locked away and will be the official ballot in a recount. This legislation will also address the security issues surrounding electronic voting systems.

Why is this so critical? Because we know from computer experts that these systems are vulnerable to hacking—and that with just a push of a button, hackers could turn Kerry votes to Bush votes. Think about that.

Indeed, a number of recent studies, including the July 2001 study by Caltech/MIT, the July 2003 study by Johns Hopkins and Rice universities, the September 2003 study by Science Applications International, and the two November 2003 studies conducted by Compuware corporation and InfoSENTRY, pointed to significant and disturbing security risks in electronic voting systems and related administrative procedures and processes.

According to the Johns Hopkins study, these voting machines are incapable of detecting their own mistakes. Specifically, as one of the authors noted, there is no way to validate the outcome of an election using the current crop of machines. Errors can't be detected and, in my opinion, that is a threat to all of us.

There were also problems with these machines in the recent presidential primaries. Counties in California, Georgia, and Maryland reported problems with encoders, the devices that allow touch-screen voting machines to display the candidate and ballot measures specific to one county.

We already know of stories from Florida in which there was a special election for one office, and the computer election system recorded 120 people as there but not voting.

These security concerns have only been inflamed by statements from people like Walden O'Dell—the CEO of Diebold, a major electronic voting machine manufacturer—who said he would do anything to ensure that President Bush would be re-elected.

So we have a system that is vulnerable to attack, that provides no real accountability to ensure accuracy and, to add to our concerns, an e-voting manufacturer demonstrating his tremendous partisanship. This should give us all pause.

This legislation will require the use of voter verifiable paper ballots so that each and every voter will be able to confirm that his or her vote was accurately cast and recorded. The verified paper ballot will be deemed the official record for purposes of a recount and at least 2 percent of all ballots in all jurisdictions in each State and 2 percent of the ballots of military and overseas voters will be counted at random.

One hundred and fifty million will also be appropriated to the Election Assistance Commission in order to help States implement the paper ballot system.

To ensure greater security of electronic voting systems, the Act authorizes the use of only open source software. Manufacturers will also have to satisfy a number of security standards concerning the development, maintenance, and transfer of software used in electronic voting systems.

This legislation also provides $10 million to the Election Assistance Commission to help it administer the implementation of verification systems and improved security measures nationally, and $2 million to the National Institute of Standards and Technology for consultation services to State and local governments regarding voter verification and the security of their electronic voting machines.

The Commission must receive this additional administrative funding because unfortunately, even though the Help America Vote Act of 2002 authorized $10 million annually to help the Commission do its work, Congress in the fiscal year 2004 omnibus appropriations legislation appropriated less than $2 million to the Commission, making it that much more difficult for the Commission to do its work.

Lastly, the Act requires the Election Assistance Commission to report to Congress within 3 months of enactment on operational and management systems that should be used in Federal elections and within 6 months of enactment on a proposed security review and certification process for all voting systems.

Our Nation is the greatest nation on earth and it is the leading democracy in the world. In fact, the Bush Administration takes pride in promoting democracy around the world—and they should. But we also have to do everything in our power to ensure democracy here. Central to our democracy is the ability of Americans to have confidence in the voting system used to register and record their votes. This is a fundamental standard that must be met. We are currently, however, falling short of that standard.

And let me say one more thing. The election this November is going to be one of the most important of my lifetime. And every pundit in America says it will be close, because we are still so divided. If we have huge problems again, if we have another debacle like Palm Beach voting for Buchanan, people will fundamentally lose confidence in our democracy and in their vote. We cannot let that happen.

This legislation is good insurance against that risk. For all of those who believe that in a democracy, there is no more important task than assuring the sanctity of votes, this should be an easy step to take to assure it. I ask all of my colleagues to support this legislation.

By Mr. BURNS:

S. 2315. A bill to amend the Communications Satellite Act of 1962 to extend the deadline for the INTELSAT initial public offering; to the Committee on Commerce, Science, and Transportation.

Mr. BURNS. Mr. President, I rise to introduce a bill that would make a

technical change to the ORBIT Act's IPO provision.

As you may recall, I sponsored the ORBIT Act in 1999 with strong bipartisan support. Since that time, I have worked with Senators MCCAIN, HOLLINGS and others to pass technical amendments to the Act by unanimous consent when needed. And it is my hope and expectation that we can pass this small technical change as quickly as before.

Congress passed the ORBIT Act to enhance competition in the global satellite communications market. I am proud to say that ORBIT has achieved all of its objectives. Since its enactment, the FCC has found that positive change has occurred in the satellite services market as a result of the ORBIT Act. The FCC has declared that the pro-competitive objectives of the ORBIT Act have been achieved—including the complete transformation of Intelsat from what used to be a highly bureaucratic, intergovernmental organization into a fully privatized, U.S. licensed company that is headquartered and operates in the U.S., and is now subject to U.S. laws and U.S. regulations.

Another important benefit produced by the ORBIT Act has been the infusion of U.S. capital and other private investment into the former intergovernmental organizations. American and other private investors have made significant investments in Intelsat and Inmarsat following enactment of the ORBIT Act. The only piece of unfinished business from the ORBIT Act that remains is the requirement that an IPO occur by a date certain.

I have always had serious reservations with the very idea that Congress would impose a date certain for an IPO, rather than letting market forces determine the appropriate time for such an event. If I had my preference, we would get rid of the mandatory IPO requirement altogether. But since the Intelsat IPO deadline is June 30, 2004, we don't have a lot of time to get back into the substance of that issue.

The pressing matter at hand is that Intelsat's IPO deadline is fast approaching, and the market is simply not conducive for a successful IPO. This is the same situation we encountered in 2002 when my good friend Senator HOLLINGS and I worked together to provide a time extension for conducting the IPO. I would say to my colleagues that the telecom market isn't much better now than it was in 2002. So we again need to provide Intelsat with an extension on its IPO deadline because market conditions are not favorable at this time.

If Congress does not quickly pass legislation extending the June 30, 2004 IPO deadline, several U.S. entities who are major investors in Intelsat stand to lose hundreds of millions of dollars because the telecom market for IPOs is far from ideal. This will be extremely harmful to U.S. interests and it will damage Intelsat, an important communications asset for the U.S.

For these reasons, I urge my colleagues and the leadership to quickly move the passage of this legislation. The bill would simply extend Intelsat's IPO deadline for 12 months and give the FCC discretionary authority to further extend this deadline another 6 months if market conditions warrant.

I urge my colleagues to support quick passage of this legislation so that it can be enacted into law well before June 30, 2004.

I ask by 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 REORD, as follows:

S. 2315

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

SECTION 1. EXTENSION OF IPO DEADLINE.

Section 621(5)(A)(i) of the Communications Satellite Act of 1962 (47 U.S.C. 763(5)(A)(i)) is amended—

(1) by striking ''December 31, 2003,'' and inserting ''June 30, 2005,''; and

(2) by striking ''June 30, 2004;'' and inserting ''December 31, 2005;''.

By Ms. MURKOWSKI (for herself and Ms. LANDRIEU):

S. 2316. A bill to amend the Internal Revenue Code of 1986 to allow penalty-free withdrawals from individual retirement plans for adoption expenses; to the Committee on Finance.

Ms. MURKOWSKI. Mr. President, today I am pleased to introduce legislation along with Senator LANDRIEU to help bring adoption within reach for more Americans. Today in the United States there are literally thousands of children waiting to be adopted. The average child has been waiting in foster care for about four years.

One of the major barriers to adoption for many Americans is cost. I'm not sure that people understand that adopting a child can sometimes cost more than $50,000. That's just the adoption process itself!

The $10,000 per child adoption tax credit does help some, but it helps after the fact when you have the receipts. The problem is that many times the money for adoption has to be given beforehand—it requires up-front money. The tax credit doesn't help out there.

The legislation we are introducing today is one way the Federal Government can help with the initial costs of adoption. Many Americans place money for their retirement in IRA accounts, but you generally can't touch this money until you're 59½ years old, and if you do, you'll pay not only your marginal tax rate on the withdrawal, you'll also be forced to pay an additional 10 percent penalty to the IRS.

There are exceptions to this, however. Under current law, you can make penalty-free early withdrawals from your IRA to help you buy your first home, pay for excessive medical costs, or for qualifying education expenses. The idea is certainly to encourage savings for retirement, but also to allow you to use your own money—penalty free—if there's a compelling need.

I would make the case on behalf of the thousands of children who desperately want a loving family, and on behalf of the thousands of parents who dream of becoming parents, that adoption is a compelling need. And, the majority of Americans agree. Fully 78 percent of Americans said in a poll that they believe the government should be doing more to promote adoption.

Our bill would prohibit the IRS from penalizing Americans who want to use a portion of their retirement savings to adopt a child. It would allow Americans to withdraw up to $10,000 penalty-free from their IRA to help with adoption expenses. This is money that can be used up-front to pay for travel, court costs, attorney fees and all of the little surprises that add up to make adoption unaffordable for many.

We need to continue to promote adoption in America to the extent that we can. We owe it to these children and to families across our country to break down the barriers that keep kids from becoming a part of a permanent loving family. I urge my colleagues' support.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 334—DESIGNATING MAY 2004 AS NATIONAL ELECTRICAL SAFETY MONTH

Mr. FITZGERALD (for himself and Mrs. FEINSTEIN) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 334

Whereas hundreds of individuals die and thousands are injured each year in electrical accidents;

Whereas there are on average 870 civilian deaths annually related to home fires caused by electrical distribution, appliances and equipment, and heating and air conditioning systems;

Whereas more than 2 people are electrocuted in the home, and 4 more in the workplace, each week;

Whereas property damage due to home fires caused by electrical distribution, appliances and equipment, and heating and air conditioning systems amounts to nearly $1,600,000,000 annually;

Whereas following basic electrical safety precautions can help prevent injury or death to thousands of individuals each year;

Whereas citizens are encouraged to check their home and workplace for possible electrical hazards to help protect lives and property;

Whereas citizens are encouraged to test their smoke detectors and ground fault circuit interrupters monthly and after every major electrical storm; and

Whereas the efforts of the Electrical Safety Foundation International (ESFI) and the United States Consumer Product Safety Commission (CPSC) promote and educate the public about the importance of respecting electricity and practicing electrical safety in the home, school, and workplace: Now, therefore, be it

Resolved, That the Senate—

(1) designates May 2004 as ''National Electrical Safety Month''; and

(2) requests that the President issue a proclamation calling upon the people of the