

to be proposed by him to the bill S. 1932, *supra*; which was ordered to lie on the table.

SA 2392. Mr. GREGG proposed an amendment to the bill S. 1932 *supra*.

SA 2393. Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill S. 1932, *supra*; which was ordered to lie on the table.

SA 2394. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill S. 1932, *supra*; which was ordered to lie on the table.

SA 2395. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill S. 1932, *supra*; which was ordered to lie on the table.

SA 2396. Mr. REED (for himself, Mr. DODD, and Mr. CORZINE) submitted an amendment intended to be proposed by him to the bill S. 1932, *supra*; which was ordered to lie on the table.

SA 2397. Mr. SUNUNU submitted an amendment intended to be proposed by him to the bill S. 1932, *supra*; which was ordered to lie on the table.

SA 2398. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill S. 1932, *supra*; which was ordered to lie on the table.

SA 2399. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill S. 1932, *supra*; which was ordered to lie on the table.

SA 2400. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill S. 1932, *supra*; which was ordered to lie on the table.

SA 2401. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 1932, *supra*; which was ordered to lie on the table.

#### TEXT OF AMENDMENTS

**SA 2358.** Ms. CANTWELL (for herself, Mr. FEINGOLD, Mr. DAYTON, Mr. LIEBERMAN, Mr. KERRY, Ms. COLLINS, Ms. MIKULSKI, Mr. JEFFORDS, Mr. DURBIN, Mr. SALAZAR, Mrs. MURRAY, Mrs. CLINTON, Mrs. BOXER, Ms. SNOWE, and Mr. WYDEN) proposed an amendment to the bill S. 1932, to provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95); as follows:

Beginning on page 96, strike line 16 and all that follows through page 102, line 8.

**SA 2359.** Mr. GRASSLEY (for himself, Mr. DORGAN, Mr. ENZI, Mr. HARKIN, Mr. HAGEL, Mr. JOHNSON, Mr. BROWNBACK, Mr. THUNE, Mr. FEINGOLD, Mr. CONRAD, Mr. THOMAS, Mrs. CLINTON, and Mr. NELSON of Nebraska) submitted an amendment intended to be proposed by him to the bill S. 1932, to provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95); as follows:

Beginning on page 10, strike line 8 and all that follows through page 17, line 22 and insert the following:

#### SEC. 1101. REDUCTION OF COMMODITY PROGRAM PAYMENTS.

(a) **IN GENERAL.**—Subtitle F of title I of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7991 et seq.) is amended by adding at the end the following:

#### “SEC. 1619. REDUCTION OF COMMODITY PROGRAM PAYMENTS.

“(a) **DEFINITION OF COMMODITY PROGRAM PAYMENTS.**—In this section, the term ‘commodity program payments’ means—

“(1) direct payments;

“(2) counter-cyclical payments; and

“(3) payments and benefits associated with the loan program, including gains from the forfeiture of any commodity pledged as collateral for loans and gains from in-kind payments described in section 166 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7286), as determined by the Secretary.

#### “(b) REDUCTION.—

“(1) **IN GENERAL.**—Notwithstanding any other provision of this title, for each of the 2007 through 2010 crop years for wheat, corn, grain sorghum, barley, oats, upland cotton, extra long staple cotton, rice, soybeans, other oilseeds, wool, mohair, honey, dry peas, lentils, small chickpeas, unshorn pelts, silage, hay, and peanuts, the Secretary shall reduce the total amount of commodity program payments received by the producers on a farm for those commodities for that crop year by an amount equal to 2.5 percent of that amount.

“(2) **MILK.**—During the period beginning on October 1, 2005, and ending on September 30, 2007, the Secretary shall reduce the total amount of payments received by producers pursuant to section 1502 by an amount equal to 2.5 percent of that amount.”.

#### “(b) COMMODITIES.—

(1) **IN GENERAL.**—Title I of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7901 et seq.), including each amendment made by that title, is amended by striking “2007” each place it appears (other than in sections 1104(f), 1304(g), and 1307(a)(6) and amendments made by this title) and inserting “2011”.

(2) **COTTON.**—Sections 1204(e)(1) and 1208(a) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7934(e)(1), 7938(a)) are amended by striking “2008” each place it appears and inserting “2012”.

#### “(3) PAYMENT LIMITATIONS.—

(A) **DEFINITIONS.**—Section 1001(a) of the Food Security Act of 1985 (Public Law 99-198; 99 Stat. 1444) is amended—

(i) by redesignating paragraphs (2) and (3) as paragraphs (4) and (5), respectively; and  
(ii) by inserting after paragraph (1) the following:

#### “(2) ENTITY.—

“(A) **IN GENERAL.**—The term ‘entity’ means—

“(i) an entity that (subject to the requirements of this section and section 1001A) is eligible to receive a payment under subsection (b), (c), or (d);

“(ii) a corporation, joint stock company, association, limited partnership, charitable organization, grantor of a revocable trust, or other similar entity (as determined by the Secretary); and

“(iii) an entity that is participating in a farming operation as a partner in a general partnership or as a participant in a joint venture.

“(B) **EXCLUSION.**—Except with respect to section 1001F, the term ‘entity’ does not include an entity that is a general partnership or joint venture.

“(3) **INDIVIDUAL.**—The term ‘individual’ means—

“(A) a natural person, and minor children of the natural person (as determined by the Secretary), that (subject to the requirements of this section and section 1001A) is eligible to receive a payment under subsection (b), (c), or (d); and

“(B) an individual participating in a farming operation as a partner in a general partnership, a participant in a joint venture, a grantor of a revocable trust, or a participant in a similar entity (as determined by the Secretary).”.

(B) **LIMITATION ON DIRECT PAYMENTS.**—Section 1001(b) of the Food Security Act of 1985

(Public Law 99-198; 99 Stat. 1444) is amended in paragraphs (1) and (2)—

(i) by striking “made to a person” each place it appears and inserting “that an individual or entity may receive, directly or indirectly.”; and

(ii) by striking “\$40,000” each place it appears and inserting “\$20,000”.

(C) **LIMITATION ON COUNTER-CYCCLICAL PAYMENTS.**—Section 1001(c) of the Food Security Act of 1985 (Public Law 99-198; 99 Stat. 1444) is amended in paragraphs (1) and (2)—

(i) by striking “made to a person” each place it appears and inserting “that an individual or entity may receive, directly or indirectly.”; and

(ii) by striking “\$65,000” each place it appears and inserting “\$30,000”.

(D) **LIMITATION ON MARKETING LOAN GAINS AND LOAN DEFICIENCY PAYMENTS.**—Section 1001(d) of the Food Security Act of 1985 (Public Law 99-198; 99 Stat. 1444) is amended—

(i) in paragraph (1)—

(I) in the matter preceding subparagraph (A), by striking “that a person may receive” and inserting “that an individual or entity may receive, directly or indirectly.”; and

(II) by adding at the end the following:

“(C) In the case of settlement of a marketing assistance loan under that subtitle, or section 1307 of that Act, for a crop of any loan commodity by forfeiture, any gain represented by the amount by which the loan amount exceeds the repayment amount for the loan if the loan had been settled by repayment instead of forfeiture.

“(D) Any gain realized from the use of a commodity certificate issued by the Commodity Credit Corporation, as determined by the Secretary, including the use of a certificate for the settlement of a marketing assistance loan made under that subtitle or section 1307 of that Act.”; and

(ii) in paragraph (2)—

(I) in the matter preceding subparagraph (A), by striking “that a person may receive” and inserting “that an individual or entity may receive, directly or indirectly.”; and

(II) by adding at the end the following:

“(C) In the case of settlement of a marketing assistance loan under that subtitle, or section 1307 of that Act, for peanuts, wool, mohair, or honey by forfeiture, any gain represented by the amount by which the loan amount exceeds the repayment amount for the loan if the loan had been settled by repayment instead of forfeiture.

“(D) Any gain realized from the use of a commodity certificate issued by the Commodity Credit Corporation, as determined by the Secretary, including the use of a certificate for the settlement of a marketing assistance loan made under that subtitle or section 1307 of that Act.”.

(E) **PAYMENTS TO INDIVIDUAL AND ENTITIES.**—Section 1001 of the Food Security Act of 1985 (Public Law 99-198; 99 Stat. 1444) is amended—

(i) by striking subsection (e) and inserting the following:

“(e) **PAYMENTS TO INDIVIDUALS AND ENTITIES.**—

“(1) **INTERESTS WITHIN THE SAME ENTITY.**—All individuals or entities that are owners of an entity, including shareholders, may not collectively receive payments directly or indirectly that are attributable to the ownership interests in the entity for a fiscal or corresponding crop year that exceed the limitations established under subsections (b), (c), and (d).

“(2) **ALL INTERESTS OF AN INDIVIDUAL OR ENTITY.**—An individual or entity may not receive, directly or indirectly, through all ownership interests of the individual or entity from all sources, payments for a fiscal or

corresponding crop year that exceed the limitations established under subsections (b), (c), and (d).'; and

“(ii) in subsection (f), by striking ‘‘person’’ and inserting ‘‘individual or entity’’.

(4) SUBSTANTIVE CHANGE; PAYMENTS LIMITED TO ACTIVE FARMERS.—Section 1001A of the Food Security Act of 1985 (7 U.S.C. 1308-1) is amended to read as follows:

**“SEC. 1001A. SUBSTANTIVE CHANGE; PAYMENTS LIMITED TO ACTIVE FARMERS.**

“(a) SUBSTANTIVE CHANGE.—

“(1) IN GENERAL.—The Secretary may not approve (for purposes of the application of the limitations under this section) any change in a farming operation that otherwise will increase the number of individuals or entities to which the limitations under this section are applied unless the Secretary determines that the change is bona fide and substantive.

“(2) FAMILY MEMBERS.—For the purpose of paragraph (1), the addition of a family member (as defined in regulations promulgated by the Secretary) to a farming operation shall be considered to be a bona fide and substantive change in the farming operation.

“(3) PROHIBITION.—The Secretary may not establish a *de minimis* beneficial interest level exempt from the requirements of this section.

“(b) PAYMENTS LIMITED TO ACTIVE FARMERS.—

“(1) IN GENERAL.—To be eligible to receive, directly or indirectly, payments or benefits (as described in subsections (b), (c), and (d) of section 1001 as being subject to limitation) with respect to a particular farming operation, an individual or entity shall be actively engaged in farming with respect to the operation, as provided under paragraphs (2), (3), and (4).

“(2) GENERAL CLASSES ACTIVELY ENGAGED IN FARMING.—

“(A) IN GENERAL.—For the purpose of paragraph (1), except as otherwise provided in paragraph (3)—

“(i) an individual shall be considered to be actively engaged in farming with respect to a farm operation if—

“(I) the individual makes a significant contribution (based on the total value of the farming operation) to the farming operation of—

“(aa) capital, equipment, or land; and

“(bb) personal labor and active personal management (in accordance with subparagraph (E));

“(II) the individual’s share of the profits or losses from the farming operation is commensurate with the individual’s contributions to the operation; and

“(III) the contributions of the individual are at risk;

“(ii) an entity (as defined in section 1001(a)) shall be considered to be actively engaged in farming with respect to a farming operation if—

“(I) the entity separately makes a significant contribution (based on the total value of the farming operation) of capital, equipment, or land;

“(II)(aa) the stockholders or members that collectively own at least 50 percent of the combined beneficial interest in the entity each make a significant contribution of personal labor or active personal management to the operation; or

“(bb) in the case of a corporation or entity in which all of the beneficial interests are held by family members (as defined in paragraph (3)(B)(i)), any stockholder or member (or household comprised of a stockholder or member and the spouse of the stockholder or member) who owns at least 10 percent of the beneficial interest makes a significant contribution of personal labor or active personal management; and

“(III) the standards provided in subclauses (II) and (III) of clause (i), as applied to the entity, are met by the entity.

“(B) ENTITIES MAKING SIGNIFICANT CONTRIBUTIONS.—If a general partnership, joint venture, or similar entity (as determined by the Secretary) separately makes a significant contribution (based on the total value of the farming operation involved) of capital, equipment, or land, and the standards provided in subclauses (II) and (III) of subparagraph (A)(i), as applied to the entity, are met by the entity, the partners or members making a significant contribution of personal labor or active personal management shall be considered to be actively engaged in farming with respect to the farming operation involved.

“(C) EQUIPMENT AND PERSONAL LABOR.—In making determinations under this subsection regarding equipment and personal labor, the Secretary shall take into consideration the equipment and personal labor normally and customarily provided by farm operators in the area involved to produce program crops.

“(D) ACTIVE PERSONAL MANAGEMENT.—For an individual to be considered to be providing active personal management under this paragraph on behalf of the individual or entity, the management provided by the individual shall be personally provided on a regular, substantial, and continuous basis through the supervision and direction of—

“(i) activities and labor involved in the farming operation; and

“(ii) onsite services that are directly related and necessary to the farming operation.

“(E) SIGNIFICANT CONTRIBUTION OF PERSONAL LABOR OR ACTIVE PERSONAL MANAGEMENT.—

“(i) IN GENERAL.—For an individual to be considered to be providing a significant contribution of personal labor or active personal management under this paragraph on behalf of the individual or entity, the total contribution of personal labor and active personal management shall be at least equal to the lesser of—

“(I) the material participation standard as determined under Treasury Regulation section 1.469-5T(a), as in effect on the date of enactment of this subsection; or

“(II)(aa) 50 percent of the commensurate share of the total number of hours of personal labor and active personal management required to conduct the farming operation; or

“(bb) in the case of a stockholder or member (or household comprised of a stockholder or member and the spouse of the stockholder or member) who owns at least 10 percent of the beneficial interest in a corporation or entity in which all of the beneficial interests are held by family members (as defined in paragraph (3)(B)), 50 percent of the commensurate share of hours of all family members’ personal labor and active personal management required to conduct the farming operations.

“(ii) MINIMUM NUMBER OF LABOR HOURS.—For the purpose of clause (i), the minimum number of labor hours required to produce each commodity shall be equal to the number of hours that would be necessary to conduct a farming operation for the production of each commodity that is comparable in size to an individual or entity’s commensurate share in the farming operation for the production of the commodity, based on the minimum number of hours per acre required to produce the commodity in the State in which the farming operation is located, as determined by the Secretary.

“(3) SPECIAL CLASSES ACTIVELY ENGAGED IN FARMING.—Notwithstanding paragraph (2), the following persons shall be considered to

be actively engaged in farming with respect to a farm operation:

“(A) LANDOWNERS.—An individual or entity that is a landowner contributing the owned land and that meets the standard provided in subclauses (II) and (III) of paragraph (2)(A)(i), if—

“(i) the landowner share rents the land; and

“(ii) the share received by the landowner is commensurate with the share of the crop or income received as rent.

“(B) SHARECROPPERS.—A sharecropper who makes a significant contribution of personal labor to the farming operation and, with respect to such contribution, who meets the standards provided in subclauses (II) and (III) of paragraph (2)(A)(i).

“(4) INDIVIDUALS AND ENTITIES NOT ACTIVELY ENGAGED IN FARMING.—For the purposes of paragraph (1), except as provided in paragraph (3), the following individuals and entities shall not be considered to be actively engaged in farming with respect to a farm operation:

“(A) LANDOWNERS.—A landowner contributing land to the farming operation if the landowner receives cash rent, or a crop share guaranteed as to the amount of the commodity to be paid in rent, for the use of the land.

“(B) OTHER INDIVIDUALS AND ENTITIES.—Any other individual or entity, or class of individual or entity, that fails to meet the standards established under paragraphs (2) and (3), as determined by the Secretary.

“(5) PERSONAL LABOR AND ACTIVE PERSONAL MANAGEMENT.—No stockholder or member may provide personal labor or active personal management to meet the requirements of this subsection for individuals or entities collectively receiving, directly or indirectly, more than the applicable limits in (b), (c), and (d) of section 1001.

“(6) CUSTOM FARMING SERVICES.—An individual or entity receiving custom farming services shall be considered to be separately eligible for payment limitation purposes if the individual or entity is actively engaged in farming as determined under paragraphs (1) through (3).

“(7) GROWERS OF HYBRID SEED.—To determine whether an individual or entity growing hybrid seed under contract shall be considered to be actively engaged in farming, the Secretary shall not take into consideration the existence of a hybrid seed contract.

“(C) NOTIFICATION BY ENTITIES.—To facilitate the administration of this subsection, each entity receiving payments or benefits (as described in subsections (b), (c), and (d) of section 1001 as being subject to limitation) with respect to a particular farming operation shall—

“(1) notify each individual or other entity that acquires or holds a beneficial interest in the farming operation of the requirements and limitations under this section; and

“(2) provide to the Secretary of Agriculture, at such times and in such manner as may be prescribed by the Secretary, the name and social security number of each individual, or the name and taxpayer identification number of each entity, that holds or acquires such a beneficial interest.”.

“(5) SCHEMES OR DEVICES.—Section 1001B of the Food Security Act of 1985 (7 U.S.C. 1308-2) is amended—

(A) by striking “If the Secretary of Agriculture determines that any person” and inserting:

“(a) IN GENERAL.—If the Secretary of Agriculture determines that any individual or entity”;

(B) in subsection (a) (as designated by paragraph (1)), by striking “person” each place it appears and inserting “individual or entity”; and

(C) by adding at the end the following:

“(b) FRAUD.—

“(1) IN GENERAL.—If the Secretary determines that an individual or entity has committed, or has assisted another individual or entity in committing, fraud in connection with a scheme or device to evade, or that has the purpose of evading, section 1001, 1001A, or 1001C, the individual or entity shall—

“(A) be ineligible to receive farm program payments (as described in subsections (b), (c), and (d) of section 1001 as being subject to limitation) applicable to—

“(i) the crop year for which the scheme or device is adopted; and

“(ii) the succeeding 5 crop years; and

“(iii) be responsible for payment to the Commodity Credit Corporation an amount equal to the total of all payments and loan gains improperly received by the individual or entity as a result of the scheme or device.

“(2) EXAMPLES OF PROHIBITED ACTIVITIES.—Prohibited activities under paragraph (1) may include actions that materially affect the ability of the Secretary to make a determination under section 1001, including—

“(A) failure to submit to the Secretary documents requested by the Secretary;

“(B) submission to the Secretary of falsified documents; and

“(C) failure to notify the Secretary of a change from initial submissions of information to the Secretary by an individual or entity, regarding active labor, active management, capital, land, or equipment provided by the individual or entity person to a farming operation.”.

“(6) FOREIGN INDIVIDUALS AND ENTITIES MADE INELIGIBLE FOR PROGRAM BENEFITS.—Section 1001C of the Food Security Act of 1985 (7 U.S.C. 1308-3) is amended—

(A) in the section heading, by striking “**persons**” and inserting “**individuals and entities**”;

(B) in subsection (a), by striking “person” each place it appears and inserting “individual”; and

(C) in subsection (b)—

(i) by striking the subsection heading and inserting “**ENTITIES**”; and

(ii) in the first sentence, by striking “a corporation or other” and inserting “an”.

#### SEC. 1102. FORFEITURE PENALTY FOR NON-RECOURSE SUGAR LOANS.

Section 156 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7272) is amended—

(1) by redesignating subsections (h), (i), and (j) as subsections (i), (j), and (k), respectively; and

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

“(h) FORFEITURE PENALTY.—

“(1) IN GENERAL.—In the case of each of the 2006 through 2010 crops of sugar beets and sugarcane, a penalty shall be assessed on the forfeiture of any sugar pledged as collateral for a nonrecourse loan under this section.

“(2) AMOUNT.—The penalty for sugarcane and sugar beets under this subsection shall be 1.2 percent of the loan rate established for sugarcane and sugar beets under subsections (a) and (b), respectively.

“(3) EFFECT OF FORFEITURE.—Any payments owed producers by a processor that forfeits any sugar pledged as collateral for a nonrecourse loan shall be reduced in proportion to the loan forfeiture penalty incurred by the processor.

“(4) CROPS.—This subsection shall apply only to the 2006 through 2010 crops of sugar beets and sugarcane.”.

#### SEC. 1103. COTTON COMPETITIVENESS PROVISIONS.

(a) IN GENERAL.—Section 1207 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7937) is amended—

(1) by striking the section heading and inserting the following: “**upland cotton import quotas**;”;

(2) by striking subsection (a);

(3) by redesignating subsections (b) and (c) as subsections (a) and (b), respectively;

(4) in subsection (a) (as so redesignated)—

(A) in paragraph (1)—

(i) in subparagraph (B), by striking “, adjusted for the value of any certificate issued under subsection (a);” and

(ii) in subparagraph (C), by striking “, for the value of any certificates issued under subsection (a);” and

(B) in paragraph (4), by striking “subsection (c)” and inserting “subsection (b)”; and

(5) in subsection (b)(2) (as so redesignated), by striking “subsection (b)” and inserting “subsection (a)”.

(b) FAIR.—Section 136 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7236) is repealed.

(c) EFFECTIVE DATE.—The amendments made by this section take effect on August 1, 2006.

#### SEC. 1104. NATIONAL DAIRY MARKET LOSS PAYMENTS.

(a) AMOUNT.—Section 1502(c) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7982(c)) is amended by striking paragraph (3) and inserting the following:

“(3)(A) during the period beginning on the first day of the month the producers on a dairy farm enter into a contract under this section and ending on September 30, 2005, 45 percent; and

“(B) during the period beginning on October 1, 2005, and ending on September 30, 2007, 34 percent.”.

(b) DURATION.—Section 1502 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7982) is amended by striking “2005” each place it appears in subsections (f) and (g)(1) and inserting “2007”.

(c) CONFORMING AMENDMENTS.—Section 1502 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7982) is amended—

(1) in subsection (g)(1), by striking “and subsection (h)”; and

(2) by striking subsection (h).

#### SEC. 1105. ADVANCE DIRECT PAYMENTS.

(a) IN GENERAL.—Section 1103(d)(2) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7913(d)(2)) is amended in the first sentence by striking “2007 crops years” and inserting “2005 crop years, up to 40 percent of the direct payment for a covered commodity for the 2006 crop year, and up to 29 percent of the direct payment for a covered commodity for any of the 2007 through 2011 crop years.”.

(b) PEANUTS.—Section 1303(e)(2) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7953(e)(2)) is amended in the first sentence by striking “2007 crops years” and inserting “2005 crop years, up to 40 percent of the direct payment for the 2006 crop year, and up to 29 percent of the direct payment for any of the 2007 through 2011 crop years.”.

#### Subtitle B—Conservation

##### SEC. 1201. CONSERVATION RESERVE PROGRAM.

(a) IN GENERAL.—Section 1231 of the Food Security Act of 1985 (16 U.S.C. 3831) is amended—

(1) in subsection (a), by striking “2007” and inserting “2011”;

(2) in subsection (d), by striking “up” and all that follows through “years” and inserting “in the conservation reserve at any 1 time 38,450,000 acres during the 2006 through 2010 calendar years and 38,880,000 acres during the 2006 through 2015 calendar years”;

(3) in subsection (h)(1)(A), by striking “2007” and inserting “2011”.

(b) FUNDING.—Section 1241(a) of the Food Security Act of 1985 (16 U.S.C. 3841(a)) is amended—

(1) in the matter before paragraph (1), by striking “For” and inserting “Except as otherwise provided in this subsection, for”; and

(2) in paragraph (1), by striking “The conservation” and inserting “For fiscal years 2002 through 2011, the conservation”.

(c) IMPLEMENTATION.—In implementing the amendments made by this section, the Secretary of Agriculture shall achieve the new maximum acreage enrollment limit not later than 2 years after the date of enactment of this Act without affecting conservation reserve existing contracts.

#### SEC. 1202. CONSERVATION SECURITY PROGRAM.

(a) IN GENERAL.—Section 1238A(a) of the Food Security Act of 1985 (16 U.S.C. 3838A(a)) is amended by striking “2007” and inserting “2011”.

(b) FUNDING.—Section 1241(a)(3) of the Food Security Act of 1985 (16 U.S.C. 3841(a)(3)) is amended by striking “not more than \$6,037,000,000” and all that follows through “2014.” and inserting the following: “not more than—

“(A) \$2,570,000,000 for the period of fiscal years 2006 through 2010; and

“(B) \$6,209,000,000 for the period of fiscal years 2006 through 2015.”.

**SA 2360.** Mr. LOTT (for himself, Mr. LAUTENBERG, Mr. STEVENS, Mr. INOUE, Mr. BURNS, Mr. CARPER, Mr. SPECTER, Mrs. CLINTON, Mr. CHAFEE, Mr. CORZINE, Mr. SCHUMER, and Mr. BIDEN) submitted an amendment intended to be proposed by him to the bill S. 1932, to provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95); as follows:

#### DIVISION —AMTRAK REAUTHORIZATION

##### SECTION 1. SHORT TITLE.

This division may be cited as the “Passenger Rail Investment and Improvement Act of 2005”.

##### SEC. 2. AMENDMENT OF TITLE 49, UNITED STATES CODE.

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

##### SEC. 3. TABLE OF CONTENTS.

The table of contents for this division is as follows:

Sec. 1. Short title.

Sec. 2. Amendment of title 49, United States Code.

Sec. 3. Table of contents.

##### TITLE I—AUTHORIZATIONS

Sec. 101. Authorization for Amtrak capital and operating expenses and State capital grants.

Sec. 102. Authorization for the Federal Railroad Administration.

Sec. 103. Repayment of long-term debt and capital leases.

Sec. 104. Excess railroad retirement.

Sec. 105. Other authorizations.

##### TITLE II—AMTRAK REFORM AND OPERATIONAL IMPROVEMENTS

Sec. 201. National railroad passenger transportation system defined.

Sec. 202. Amtrak Board of Directors.

Sec. 203. Establishment of improved financial accounting system.

Sec. 204. Development of 5-year financial plan.

Sec. 205. Establishment of grant process.  
 Sec. 206. State-supported routes.  
 Sec. 207. Independent auditor to establish methodologies for Amtrak route and service planning decisions.  
 Sec. 208. Metrics and standards.  
 Sec. 209. Passenger train performance.  
 Sec. 210. Long distance routes.  
 Sec. 211. Alternate passenger rail service program.  
 Sec. 212. Employee transition assistance.  
 Sec. 213. Northeast Corridor state-of-good-repair plan.  
 Sec. 214. Northeast Corridor infrastructure and operations improvements.  
 Sec. 215. Restructuring long-term debt and capital leases.  
 Sec. 216. Study of compliance requirements at existing intercity rail stations.  
 Sec. 217. Incentive pay.  
 Sec. 218. Access to Amtrak equipment and services.  
 Sec. 219. General Amtrak provisions.  
 Sec. 220. Private sector funding of passenger trains.  
 Sec. 221. On-board service improvements.  
 Sec. 222. Management accountability.

**TITLE III—INTERCITY PASSENGER RAIL POLICY**  
 Sec. 301. Capital assistance for intercity passenger rail service.  
 Sec. 302. State rail plans.  
 Sec. 303. Next generation corridor train equipment pool.  
 Sec. 304. Federal rail policy.  
 Sec. 305. Rail cooperative research program.

**TITLE IV—PASSENGER RAIL SECURITY AND SAFETY**

Sec. 401. Systemwide Amtrak security upgrades.  
 Sec. 402. Fire and life-safety improvements.  
 Sec. 403. Amtrak plan to assist families of passengers involved in rail passenger accidents.  
 Sec. 404. Northern border rail passenger report.  
 Sec. 405. Passenger, baggage, and cargo screening.

**TITLE I—AUTHORIZATIONS**

**SEC. 101. AUTHORIZATION FOR AMTRAK CAPITAL AND OPERATING EXPENSES AND STATE CAPITAL GRANTS.**

(a) OPERATING GRANTS.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak for operating costs the following amounts:

- (1) For fiscal year 2006, \$580,000,000.
- (2) For fiscal year 2007, \$590,000,000.
- (3) For fiscal year 2008, \$600,000,000.
- (4) For fiscal year 2009, \$575,000,000.
- (5) For fiscal year 2010, \$535,000,000.
- (6) For fiscal year 2011, \$455,000,000.

(b) CAPITAL GRANTS.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak for capital projects (as defined in subparagraphs (A) and (B) of section 24401(2) of title 49, United States Code) to bring the Northeast Corridor (as defined in section 24102(a)) to a state-of-good-repair, for capital expenses of the national railroad passenger transportation system, and for purposes of making capital grants under section 24402 of that title to States, the following amounts:

- (1) For fiscal year 2006, \$813,000,000.
- (2) For fiscal year 2007, \$910,000,000.
- (3) For fiscal year 2008, \$1,071,000,000.
- (4) For fiscal year 2009, \$1,096,000,000.
- (5) For fiscal year 2010, \$1,191,000,000.
- (6) For fiscal year 2011, \$1,231,000,000.

(c) AMOUNTS FOR STATE GRANTS.—Out of the amounts authorized under subsection (b), the following percentage shall be available each fiscal year for capital grants to States under section 24402 of title 49, United States

Code, to be administered by the Secretary of Transportation:

- (1) 3 percent for fiscal year 2006.
- (2) 11 percent for fiscal year 2007.
- (3) 23 percent for fiscal year 2008.
- (4) 25 percent for fiscal year 2009.
- (5) 31 percent for fiscal year 2010.
- (6) 33 percent for fiscal year 2011.

(d) PROJECT MANAGEMENT OVERSIGHT.—The Secretary may withhold up to 1/2 of 1 percent of amounts appropriated pursuant to subsection (b) for the costs of project management oversight of capital projects carried out by Amtrak.

**SEC. 102. AUTHORIZATION FOR THE FEDERAL RAILROAD ADMINISTRATION.**

There are authorized to be appropriated to the Secretary of Transportation for the use of the Federal Railroad Administration such sums as necessary to implement the provisions required under this division for fiscal years 2006 through 2011.

**SEC. 103. REPAYMENT OF LONG-TERM DEBT AND CAPITAL LEASES.**

(a) AMTRAK PRINCIPAL AND INTEREST PAYMENTS.—

(1) PRINCIPAL ON DEBT SERVICE.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak for retirement of principal on loans for capital equipment, or capital leases, not more than the following amounts:

- (A) For fiscal year 2006, \$130,200,000.
- (B) For fiscal year 2007, \$140,700,000.
- (C) For fiscal year 2008, \$156,000,000.
- (D) For fiscal year 2009, \$183,800,000.
- (E) For fiscal year 2010, \$156,100,000.
- (F) For fiscal year 2011, \$193,500,000.

(2) INTEREST ON DEBT.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak for the payment of interest on loans for capital equipment, or capital leases, the following amounts:

- (A) For fiscal year 2006, \$148,100,000.
- (B) For fiscal year 2007, \$141,500,000.
- (C) For fiscal year 2008, \$133,800,000.
- (D) For fiscal year 2009, \$124,000,000.
- (E) For fiscal year 2010, \$113,900,000.
- (F) For fiscal year 2011, \$103,800,000.

(3) EARLY BUYOUT OPTION.—There are authorized to be appropriated to the Secretary of Transportation such sums as may be necessary for the use of Amtrak for the payment of costs associated with early buyout options if the exercise of those options is determined to be advantageous to Amtrak.

(4) LEGAL EFFECT OF PAYMENTS UNDER THIS SECTION.—The payment of principal and interest on secured debt, with the proceeds of grants authorized by this section shall not—

(A) 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;

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

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

**SEC. 104. EXCESS RAILROAD RETIREMENT.**

There are authorized to be appropriated to the Secretary of Transportation, beginning with fiscal year 2006, such sums as may be necessary to pay to the Railroad Retirement Account an amount equal to the amount Amtrak must pay under section 3221 of the Internal Revenue Code of 1986 in such fiscal years that is more than the amount needed for benefits for individuals who retire from Amtrak and for their beneficiaries. For each fiscal year in which the Secretary makes such a payment, the amounts authorized by section 101(a) shall be reduced by an amount equal to such payment.

**SEC. 105. OTHER AUTHORIZATIONS.**

There are authorized to be appropriated to the Secretary of Transportation—

- (1) \$5,000,000 for each of fiscal years 2006 through 2011 to carry out the rail cooperative research program under section 24910 of title 49, United States Code;
- (2) \$5,000,000 for fiscal year 2006, to remain available until expended, for grants to Amtrak and States participating in the Next Generation Corridor Train Equipment Pool Committee established under section 303 of this division for the purpose of designing, developing specifications for, and initiating the procurement of an initial order of 1 or more types of standardized next-generation corridor train equipment and establishing a jointly-owned corporation to manage that equipment; and

- (3) \$2,000,000 for fiscal year 2007, for the use of Amtrak in conducting the evaluation required by section 216 of this division.

**TITLE II—AMTRAK REFORM AND OPERATIONAL IMPROVEMENTS**

**SEC. 201. NATIONAL RAILROAD PASSENGER TRANSPORTATION SYSTEM DEFINED.**

(a) IN GENERAL.—Section 24102 is amended—

- (1) by striking paragraph (2);
- (2) by redesignating paragraphs (3), (4), and (5) as paragraphs (2), (3), and (4), respectively; and

(3) by inserting after paragraph (4) as so redesignated the following:

“(5) ‘national rail passenger transportation system’ means—

“(A) the segment of the Northeast Corridor between Boston, Massachusetts and Washington, D.C.;

“(B) rail corridors that have been designated by the Secretary of Transportation as high-speed corridors (other than corridors described in subparagraph (A)), but only after they have been improved to permit operation of high-speed service;

“(C) long distance routes of more than 750 miles between endpoints operated by Amtrak as of the date of enactment of the Passenger Rail Investment and Improvement Act of 2005; and

“(D) short-distance corridors, or routes of not more than 750 miles between endpoints, operated by—

“(i) Amtrak; or

“(ii) another rail carrier that receives funds under chapter 244.”.

**(b) AMTRAK ROUTES WITH STATE FUNDING.**

(1) IN GENERAL.—Chapter 247 is amended by inserting after section 24701 the following:

**“§ 24702. Transportation requested by States, authorities, and other persons**

“(a) CONTRACTS FOR TRANSPORTATION.—Amtrak may enter into a contract with a State, a regional or local authority, or another person for Amtrak to operate an intercity rail service or route not included in the national rail passenger transportation system upon such terms as the parties thereto may agree.

“(b) DISCONTINUANCE.—Upon termination of a contract entered into under this section, or the cessation of financial support under such a contract by either party, Amtrak may discontinue such service or route, notwithstanding any other provision of law.”.

(2) CONFORMING AMENDMENT.—The chapter analysis for chapter 247 is amended by inserting after the item relating to section 24701 the following:

“24702. Transportation requested by States, authorities, and other persons”.

(c) AMTRAK TO CONTINUE TO PROVIDE NON-HIGH-SPEED SERVICES.—Nothing in this division is intended to preclude Amtrak from restoring, improving, or developing non-high-speed intercity passenger rail service.

(d) APPLICABILITY OF SECTION 24706.—Section 24706 is amended by adding at the end the following:

“(c) APPLICABILITY.—This section applies to all service over routes provided by Amtrak, notwithstanding any provision of section 24701 of this title or any other provision of this title except section 24702(b).”.

**SEC. 202. AMTRAK BOARD OF DIRECTORS.**

(a) IN GENERAL.—Section 24302 is amended to read as follows:

**§ 24302. Board of directors**

“(a) COMPOSITION AND TERMS.—

“(1) The Board of Directors of Amtrak is composed of the following 10 directors, each of whom must be a citizen of the United States:

“(A) The Secretary of Transportation.

“(B) The President of Amtrak, who shall serve ex officio, as a non-voting member.

“(C) 8 individuals appointed by the President of the United States, by and with the advice and consent of the Senate, with general business and financial experience, experience or qualifications in transportation, freight and passenger rail transportation, travel, hospitality, cruise line, and passenger air transportation businesses, or representatives of employees or users of passenger rail transportation or a State government.

“(2) In selecting individuals described in paragraph (1) for nominations for appointments to the Board, the President shall consult with the Speaker of the House of Representatives, the Minority Leader of the House of Representatives, the Majority Leader of the Senate, and the Minority Leader of the Senate and try to provide adequate and balanced representation of the major geographic regions of the United States served by Amtrak.

“(3) An individual appointed under paragraph (1)(C) of this subsection serves for 5 years or until the individual's successor is appointed and qualified. Not more than 5 individuals appointed under paragraph (1)(C) may be members of the same political party.

“(4) The Board shall elect a chairman and a vice chairman from among its membership. The vice chairman shall serve as chairman in the absence of the chairman.

“(5) The Secretary may be represented at board meetings by the Secretary's designee.

“(6) The voting privileges of the President can be changed by a unanimous decision of the Board.

“(b) PAY AND EXPENSES.—Each director not employed by the United States Government is entitled to \$300 a day when performing Board duties. Each Director is entitled to reimbursement for necessary travel, reasonable secretarial and professional staff support, and subsistence expenses incurred in attending Board meetings.

“(c) VACANCIES.—A vacancy on the Board is filled in the same way as the original selection, except that an individual appointed by the President of the United States under subsection (a)(1)(C) of this section to fill a vacancy occurring before the end of the term for which the predecessor of that individual was appointed is appointed for the remainder of that term. A vacancy required to be filled by appointment under subsection (a)(1)(C) must be filled not later than 120 days after the vacancy occurs.

“(d) QUORUM.—A majority of the members serving shall constitute a quorum for doing business.

“(e) BYLAWS.—The Board may adopt and amend bylaws governing the operation of Amtrak. The bylaws shall be consistent with this part and the articles of incorporation.”.

(b) EFFECTIVE DATE FOR DIRECTORS' PROVISION.—The amendment made by subsection

(a) shall take effect on January 1, 2006. The members of the Amtrak Board serving on the

date of enactment of this Act may continue to serve for the remainder of the term to which they were appointed.

**SEC. 203. ESTABLISHMENT OF IMPROVED FINANCIAL ACCOUNTING SYSTEM.**

(a) IN GENERAL.—The Amtrak Board of Directors—

(1) may employ an independent financial consultant with experience in railroad accounting to assist Amtrak in improving Amtrak's financial accounting and reporting system and practices; and

(2) shall implement a modern financial accounting and reporting system that will produce accurate and timely financial information in sufficient detail—

(A) to enable Amtrak 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;

(C) to allow the analysis of ticketing and reservation information on a real-time basis;

(D) to provide Amtrak cost accounting data; and

(E) to allow financial analysis by route and service.

(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.

**SEC. 204. DEVELOPMENT OF 5-YEAR FINANCIAL PLAN.**

(a) DEVELOPMENT OF 5-YEAR FINANCIAL PLAN.—The Amtrak Board of Directors shall submit an annual budget and business plan for Amtrak, and a 5-year financial plan for the fiscal year to which that budget and business plan relate and the subsequent 4 years, prepared in accordance with this section, to the Secretary of Transportation and the Inspector General of the Department of Transportation no later than—

(1) the first day of each fiscal year beginning after the date of enactment of this Act; or

(2) the date that is 60 days after the date of enactment of an appropriation Act for the fiscal year, if later.

(b) CONTENTS OF 5-YEAR FINANCIAL PLAN.—The 5-year financial plan for Amtrak shall include, at a minimum—

(1) all projected revenues and expenditures for Amtrak, including governmental funding sources;

(2) projected ridership levels for all Amtrak passenger operations;

(3) revenue and expenditure forecasts for non-passenger operations;

(4) capital funding requirements and expenditures necessary to maintain passenger service which will accommodate predicted ridership levels and predicted sources of capital funding;

(5) operational funding needs, if any, to maintain current and projected levels of passenger service, including state-supported routes and predicted funding sources;

(6) projected capital and operating requirements, ridership, and revenue for any new passenger service operations or service expansions;

(7) an assessment of the continuing financial stability of Amtrak, as indicated by fac-

tors such as the ability of the Federal government to fund capital and operating requirements adequately, Amtrak's ability to efficiently manage its workforce, and Amtrak's ability to effectively provide passenger train service;

(8) estimates of long-term and short-term debt and associated principle and interest payments (both current and anticipated);

(9) annual cash flow forecasts;

(10) a statement describing methods of estimation and significant assumptions;

(11) specific measures that demonstrate measurable improvement year over year in Amtrak's ability to operate with reduced Federal operating assistance; and

(12) capital and operating expenditures for anticipated security needs.

(c) STANDARDS TO PROMOTE FINANCIAL STABILITY.—In meeting the requirements of subsection (b), Amtrak shall—

(1) apply sound budgetary practices, including reducing costs and other expenditures, improving productivity, increasing revenues, or combinations of such practices;

(2) use the categories specified in the financial accounting and reporting system developed under section 203 when preparing its 5-year financial plan; and

(3) ensure that the plan is consistent with the authorizations of appropriations under title I of this division.

(d) ASSESSMENT BY DOT INSPECTOR GENERAL.—

(1) IN GENERAL.—The Inspector General of the Department of Transportation shall assess the 5-year financial plans prepared by Amtrak under this section to determine whether they meet the requirements of subsection (b), and may suggest revisions to any components thereof that do not meet those requirements.

(2) ASSESSMENT TO BE FURNISHED TO THE CONGRESS.—The Inspector General shall furnish to the House of Representatives Committee on Appropriations, the Senate Committee on Appropriations, the House of Representatives Committee on Transportation and Infrastructure, and the Senate Committee on Commerce, Science, and Transportation—

(A) an assessment of the annual budget within 90 days after receiving it from Amtrak; and

(B) an assessment of the remaining 4 years of the 5-year financial plan within 180 days after receiving it from Amtrak.

**SEC. 205. ESTABLISHMENT OF GRANT PROCESS.**

(a) GRANT REQUESTS.—Amtrak shall submit grant requests (including a schedule for the disbursement of funds), consistent with the requirements of this division, to the Secretary of Transportation for funds authorized to be appropriated to the Secretary for the use of Amtrak under sections 101(a) and (b), 103, and 105.

(b) PROCEDURES FOR GRANT REQUESTS.—The Secretary shall establish substantive and procedural requirements, including schedules, for grant requests under this section not later than 30 days after the date of enactment of this Act and shall transmit copies to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure. As part of those requirements, the Secretary shall require, at a minimum, that Amtrak deposit grant funds, consistent with the appropriated amounts for each area of expenditure in a given fiscal year, in the following 3 accounts:

(1) The Amtrak Operating account.

(2) The Amtrak General Capital account.

(3) The Northeast Corridor Improvement funds account.

Amtrak may not transfer such funds to another account or expend such funds for any

purpose other than the purposes covered by the account in which the funds are deposited without approval by the Secretary.

(c) REVIEW AND APPROVAL.—

(1) 30-DAY APPROVAL PROCESS.—The Secretary shall complete the review of a complete grant request (including the disbursement schedule) and approve or disapprove the request within 30 days after the date on which Amtrak submits the grant request. If the Secretary disapproves the request or determines that the request is incomplete or deficient, the Secretary shall include the reason for disapproval or the incomplete items or deficiencies in the notice to Amtrak.

(2) 15-DAY MODIFICATION PERIOD.—Within 15 days after receiving notification from the Secretary under the preceding sentence, Amtrak shall submit a modified request for the Secretary's review.

(3) REVISED REQUESTS.—Within 15 days after receiving a modified request from Amtrak, the Secretary shall either approve the modified request, or, if the Secretary finds that the request is still incomplete or deficient, the Secretary shall identify in writing to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure the remaining deficiencies and recommend a process for resolving the outstanding portions of the request.

**SEC. 206. STATE-SUPPORTED ROUTES.**

(a) IN GENERAL.—Within 2 years after the date of enactment of this Act, the Board of Directors of Amtrak, in consultation with the Secretary of Transportation and the governors of each State and the Mayor of the District of Columbia or groups representing those officials, shall develop and implement a standardized methodology for establishing and allocating the operating and capital costs among the States and Amtrak associated with trains operated on routes described in section 24102(5)(B) or (D) or section 24702 that—

(1) ensures, within 5 years after the date of enactment of this Act, equal treatment in the provision of like services of all States and groups of States (including the District of Columbia); and

(2) allocates to each route the costs incurred only for the benefit of that route and a proportionate share, based upon factors that reasonably reflect relative use, of costs incurred for the common benefit of more than 1 route.

(b) REVIEW.—If Amtrak and the States (including the District of Columbia) in which Amtrak operates such routes do not voluntarily adopt and implement the methodology developed under subsection (a) in allocating costs and determining compensation for the provision of service in accordance with the date established therein, the Surface Transportation Board shall determine the appropriate methodology required under subsection (a) for such services in accordance with the procedures and procedural schedule applicable to a proceeding under section 24904(c) of title 49, United States Code, and require the full implementation of this methodology with regards to the provision of such service within 1 year after the Board's determination of the appropriate methodology.

(c) USE OF CHAPTER 244 FUNDS.—Funds provided to a State under chapter 244 of title 49, United States Code, may be used, as provided in that chapter, to pay capital costs determined in accordance with this section.

**SEC. 207. INDEPENDENT AUDITOR TO ESTABLISH METHODOLOGIES FOR AMTRAK ROUTE AND SERVICE PLANNING DECISIONS.**

(a) METHODOLOGY DEVELOPMENT.—The Federal Railroad Administration shall obtain

the services of an independent auditor or consultant to develop and recommend objective methodologies for determining intercity passenger routes and services, including the establishment of new routes, the elimination of existing routes, and the contraction or expansion of services or frequencies over such routes. In developing such methodologies, the auditor or consultant shall consider—

(1) the current or expected performance and service quality of intercity passenger train operations, including cost recovery, on-time performance and minutes of delay, ridership, on-board services, stations, facilities, equipment, and other services;

(2) connectivity of a route with other routes;

(3) the transportation needs of communities and populations that are not well served by other forms of public transportation;

(4) Amtrak's and other major intercity passenger rail service providers in other countries' methodologies for determining intercity passenger rail routes and services; and

(5) the views of the States and other interested parties.

(b) SUBMITTAL TO CONGRESS.—The auditor or consultant shall submit recommendations developed under subsection (a) to Amtrak, the House of Representatives Committee on Transportation and Infrastructure, and the Senate Committee on Commerce, Science, and Transportation.

(c) CONSIDERATION OF RECOMMENDATIONS.—Within 90 days after receiving the recommendations developed under subsection (a) by the independent auditor or consultant, the Amtrak Board shall consider the adoption of those recommendations. The Board shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure explaining its action in adopting or failing to adopt any of the recommendations.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be made available to the Secretary of Transportation, out of any amounts authorized by this division to be appropriated for the benefit of Amtrak and not otherwise obligated or expended, such sums as may be necessary to carry out this section.

(e) PIONEER ROUTE.—Within 2 years after the date of enactment of this Act, Amtrak shall conduct a 1-time evaluation of the Pioneer Route formerly operated by Amtrak to determine, using methodologies adopted under subsection (c), whether a level of passenger demand exists that would warrant consideration of reinstating the entire Pioneer Route service or segments of that service.

**SEC. 208. METRICS AND STANDARDS.**

(a) IN GENERAL.—Within 180 days after the date of enactment of this Act, the Administrator of the Federal Railroad Administration and Amtrak shall jointly, in consultation with the Surface Transportation Board, rail carriers over whose rail lines Amtrak trains operate, States, Amtrak employees, and groups representing Amtrak passengers, as appropriate, develop new or improve existing metrics and minimum standards for measuring the performance and service quality of intercity passenger train operations, including cost recovery, on-time performance and minutes of delay, ridership, on-board services, stations, facilities, equipment, and other services. Such metrics, at a minimum, shall include the percentage of avoidable and fully allocated operating costs covered by passenger revenues on each route, ridership per train mile operated, measures

of on-time performance and delays incurred by intercity passenger trains on the rail lines of each rail carrier and, for long distance routes, measures of connectivity with other routes in all regions currently receiving Amtrak service and the transportation needs of communities and populations that are not well-served by other forms of public transportation. Amtrak shall provide reasonable access to the Federal Railroad Administration in order to enable the Administration to carry out its duty under this section.

(b) QUARTERLY REPORTS.—The Administrator of the Federal Railroad Administration shall collect the necessary data and publish a quarterly report on the performance and service quality of intercity passenger train operations, including cost recovery, ridership, on-time performance and minutes of delay, causes of delay, on-board services, stations, facilities, equipment, and other services.

(c) CONTRACT WITH HOST RAIL CARRIERS.—To the extent practicable, Amtrak and its host rail carriers shall incorporate the metrics and standards developed under subsection (a) into their access and service agreements.

(d) ARBITRATION.—If the development of the metrics and standards is not completed within the 180-day period required by subsection (a), any party involved in the development of those standards may petition the Surface Transportation Board to appoint an arbitrator to assist the parties in resolving their disputes through binding arbitration.

**SEC. 209. PASSENGER TRAIN PERFORMANCE.**

(a) IN GENERAL.—Section 24308 is amended by adding at the end the following:

“(f) PASSENGER TRAIN PERFORMANCE AND OTHER STANDARDS.—

“(1) INVESTIGATION OF SUBSTANDARD PERFORMANCE.—If the on-time performance of any intercity passenger train averages less than 80 percent for any 2 consecutive calendar quarters, or the service quality of intercity passenger train operations for which minimum standards are established under section 208 of the Passenger Rail Investment and Improvement Act of 2005 fails to meet those standards for 2 consecutive calendar quarters, the Surface Transportation Board shall investigate whether, and to what extent, delays or failure to achieve minimum standards are due to causes that could reasonably be addressed by a rail carrier over the tracks of which the intercity passenger train operates or reasonably addressed by the intercity passenger rail operator. In carrying out such an investigation, the Board shall obtain information from all parties involved and make recommendations regarding reasonable measures to improve the service, quality, and on-time performance of the train.

“(2) PROBLEMS CAUSED BY HOST RAIL CARRIER.—If the Board determines that delays or failures to achieve minimum standards investigated under paragraph (1) are attributable to a rail carrier's failure to provide preference to Amtrak over freight transportation under subsection (c), then the Board shall enforce its recommendations for relief under this section.

“(3) PENALTIES.—

“(A) IN GENERAL.—The Board shall publish a schedule of penalties which will—

“(i) fairly reflect the extent to which Amtrak suffers financial loss as a result of host rail carrier delays or failure to achieve minimum standards; and

“(ii) will adequately deter future actions which may reasonably be expected to be likely to result in delays to Amtrak.

“(B) ASSESSMENT.—The Board may assess these penalties upon a host rail carrier.

“(C) USE.—The Board shall make any amounts received as penalties under this

paragraph available to Amtrak or a State contracting with Amtrak, as applicable, for capital or operating expenditures on such routes.”.

(b) CHANGE OF REFERENCE.—Section 24308 is amended—

(1) by striking “Interstate Commerce Commission” in subsection (a)(2)(A) and inserting “Surface Transportation Board”;

(2) by striking “Commission” each place it appears and inserting “Board”;

(3) by striking “Secretary” the last 3 places it appears in subsection (c) and each place it appears in subsections (d) and (e) and inserting “Board”.

#### SEC. 210. LONG DISTANCE ROUTES.

(a) IN GENERAL.—Chapter 247 is amended by adding at the end thereof the following:

##### § 24710. Long distance routes

“(a) ANNUAL EVALUATION.—Using the financial and performance metrics developed under section 208 of the Passenger Rail Investment and Improvement Act of 2005, Amtrak shall—

“(1) evaluate annually the financial and operating performance of each long distance passenger rail route operated by Amtrak; and

“(2) rank the overall performance of such routes for 2006 and identify each long distance passenger rail route operated by Amtrak in 2006 according to its overall performance as belonging to the best performing third of such routes, the second best performing third of such routes, or the worst performing third of such routes.

“(b) PERFORMANCE IMPROVEMENT PLAN.—Amtrak shall develop and publish a performance improvement plan for its long distance passenger rail routes to achieve financial and operating improvements based on the data collected through the application of the financial and performance metrics developed under section 208 of that Act. The plan shall address—

“(1) on-time performance;

“(2) scheduling, frequency, routes, and stops;

“(3) the feasibility of restructuring service into connected corridor service;

“(4) performance-related equipment changes and capital improvements;

“(5) on-board amenities and service, including food, first class, and sleeping car service;

“(6) State or other non-Federal financial contributions;

“(7) improving financial performance; and

“(8) other aspects of Amtrak’s long distance passenger rail routes that affect the financial, competitive, and functional performance of service on Amtrak’s long distance passenger rail routes.

“(c) IMPLEMENTATION.—Amtrak shall implement the performance improvement plan developed under subsection (b)—

“(1) beginning in fiscal year 2007 for those routes identified as being in the worst performing third under subsection (a)(2);

“(2) beginning in fiscal year 2008 for those routes identified as being in the second best performing third under subsection (a)(2); and

“(3) beginning in fiscal year 2009 for those routes identified as being in the best performing third under subsection (a)(2).

“(d) ENFORCEMENT.—The Federal Railroad Administration shall monitor the development, implementation, and outcome of improvement plans under this section. If, for any year, it determines that Amtrak is not making reasonable progress in implementing its performance improvement plan or in achieving the expected outcome of the plan for any calendar year, the Federal Railroad Administration—

“(1) shall notify Amtrak, the Inspector General of the Department of Transpor-

tation, and appropriate Congressional committees of its determination under this subsection;

“(2) shall provide an opportunity for a hearing with respect to that determination; and

“(3) may withhold any appropriated funds otherwise available to Amtrak for the operation of a route or routes on which it is not making progress, other than funds made available for passenger safety or security measures.”.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 247 is amended by inserting after the item relating to section 24709 the following:

“24710. Long distance routes”.

##### SEC. 211. ALTERNATE PASSENGER RAIL SERVICE PROGRAM.

(a) IN GENERAL.—Chapter 247, as amended by section 209, is amended by adding at the end thereof the following:

##### § 24711. Alternate passenger rail service program

“(a) IN GENERAL.—Within 1 year after the date of enactment of the Passenger Rail Investment and Improvement Act of 2005, the Federal Railroad Administration shall initiate a rulemaking proceeding to develop a program under which—

“(1) a rail carrier or rail carriers that own infrastructure over which Amtrak operates a passenger rail service route described in subparagraph (B), (C), or (D) of section 24102(5) or in section 24702 of title 49, United States Code may petition the Federal Railroad Administration to be considered as a passenger rail service provider over that route in lieu of Amtrak;

“(2) the Administration would notify Amtrak within 30 days after receiving a petition under paragraph (1) and establish a deadline by which both the petitioner and Amtrak would be required to submit a bid to provide passenger rail service over the route to which the petition relates;

“(3) each bid would describe how the bidder would operate the route, what Amtrak passenger equipment would be needed, if any, what sources of non-Federal funding the bidder would use, including any State subsidy, among other things;

“(4) the Administration would make a decision and execute a contract within a specified, limited time after that deadline awarding to the winning bidder—

“(A) the right and obligation to provide passenger rail service over that route subject to such performance standards as the Administration may require, consistent with the standards developed under section 208 of this division; and

“(B) an operating subsidy—

“(i) for the first year at a level not in excess of the level in effect during the fiscal year preceding the fiscal year in which the petition was received, adjusted for inflation;

“(ii) for any subsequent years at such level, adjusted for inflation; and

“(5) each bid would contain a staffing plan describing the number of employees needed to operate the service, the job assignments and requirements, and the terms of work for prospective and current employees of the bidder for the service outlined in the bid, and such staffing plan would be made available by the winning bidder to the public after the bid award.

“(b) IMPLEMENTATION.—

“(1) INITIAL PETITIONS.—Pursuant to any rules or regulations promulgated under subsection (A), the Administration shall establish a deadline for the submission of a petition under subsection (a)—

“(A) during fiscal year 2007 for operations commencing in fiscal year 2008; and

“(B) during the immediately preceding fiscal year for operations commencing in subsequent fiscal years.

“(2) ROUTE LIMITATIONS.—The Administration may not make the program available with respect to more than 1 Amtrak passenger rail route for operations beginning in fiscal year 2008 nor to more than 2 such routes for operations beginning in fiscal year 2010 and subsequent fiscal years.

“(c) PERFORMANCE STANDARDS; ACCESS TO FACILITIES; EMPLOYEES.—If the Administration awards the right and obligation to provide passenger rail service over a route under the program to a rail carrier or rail carriers—

“(1) it shall execute a contract with the rail carrier or rail carriers for rail passenger operations on that route that conditions the operating and subsidy rights upon—

“(A) the service provider continuing to provide passenger rail service on the route that is no less frequent, nor over a shorter distance, than Amtrak provided on that route before the award; and

“(B) the service provider’s compliance with the minimum standards established under section 208 of the Passenger Rail Investment and Improvement Act of 2005 and such additional performance standards as the Administration may establish;

“(2) it shall, if the award is made to a rail carrier other than Amtrak, require Amtrak to provide access to its reservation system, stations, and facilities to any rail carrier or rail carriers awarded a contract under this section, in accordance with section 218 of that Act, necessary to carry out the purposes of this section;

“(3) the employees of any person used by a rail carrier or rail carriers (as defined in section 10102(5) of this title) in the operation of a route under this section shall be considered an employee of that carrier or carriers and subject to the applicable Federal laws and regulations governing similar crafts or classes of employees of Amtrak, including provisions under section 121 of the Amtrak Reform and Accountability Act of 1997 relating to employees that provide food and beverage service; and

“(4) the winning bidder shall provide preference in hiring to qualified Amtrak employees displaced by the award of the bid, consistent with the staffing plan submitted by the bidder.

“(d) CESSION OF SERVICE.—If a rail carrier or rail carriers awarded a route under this section cease to operate the service or fail to fulfill their obligations under the contract required under subsection (c), the Administrator, in collaboration with the Surface Transportation Board shall take any necessary action consistent with this title to enforce the contract and ensure the continued provision of service, including the installment of an interim service provider and re-bidding the contract to operate the service. The entity providing service shall either be Amtrak or a rail carrier defined in section 24711(a)(1).

“(e) ADEQUATE RESOURCES.—Before taking any action allowed under this section, the Secretary shall certify that the Administrator has sufficient resources that are adequate to undertake the program established under this section.”.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 247, as amended by section 209, is amended by inserting after the item relating to section 24710 the following:

“24711. Alternate passenger rail service program”.

#### SEC. 212. EMPLOYEE TRANSITION ASSISTANCE.

(a) PROVISION OF FINANCIAL INCENTIVES.—For Amtrak employees who are adversely affected by the cessation of the operation of a

long distance route or any other route under section 24711 of title 49, United States Code, previously operated by Amtrak, the Secretary shall develop a program under which the Secretary may, in the Secretary's discretion, provide grants for financial incentives to be provided to employees of the National Railroad Passenger Corporation 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.

(b) CONDITIONS FOR FINANCIAL INCENTIVES.—As a condition for receiving financial assistance grants under this section, the Corporation must certify that—

(1) a reasonable attempt was made to reassign an employee adversely affected under section 24711 of title 49, United States Code, or by the elimination of any route, to other positions within the Corporation in accordance with any contractual agreements;

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

(3) 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

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

(c) AMOUNT OF FINANCIAL INCENTIVES.—The financial incentives authorized under this section may be no greater than \$50,000 per employee.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are hereby authorized to be appropriated to the Secretary such sums as may be necessary to make grants to the National Railroad Passenger Corporation to provide financial incentives under subsection (a).

(e) TERMINATION-RELATED PAYMENTS.—If Amtrak employees adversely affected by the cessation of Amtrak service resulting from the awarding of a grant to an operator other than Amtrak for the operation of a route under section 24711 of title 49, United States Code, or any other route, previously operated by Amtrak do not receive financial incentives under subsection (a), then the Secretary shall make grants to the National Railroad Passenger Corporation from funds authorized by section 102 of this division for termination-related payments to employees under existing contractual agreements.

#### SEC. 213. NORTHEAST CORRIDOR STATE-OF-GOOD-REPAIR PLAN.

(a) IN GENERAL.—Within 6 months after the date of enactment of this Act, the National Railroad Passenger Corporation, in consultation with the Secretary and the States (including the District of Columbia) that make up the Northeast Corridor (as defined in section 24102 of title 49, United States Code), shall prepare a capital spending plan for capital projects required to return the Northeast Corridor to a state of good repair by the end of fiscal year 2011, consistent with the funding levels authorized in this division and shall submit the plan to the Secretary.

##### (b) APPROVAL BY THE SECRETARY.—

(1) The Corporation shall submit the capital spending plan prepared under this section to the Secretary of Transportation for review and approval pursuant to the procedures developed under section 205 of this division.

(2) The Secretary of Transportation shall require that the plan be updated at least annually and shall review and approve such updates. During review, the Secretary shall seek comments and review from the commission established under section 24905 of title

49, United States Code, and other Northeast Corridor users regarding the plan.

(3) The Secretary shall make grants to the Corporation with funds authorized by section 101(b) for Northeast Corridor capital investments contained within the capital spending plan prepared by the Corporation and approved by the Secretary.

(4) Using the funds authorized by section 101(d), the Secretary shall review Amtrak's capital expenditures funded by this section to ensure that such expenditures are consistent with the capital spending plan and that Amtrak is providing adequate project management oversight and fiscal controls.

(c) ELIGIBILITY OF EXPENDITURES.—The Federal share of expenditures for capital improvements under this section may not exceed 100 percent.

#### SEC. 214. NORTHEAST CORRIDOR INFRASTRUCTURE AND OPERATIONS IMPROVEMENTS.

(a) IN GENERAL.—Section 24905 is amended to read as follows:

#### “§ 24905. Northeast Corridor Infrastructure and Operations Advisory Commission; Safety and Security Committee.

“(a) NORTHEAST CORRIDOR INFRASTRUCTURE AND OPERATIONS ADVISORY COMMISSION.—

“(1) Within 180 days after the date of enactment of the Passenger Rail Investment and Improvement Act of 2005, the Secretary of Transportation shall establish a Northeast Corridor Infrastructure and Operations Advisory Commission (hereinafter referred to in this section as the ‘Commission’) to promote mutual cooperation and planning pertaining to the rail operations and related activities of the Northeast Corridor. The Commission shall be made up of—

“(A) members representing the National Railroad Passenger Corporation;

“(B) members representing the Secretary of Transportation and the Federal Railroad Administration;

“(C) 1 member from each of the States (including the District of Columbia) that constitute the Northeast Corridor as defined in section 24102, designated by, and serving at the pleasure of, the chief executive officer thereof; and

“(D) non-voting representatives of freight railroad carriers using the Northeast Corridor selected by the Secretary.

“(2) The Secretary shall ensure that the membership belonging to any of the groups enumerated under subparagraph (1) shall not constitute a majority of the commission’s memberships.

“(3) The commission shall establish a schedule and location for convening meetings, but shall meet no less than four times per fiscal year, and the commission shall develop rules and procedures to govern the commission’s proceedings.

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

“(5) 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.

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

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

“(8) Upon 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.

“(9) 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.

“(10) The commission shall consult with other entities as appropriate.

“(b) GENERAL RECOMMENDATIONS.—The Commission shall develop recommendations concerning Northeast Corridor rail infrastructure and operations including proposals addressing, as appropriate—

“(1) short-term and long term capital investment needs beyond the state-of-good-repair under section 213;

“(2) future funding requirements for capital improvements and maintenance;

“(3) operational improvements of intercity passenger rail, commuter rail, and freight rail services;

“(4) opportunities for additional non-rail uses of the Northeast Corridor;

“(5) scheduling and dispatching;

“(6) safety and security enhancements;

“(7) equipment design;

“(8) marketing of rail services; and

“(9) future capacity requirements.

##### “(c) ACCESS COSTS.—

“(1) DEVELOPMENT OF FORMULA.—Within 1 year after verification of Amtrak’s new financial accounting system pursuant to section 203(b) of the Passenger Rail Investment and Improvement Act of 2005, the Commission shall—

“(A) develop a standardized formula for determining and allocating costs, revenues, and compensation for Northeast Corridor commuter rail passenger transportation, as defined in section 24102 of this title, that use National Railroad Passenger Corporation facilities or services or that provide such facilities or services to the National Railroad Passenger Corporation that ensure that—

“(i) there is no cross-subsidization of commuter rail passenger, intercity rail passenger, or freight rail transportation; and

“(ii) each service is assigned the costs incurred only for the benefit of that service, and a proportionate share, based upon factors that reasonably reflect relative use, of costs incurred for the common benefit of more than 1 service;

“(B) develop a proposed timetable for implementing the formula before the end of the 6th year following the date of enactment of that Act;

“(C) transmit the proposed timetable to the Surface Transportation Board; and

“(D) at the request of a Commission member, petition the Surface Transportation Board to appoint a mediator to assist the Commission members through non-binding mediation to reach an agreement under this section.

“(2) IMPLEMENTATION.—The National Railroad Passenger Corporation and the commuter authorities providing commuter rail passenger transportation on the Northeast Corridor shall implement new agreements for usage of facilities or services based on the formula proposed in paragraph (1) in accordance with the timetable established therein. If the entities fail to implement such new agreements in accordance with the timetable, the Commission shall petition the Surface Transportation Board to determine the appropriate compensation amounts for such services in accordance with section 24904(c) of this title. The Surface Transportation Board shall enforce its determination on the party or parties involved.

“(d) TRANSMISSION OF RECOMMENDATIONS.—The commission shall annually transmit the recommendations developed under subsection (b) and the formula and timetable developed under subsection (c)(1) to the Senate Committee on Commerce, Science, and

Transportation and the House of Representatives Committee on Transportation and Infrastructure.

“(e) NORTHEAST CORRIDOR SAFETY AND SECURITY COMMITTEE.—

“(1) IN GENERAL.—The Secretary shall establish a Northeast Corridor Safety and Security Committee composed of members appointed by the Secretary. The members shall be representatives of—

“(A) the Secretary;

“(B) Amtrak;

“(C) freight carriers operating more than 150,000 train miles a year on the main line of the Northeast Corridor;

“(D) commuter agencies;

“(E) rail passengers;

“(F) rail labor;

“(G) the Transportation Security Administration; and

“(H) other individuals and organizations the Secretary decides have a significant interest in rail safety or security.

“(2) FUNCTION; MEETINGS.—The Secretary shall consult with the Committee about safety and security improvements on the Northeast Corridor main line. The Committee shall meet at least once every 2 years to consider safety matters on the main line.

“(3) REPORT.—At the beginning of the first session of each Congress, the Secretary shall submit a report to the Commission and to Congress on the status of efforts to improve safety and security on the Northeast Corridor main line. The report shall include the safety recommendations of the Committee and the comments of the Secretary on those recommendations.”.

(3) CONFORMING AMENDMENTS.—Section 24904(c)(2) is amended by—

(A) inserting “commuter rail passenger” after “between”; and

(B) striking “freight” in the second sentence.

#### SEC. 215. RESTRUCTURING LONG-TERM DEBT AND CAPITAL LEASES.

(a) IN GENERAL.—The Secretary of the Treasury, in consultation with the Secretary of Transportation and Amtrak, may make agreements to restructure Amtrak’s indebtedness as of the date of enactment of this Act. This authorization expires on January 1, 2007.

(b) DEBT RESTRUCTURING.—The Secretary of Treasury, in consultation with the Secretary of Transportation and Amtrak, shall enter into negotiations with the holders of Amtrak debt, including leases, outstanding on the date of enactment of this Act for the purpose of restructuring (including repayment) and repaying that debt. The Secretary of the Treasury may secure agreements for restructuring or repayment on such terms as the Secretary of the Treasury deems favorable to the interests of the Government.

(c) CRITERIA.—In restructuring Amtrak’s indebtedness, the Secretary and Amtrak—

(1) shall take into consideration repayment costs, the term of any loan or loans, and market conditions; and

(2) shall ensure that the restructuring results in significant savings to Amtrak and the United States Government.

(d) PAYMENT OF RENEGOTIATED DEBT.—If the criteria under subsection (c) are met, the Secretary of Treasury shall assume or repay the restructured debt, as appropriate.

(e) AMTRAK PRINCIPAL AND INTEREST PAYMENTS.—

(1) PRINCIPAL ON DEBT SERVICE.—Unless the Secretary of Treasury makes sufficient payments to creditors under subsection (d) so that Amtrak is required to make no payments to creditors in a fiscal year, the Secretary of Transportation shall use funds authorized by section 103(a)(1) for the use of Amtrak for retirement of principal on loans for capital equipment, or capital leases.

(2) INTEREST ON DEBT.—Unless the Secretary of Treasury makes sufficient payments to creditors under subsection (d) so that Amtrak is required to make no payments to creditors in a fiscal year, the Secretary of Transportation shall use funds authorized by section 103(a)(2) for the use of Amtrak for the payment of interest on loans for capital equipment, or capital leases.

(3) REDUCTIONS IN AUTHORIZATION LEVELS.—Whenever action taken by the Secretary of the Treasury under subsection (a) results in reductions in amounts of principal or interest that Amtrak must service on existing debt, the corresponding amounts authorized by section 103(a)(1) or (2) shall be reduced accordingly.

(f) LEGAL EFFECT OF PAYMENTS UNDER THIS SECTION.—The payment of principal and interest on secured debt, other than debt assumed under subsection (d), with the proceeds of grants under subsection (e) 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.

(g) SECRETARY APPROVAL.—Amtrak may not incur more debt after the date of enactment of this Act without the express advance approval of the Secretary of Transportation.

(h) REPORT.—The Secretary of the Treasury shall transmit a report to the Senate Committee on Commerce, Science, and Transportation, the Senate Committee on Appropriations, the House of Representatives Committee on Transportation and Infrastructure, and the House of Representatives Committee on Appropriations by June 1, 2007—

(1) describing in detail any agreements to restructure the Amtrak debt; and

(2) providing an estimate of the savings to Amtrak and the United States Government.

#### SEC. 216. STUDY OF COMPLIANCE REQUIREMENTS AT EXISTING INTERCITY RAIL STATIONS.

Amtrak, in consultation with station owners, shall evaluate the improvements necessary to make all existing stations it serves readily accessible to and usable by individuals with disabilities, as required by section 242(e)(2) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12162(e)(2)). The evaluation shall include the estimated cost of the improvements necessary, the identification of the responsible person (as defined in section 241(5) of that Act (42 U.S.C. 12161(5))), and the earliest practicable date when such improvements can be made. Amtrak shall submit the evaluation to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Transportation and Infrastructure, and the National Council on Disability by September 30, 2007, along with recommendations for funding the necessary improvements.

#### SEC. 217. INCENTIVE PAY.

The Amtrak Board of Directors is encouraged to develop an incentive pay program for Amtrak management employees.

#### SEC. 218. ACCESS TO AMTRAK EQUIPMENT AND SERVICES.

If a State desires to select or selects an entity other than Amtrak to provide services required for the operation of an intercity passenger train route described in section 24102(5)(D) or 24702 of title 49, United States Code, the State may make an agreement

with Amtrak to use facilities and equipment of, or have services provided by, Amtrak under terms agreed to by the State and Amtrak to enable the State to utilize an entity other than Amtrak to provide services required for operation of the route. If the parties cannot agree upon terms, and the Surface Transportation Board finds that access to Amtrak’s facilities or equipment, or the provision of services by Amtrak, is necessary to carry out this provision and that the operation of Amtrak’s other services will not be impaired thereby, the Surface Transportation Board shall, within 120 days after submission of the dispute, issue an order that the facilities and equipment be made available, and that services be provided, by Amtrak, and shall determine reasonable compensation, liability and other terms for use of the facilities and equipment and provision of the services. Compensation shall be determined in accord with the methodology established pursuant to section 206 of this division.

#### SEC. 219. GENERAL AMTRAK PROVISIONS.

(a) REPEAL OF SELF-SUFFICIENCY REQUIREMENTS.

(1) TITLE 49 AMENDMENTS.—Chapter 241 is amended—

(A) by striking the last sentence of section 24101(d); and

(B) by striking the last sentence of section 24104(a).

(2) AMTRAK REFORM AND ACCOUNTABILITY ACT AMENDMENTS.—Title II of the Amtrak Reform and Accountability Act of 1997 (49 U.S.C. 24101 nt) is amended by striking sections 204 and 205.

(3) COMMON STOCK REDEMPTION DATE.—Section 415 of the Amtrak Reform and Accountability Act of 1997 (49 U.S.C. 24304 nt) is amended by striking subsection (b).

(b) LEASE ARRANGEMENTS.—Amtrak may obtain services from the Administrator of General Services, and the Administrator may provide services to Amtrak, under section 201(b) and 211(b) of the Federal Property and Administrative Service Act of 1949 (40 U.S.C. 481(b) and 491(b)) for each of fiscal years 2006 through 2011.

#### SEC. 220. PRIVATE SECTOR FUNDING OF PASSENGER TRAINS.

Amtrak is encouraged to increase its operation of trains funded by the private sector in order to minimize its need for Federal subsidies. Amtrak shall utilize the provisions of section 24308 of title 49, United States Code, when necessary to obtain access to facilities, train and engine crews, or services of a rail carrier or regional transportation authority that are required to operate such trains.

#### SEC. 221. ON-BOARD SERVICE IMPROVEMENTS.

(a) IN GENERAL.—Within 1 year after metrics and standards are established under section 208 of this division, Amtrak shall develop and implement a plan to improve on-board service pursuant to the metrics and standards for such service developed under that section.

(b) REPORT.—Amtrak shall provide a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on the on-board service improvements proscribed in the plan and the timeline for implementing such improvements.

#### SEC. 222. AMTRAK MANAGEMENT ACCOUNTABILITY.

(a) IN GENERAL.—Chapter 243 is amended by inserting after section 24309 the following:

#### “§ 24310. Management accountability

“(a) IN GENERAL.—Three years after the date of enactment of the Passenger Rail Investment and Improvement Act of 2005, and

two years thereafter, the Inspector General of the Department of Transportation shall complete an overall assessment of the progress made by Amtrak management and the Department of Transportation in implementing the provisions of that Act.

“(b) ASSESSMENT.—The management assessment undertaken by the Inspector General may include a review of—

“(1) effectiveness improving annual financial planning;

“(2) effectiveness in implementing improved financial accounting;

“(3) efforts to implement minimum train performance standards;

“(4) progress maximizing revenues and minimizing Federal subsidies; and

“(5) any other aspect of Amtrak operations the Inspector General finds appropriate to review.”.

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

“24310. Management accountability”.

### TITLE III—INTERCITY PASSENGER RAIL POLICY

#### SEC. 301. CAPITAL ASSISTANCE FOR INTERCITY PASSENGER RAIL SERVICE; STATE RAIL PLANS.

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

#### “CHAPTER 244. INTERCITY PASSENGER RAIL SERVICE CORRIDOR CAPITAL ASSISTANCE

“Sec.

“24401. Definitions.

“24402. Capital investment grants to support intercity passenger rail service.

“24403. Project management oversight

“24404. Use of capital grants to finance first-dollar liability of grant project.

“24405. Grant conditions.

#### “§ 24401. Definitions

“In this subchapter:

“(1) APPLICANT.—The term ‘applicant’ means a State (including the District of Columbia), a group of States, an Interstate Compact, or a public agency established by one or more States and having responsibility for providing intercity passenger rail service.

“(2) CAPITAL PROJECT.—The term ‘capital project’ means a project or program in a State rail plan developed under chapter 225 of this title for—

“(A) acquiring, constructing, improving, or inspecting equipment, track and track structures, or a facility for use in or for the primary benefit of intercity passenger rail service, expenses incidental to the acquisition or construction (including designing, engineering, location surveying, mapping, environmental studies, and acquiring rights-of-way), payments for the capital portions of rail trackage rights agreements, highway-rail grade crossing improvements related to intercity passenger rail service, security, mitigating environmental impacts, communication and signalization improvements, relocation assistance, acquiring replacement housing sites, and acquiring, constructing, relocating, and rehabilitating replacement housing;

“(B) rehabilitating, remanufacturing or overhauling rail rolling stock and facilities used primarily in intercity passenger rail service;

“(C) costs associated with developing State rail plans; and

“(D) the first-dollar liability costs for insurance related to the provision of intercity passenger rail service under section 24404.

“(3) INTERCITY PASSENGER RAIL SERVICE.—The term ‘intercity passenger rail service’

means transportation services with the primary purpose of passenger transportation between towns, cities and metropolitan areas by rail, including high-speed rail, as defined in section 24102 of title 49, United States Code.

#### “§ 24402. Capital investment grants to support intercity passenger rail service.

“(a) GENERAL AUTHORITY.—

“(1) The Secretary of Transportation may make grants under this section to an applicant to assist in financing the capital costs of facilities and equipment necessary to provide or improve intercity passenger rail transportation.

“(2) 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 and shall prescribe procedures and schedules for the awarding of grants under this title, including application and qualification procedures and a record of decision on applicant eligibility. The Secretary shall issue a final rule establishing such procedures not later than 90 days after the date of enactment of the Passenger Rail Investment and Improvement Act of 2005.

“(b) PROJECT AS PART OF STATE RAIL PLAN.—

“(1) The Secretary may not approve a grant for a project under this section unless the Secretary finds that the project is part of a State rail plan developed under chapter 225 of this title, or under the plan required by section 203 of the Passenger Rail Investment and Improvement Act of 2005, and that the applicant or recipient has or will have the legal, financial, and technical capacity to carry out 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) An applicant shall provide sufficient information upon which the Secretary can make the findings required by this subsection.

“(3) 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 the best, taking into account price and other factors, and that use of the proposed operator will not unnecessarily increase the cost of the project.

“(c) PROJECT SELECTION CRITERIA.—The Secretary, in selecting the recipients of financial assistance to be provided under subsection (a), shall—

“(1) require that each proposed project meet all safety and security requirements that are applicable to the project under law;

“(2) give preference to projects with high levels of estimated ridership, increased on-time performance, reduced trip time, additional service frequency to meet anticipated or existing demand, or other significant service enhancements as measured against minimum standards developed under section 208 of the Passenger Rail Investment and Improvement Act of 2005;

“(3) encourage intermodal connectivity through projects that provide direct connections between train stations, airports, bus terminals, subway stations, ferry ports, and other modes of transportation;

“(4) ensure that each project is compatible with, and is operated in conformance with—

“(A) plans developed pursuant to the requirements of section 135 of title 23, United States Code; and

“(B) the national rail plan (if it is available); and

“(5) favor the following kinds of projects:

“(A) Projects that are expected to have a significant favorable impact on air or highway traffic congestion, capacity, or safety.

“(B) Projects that also improve freight or commuter rail operations.

“(C) Projects that have significant environmental benefits.

“(D) Projects that are—

“(i) at a stage of preparation that all pre-commencement compliance with environmental protection requirements has already been completed; and

“(ii) ready to be commenced.

“(E) Projects with positive economic and employment impacts.

“(F) Projects that encourage the use of positive train control technologies.

“(G) Projects that have commitments of funding from non-Federal Government sources in a total amount that exceeds the minimum amount of the non-Federal contribution required for the project.

“(H) Projects that involve donated property interests or services.

“(I) Projects that are identified by the Surface Transportation Board as necessary to improve the on time performance and reliability of intercity passenger rail under section 24308(f).

“(d) AMTRAK ELIGIBILITY.—To receive a grant under this section, the National Railroad Passenger Corporation may enter into a cooperative agreement with 1 or more States to carry out 1 or more projects on a State rail plan’s ranked list of rail capital projects developed under section 22504(a)(5) of this title.

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

“(1)(A) The Secretary may issue a letter of intent to an applicant announcing an intention to obligate, for a major capital 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 30 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 Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate and the House 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) An obligation or administrative commitment may be made only when amounts are appropriated.

“(2)(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;

“(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 Government and is 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)(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) 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 may be not more than the amount authorized under section 101(c) of Passenger Rail Investment and Improvement Act of 2005, 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.

#### “(f) FEDERAL SHARE OF NET PROJECT COST.—

“(1)(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 shall not exceed 80 percent of the project net capital cost.

“(C) The Secretary shall give priority in allocating future obligations and contingent commitments to incur obligations to grant requests seeking a lower Federal share of the project net capital cost.

“(2) Up to an additional 20 percent of the required non-Federal funds may be funded from amounts appropriated to or made available to a department or agency of the Federal Government that are eligible to be expended for transportation.

“(3) 50 percent of the average amounts expended by a State or group of States (including the District of Columbia) for capital projects to benefit intercity passenger rail service in fiscal years 2003, 2004, and 2005 shall be credited towards the matching requirements for grants awarded under this section. The Secretary may require such information as necessary to verify such expenditures.

“(4) 50 percent of the average amounts expended by a State or group of States (including the District of Columbia) in a fiscal year beginning in 2006 for capital projects to benefit intercity passenger rail service or for the operating costs of such service above the average of expenditures made for such service in fiscal years 2003, 2004, and 2005 shall be credited towards the matching requirements for grants awarded under this section. The Secretary may require such information as necessary to verify such expenditures.

#### “(g) UNDERTAKING PROJECTS IN ADVANCE.—

“(1) 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 the 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) 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. However, the amount of interest 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) The Secretary shall consider changes in capital project cost indices when determining the estimated cost under paragraph (2) of this subsection.

“(h) 2-YEAR AVAILABILITY.—Funds appropriated under this section shall remain available until expended. If any amount provided as a grant under this section is not obligated or expended for the purposes described in subsection (a) within 2 years after the date on which the State received the grant, such sums shall be returned to the Secretary for other intercity passenger rail development projects under this section at the discretion of the Secretary.

#### “(i) PUBLIC-PRIVATE PARTNERSHIPS.—

“(1) IN GENERAL.—A metropolitan planning organization, State transportation department, or other project sponsor may enter into an agreement with any public, private, or nonprofit entity to cooperatively implement any project funded with a grant under this title.

“(2) FORMS OF PARTICIPATION.—Participation by an entity under paragraph (1) may consist of—

“(A) ownership or operation of any land, facility, locomotive, rail car, vehicle, or other physical asset associated with the project;

“(B) cost-sharing of any project expense;

“(C) carrying out administration, construction management, project management, project operation, or any other management or operational duty associated with the project; and

“(D) any other form of participation approved by the Secretary.

“(3) SUB-ALLOCATION.—A State may allocate funds under this section to any entity described in paragraph (1).

“(j) SPECIAL TRANSPORTATION CIRCUMSTANCES.—In carrying out this section, the Secretary shall allocate an appropriate portion of the amounts available under this section to provide grants to States—

“(1) in which there is no intercity passenger rail service for the purpose of funding freight rail capital projects that are on a State rail plan developed under chapter 225 of this title that provide public benefits (as defined in chapter 225) as determined by the Secretary; or

“(2) in which the rail transportation system is not physically connected to rail systems in the continental United States or may not otherwise qualify for a grant under this section due to the unique characteristics of the geography of that State or other relevant considerations, for the purpose of funding transportation-related capital projects.

“(k) SMALL CAPITAL PROJECTS.—The Secretary shall make available \$10,000,000 annually from the amounts authorized under section 101(c) of the Passenger Rail Investment and Improvement Act of 2005 beginning in fiscal year 2007 for grants for capital projects eligible under this section not exceeding \$2,000,000, including costs eligible under section 206(c) of that Act. The Secretary may waive requirements of this section, including state rail plan requirements, as appropriate.

#### “§ 24403. Project management oversight

“(a) PROJECT MANAGEMENT PLAN REQUIREMENTS.—To receive Federal financial assistance for a major capital project under this subchapter, an applicant must 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 covering 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) periodic 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) SECRETARIAL OVERSIGHT.—

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

“(2) 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) The Federal Government shall pay the entire cost of carrying out a contract under this subsection.

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

**“§ 24404. Use of capital grants to finance first dollar liability of grant project**

“Notwithstanding the requirements of section 24402 of this subchapter, the Secretary of Transportation may approve the use of capital assistance under this subchapter to fund self-insured retention of risk for the first tier of liability insurance coverage for rail passenger service associated with the capital assistance grant, but the coverage may not exceed \$20,000,000 per occurrence or \$20,000,000 in aggregate per year.

**“§ 24405. Grant conditions**

“(a) DOMESTIC BUYING PREFERENCE.—

“(1) REQUIREMENT.—

“(A) IN GENERAL.—In carrying out a project funded in whole or in part with a grant under this title, the grant recipient shall purchase only—

“(i) unmanufactured articles, material, and supplies mined or produced in the United States; or

“(ii) manufactured articles, material, and supplies manufactured in the United States substantially from articles, material, and supplies mined, produced, or manufactured in the United States.

“(B) DE MINIMIS AMOUNT.—Subparagraph (1) applies only to a purchase in an total amount that is not less than \$1,000,000.

“(2) EXEMPTIONS.—On application of a recipient, the Secretary may exempt a recipient from the requirements of this subsection if the Secretary decides that, for particular articles, material, or supplies—

“(A) such requirements are inconsistent with the public interest;

“(B) the cost of imposing the requirements is unreasonable; or

“(C) the articles, material, or supplies, or the articles, material, or supplies from which they are manufactured, are not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities and are not of a satisfactory quality.

“(3) UNITED STATES DEFINED.—In this subsection, the term ‘the United States’ means the States, territories, and possessions of the United States and the District of Columbia.

“(b) OPERATORS DEEMED RAIL CARRIERS AND EMPLOYERS FOR CERTAIN PURPOSES.—A person that conducts rail operations over rail infrastructure constructed or improved with funding provided in whole or in part in a grant made under this title shall be considered a rail carrier as defined in section 10102(5) of this title for purposes of this title and any other statute that adopts the that definition or in which that definition applies, including—

“(1) the Railroad Retirement Act of 1974 (45 U.S.C. 231 et seq.); and

“(2) the Railway Labor Act (43 U.S.C. 151 et seq.).

“(c) GRANT CONDITIONS.—The Secretary shall require as a condition of making any grant under this title for a project that uses rights-of-way owned by a railroad that—

“(1) a written agreement exist between the applicant and the railroad regarding such use and ownership, including—

“(A) any compensation for such use;

“(B) assurances regarding the adequacy of infrastructure capacity to accommodate both existing and future freight and passenger operations; and

“(C) an assurance by the railroad that collective bargaining agreements with the railroad’s employees (including terms regulating the contracting of work) will remain in full force and effect according to their terms for work performed by the railroad on the railroad transportation corridor;

“(D) an assurance that an applicant complies with liability requirements consistent with section 28103 of this title; and

“(2) the applicant agrees to comply with—

“(A) the standards of section 24312 of this title, as such section was in effect on September 1, 2003, with respect to the project in the same manner that the National Railroad Passenger Corporation is required to comply with those standards for construction work financed under an agreement made under section 24308(a) of this title; and

“(B) the protective arrangements established under section 504 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 836) with respect to employees affected by actions taken in connection with the project to be financed in whole or in part by grants under this subchapter.

“(d) REPLACEMENT OF EXISTING INTERCITY PASSENGER RAIL SERVICE.—

“(1) COLLECTIVE BARGAINING AGREEMENT FOR INTERCITY PASSENGER RAIL PROJECTS.—Any entity providing intercity passenger railroad transportation that begins operations after the date of enactment of this Act on a project funded in whole or in part by grants made under this title and replaces intercity rail passenger service that was provided by Amtrak, unless such service was provided solely by Amtrak to another entity, as of such date shall enter into an agreement with the authorized bargaining agent or agents for adversely affected employees of the predecessor provider that—

“(A) gives each such qualified 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 3 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.

“(2) IMMEDIATE REPLACEMENT SERVICE.—

“(A) NEGOTIATIONS.—If the replacement of preexisting intercity rail passenger service occurs concurrent with or within a reasonable time before the commencement of the replacing entity’s rail passenger service, the replacing entity shall give written notice of its plan to replace existing rail passenger service to the authorized collective bargaining agent or agents for the potentially adversely affected employees of the predecessor provider at least 90 days before the date on which 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 bar-

gaining 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 (1). 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 (1) as described 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 seven 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 1 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 among the matters set forth in subparagraphs (A) through (D) of paragraph (1). 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; all other expenses shall be paid by the party incurring them.

“(3) SERVICE COMMENCEMENT.—A replacing entity under this subsection shall commence service only after an agreement is entered into with respect to the matters set forth in subparagraphs (A) through (D) of paragraph (1) or the decision of the arbitrator has been rendered.

“(4) SUBSEQUENT REPLACEMENT OF SERVICE.—If the replacement of existing rail passenger service takes place within 3 years after the replacing entity commences intercity passenger rail service, the replacing entity and the collective bargaining agent or agents for the adversely affected employees of the predecessor provider shall enter into an agreement with respect to the matters set forth in subparagraphs (A) through (D) of paragraph (1). If the parties have not entered into an agreement with respect to all such matters within 60 days after the date on which the replacing entity replaces the predecessor provider, the parties shall select an arbitrator using the procedures set forth in paragraph (2)(B), who shall, within 20 days after the commencement of the arbitration, conduct a hearing and decide all unresolved issues. This decision shall be final, binding, and conclusive upon the parties.

“(e) INAPPLICABILITY TO CERTAIN RAIL OPERATIONS.—Nothing in this section applies to—

“(1) commuter rail passenger transportation (as defined in section 24102(4) of this title) operations of a State or local government authority (as those terms are defined in section 5302(1) and (6), respectively, of this title) eligible to receive financial assistance under section 5307 of this title, or to its contractor performing services in connection with commuter rail passenger operations (as so defined);

“(2) the Alaska Railroad or its contractors; or

“(3) the National Railroad Passenger Corporation’s access rights to railroad rights of way and facilities under current law.”

(b) CONFORMING AMENDMENTS.—

(1) The table of chapters for the title is amended by inserting the following after the item relating to chapter 243:

“244. Intercity passenger rail service capital assistance.....24401”.

“(2) The chapter analysis for subtitle V is amended by inserting the following after the item relating to chapter 243:

“244. Intercity passenger rail service capital assistance.....24401”.

#### SEC. 302. STATE RAIL PLANS.

(a) IN GENERAL.—Part B of subtitle V is amended by adding at the end the following:

#### “CHAPTER 225. STATE RAIL PLANS AND HIGH PRIORITY PROJECTS

“Sec.

“22501. Definitions

“22502. Authority

“22503. Purposes

“22504. Transparency; coordination; review

“22505. Content

“22506. Review

#### “§ 22501. Definitions

“In this subchapter:

““(1) PRIVATE BENEFIT.—

““(A) IN GENERAL.—The term ‘private benefit’—

““(i) means a benefit accrued to a person or private entity, other than the National Railroad Passenger Corporation, that directly improves the economic and competitive condition of that person or entity through improved assets, cost reductions, service improvements, or any other means as defined by the Secretary; and

““(ii) shall be determined on a project-by-project basis, based upon an agreement between the parties.

““(B) CONSULTATION.—The Secretary may seek the advice of the States and rail carriers in further defining this term.

““(2) PUBLIC BENEFIT.—

““(A) IN GENERAL.—The term ‘public benefit’—

““(i) means a benefit accrued to the public in the form of enhanced mobility of people or goods, environmental protection or enhancement, congestion mitigation, enhanced trade and economic development, improved air quality or land use, more efficient energy use, enhanced public safety or security, reduction of public expenditures due to improved transportation efficiency or infrastructure preservation, and any other positive community effects as defined by the Secretary; and

““(ii) shall be determined on a project-by-project basis, based upon an agreement between the parties.

““(B) CONSULTATION.—The Secretary may seek the advice of the States and rail carriers in further defining this term.

““(3) STATE.—The term ‘State’ means any of the 50 States and the District of Columbia.

““(4) STATE RAIL TRANSPORTATION AUTHORITY.—The term ‘State rail transportation authority’ means the State agency or official responsible under the direction of the Governor of the State or a State law for preparation, maintenance, coordination, and administration of the State rail plan.”.

#### “§ 22502. Authority

“(a) IN GENERAL.—Each State may prepare and maintain a State rail plan in accordance with the provisions of this subchapter.

“(b) REQUIREMENTS.—For the preparation and periodic revision of a State rail plan, a State shall—

“(1) establish or designate a State rail transportation authority to prepare, maintain, coordinate, and administer the plan;

“(2) establish or designate a State rail plan approval authority to approve the plan;

“(3) submit the State’s approved plan to the Secretary of Transportation for review; and

“(4) revise and resubmit a State-approved plan no less frequently than once every 5 years for reapproval by the Secretary.

#### “§ 22503. Purposes

“(a) PURPOSES.—The purposes of a State rail plan are as follows:

“(1) To set forth State policy involving freight and passenger rail transportation, including commuter rail operations, in the State.

“(2) To establish the period covered by the State rail plan.

“(3) To present priorities and strategies to enhance rail service in the State that benefits the public.

“(4) To serve as the basis for Federal and State rail investments within the State.

“(b) COORDINATION.—A State rail plan shall be coordinated with other State transportation planning goals and programs and set forth rail transportation’s role within the State transportation system.

#### “§ 22504. Transparency; coordination; review

“(a) PREPARATION.—A State shall provide adequate and reasonable notice and opportunity for comment and other input to the public, rail carriers, commuter and transit authorities operating in, or affected by rail operations within the State, units of local government, and other interested parties in the preparation and review of its State rail plan.

“(b) INTERGOVERNMENTAL COORDINATION.—A State shall review the freight and passenger rail service activities and initiatives by regional planning agencies, regional transportation authorities, and municipalities within the State, or in the region in which the State is located, while preparing the plan, and shall include any recommendations made by such agencies, authorities, and municipalities as deemed appropriate by the State.

#### “§ 22505. Content

“(a) IN GENERAL.—Each State rail plan shall contain the following:

“(1) An inventory of the existing overall rail transportation system and rail services and facilities within the State and an analysis of the role of rail transportation within the State’s surface transportation system.

“(2) A review of all rail lines within the State, including proposed high speed rail corridors and significant rail line segments not currently in service.

“(3) A statement of the State’s passenger rail service objectives, including minimum service levels, for rail transportation routes in the State.

“(4) A general analysis of rail’s transportation, economic, and environmental impacts in the State, including congestion mitigation, trade and economic development, air quality, land-use, energy-use, and community impacts.

“(5) A long-range rail investment program for current and future freight and passenger infrastructure in the State that meets the requirements of subsection (b).

“(6) A statement of public financing issues for rail projects and service in the State, including a list of current and prospective public capital and operating funding resources, public subsidies, State taxation, and other financial policies relating to rail infrastructure development.

“(7) An identification of rail infrastructure issues within the State that reflects consultation with all relevant stakeholders.

“(8) A review of major passenger and freight intermodal rail connections and facilities within the State, including seaports, and prioritized options to maximize service integration and efficiency between rail and other modes of transportation within the State.

“(9) A review of publicly funded projects within the State to improve rail transpor-

tation safety and security, including all major projects funded under section 130 of title 23.

“(10) A performance evaluation of passenger rail services operating in the State, including possible improvements in those services, and a description of strategies to achieve those improvements.

“(11) A compilation of studies and reports on high-speed rail corridor development within the State not included in a previous plan under this subchapter, and a plan for funding any recommended development of such corridors in the State.

“(12) A statement that the State is in compliance with the requirements of section 22102.

#### “(b) LONG-RANGE SERVICE AND INVESTMENT PROGRAM.—

“(1) PROGRAM CONTENT.—A long-range rail investment program included in a State rail plan under subsection (a)(5) shall include the following matters:

“(A) A list of any rail capital projects expected to be undertaken or supported in whole or in part by the State.

“(B) A detailed funding plan for those projects.

“(2) PROJECT LIST CONTENT.—The list of rail capital projects shall contain—

“(A) a description of the anticipated public and private benefits of each such project; and

“(B) a statement of the correlation between—

“(i) public funding contributions for the projects; and

“(ii) the public benefits.

“(3) CONSIDERATIONS FOR PROJECT LIST.—In preparing the list of freight and intercity passenger rail capital projects, a State rail transportation authority should take into consideration the following matters:

“(A) Contributions made by non-Federal and non-State sources through user fees, matching funds, or other private capital involvement.

“(B) Rail capacity and congestion effects.

“(C) Effects on highway, aviation, and maritime capacity, congestion, or safety.

“(D) Regional balance.

“(E) Environmental impact.

“(F) Economic and employment impacts.

“(G) Projected ridership and other service measures for passenger rail projects.

#### “§ 22506. Review

“The Secretary shall prescribe procedures for States to submit State rail plans for review under this title, including standardized format and data requirements. State rail plans completed before the date of enactment of the Passenger Rail Investment and Improvement Act of 2005 that substantially meet the requirements of this chapter, as determined by the Secretary to have met the requirements of this chapter”.

#### “(b) CONFORMING AMENDMENTS.—

“(1) The table of chapters for the title is amended by inserting the following after the item relating to chapter 223:

“225. State rail plans .....22501”.

“(2) The chapter analysis for subtitle V is amended by inserting the following after the item relating to chapter 223:

“225. State rail plans .....24401”.

#### SEC. 303. NEXT GENERATION CORRIDOR TRAIN EQUIPMENT POOL

“(a) IN GENERAL.—Within 180 days after the date of enactment of this Act, Amtrak shall establish a Next Generation Corridor Equipment Pool Committee, comprised of representatives of Amtrak, the Federal Railroad Administration, and interested States. The purpose of the Committee shall be to design,

develop specifications for, and procure standardized next-generation corridor equipment.

(b) FUNCTIONS.—The Committee may—

(1) determine the number of different types of equipment required, taking into account variations in operational needs and corridor infrastructure;

(2) establish a pool of equipment to be used on corridor routes funded by participating States; and

(3) subject to agreements between Amtrak and States, utilize services provided by Amtrak to design, maintain and remanufacture equipment.

(c) COOPERATIVE AGREEMENTS.—Amtrak and States participating in the Committee may enter into agreements for the funding, procurement, remanufacture, ownership and management of corridor equipment, including equipment currently owned or leased by Amtrak and next-generation corridor equipment acquired as a result of the Committee's actions, and may establish a corporation, which may be owned or jointly-owned by Amtrak, participating States or other entities, to perform these functions.

(d) FUNDING.—In addition to the authorization provided in section 105 of this division, capital projects to carry out the purposes of this section shall be eligible for grants made pursuant to chapter 244 of title 49, United States Code.

#### SEC. 304. FEDERAL RAIL POLICY.

Section 103 is amended—

(1) by inserting “IN GENERAL.—” before “The Federal” in subsection (a);

(2) by striking the second and third sentences of subsection (a);

(3) by inserting “ADMINISTRATOR.—” before “The head” in subsection (b);

(4) by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively and by inserting after subsection (b) the following:

“(c) SAFETY.—To carry out all railroad safety laws of the United States, the Administration is divided on a geographical basis into at least 8 safety offices. The Secretary of Transportation is responsible for all acts taken under those laws and for ensuring that the laws are uniformly administered and enforced among the safety offices.”;

(5) by inserting “POWERS AND DUTIES.—” before “The” in subsection (d), as redesignated;

(6) by striking “and” after the semicolon in paragraph (1) of subsection (d), as redesignated;

(7) by redesignating paragraph (2) of subsection (d), as redesignated, as paragraph (3) and inserting after paragraph (1) the following:

“(2) the duties and powers related to railroad policy and development under subsection (e); and”;

(8) by inserting “TRANSFERS OF DUTY.—” before “A duty” in subsection (e), as redesignated;

(9) by inserting “CONTRACTS, GRANTS, LEASES, COOPERATIVE AGREEMENTS, AND SIMILAR TRANSACTIONS.—” before “Subject” in subsection (f), as redesignated;

(10) by striking the last sentence in subsection (f), as redesignated; and

(11) by adding at the end the following:

“(g) ADDITIONAL DUTIES OF THE ADMINISTRATOR.—The Administrator shall—

(1) provide assistance to States in developing State rail plans prepared under chapter 225 and review all State rail plans submitted under that section;

(2) develop a long range national rail plan that is consistent with approved State rail plans and the rail needs of the Nation, as determined by the Secretary in order to promote an integrated, cohesive, efficient, and optimized national rail system for the movement of goods and people;

“(3) develop a preliminary national rail plan within a year after the date of enactment of the Passenger Rail Investment and Improvement Act of 2005;

(4) develop and enhance partnerships with the freight and passenger railroad industry, States, and the public concerning rail development;

(5) support rail intermodal development and high-speed rail development, including high speed rail planning;

(6) ensure that programs and initiatives developed under this section benefit the public and work toward achieving regional and national transportation goals; and

(7) facilitate and coordinate efforts to assist freight and passenger rail carriers, transit agencies and authorities, municipalities, and States in passenger-freight service integration on shared rights of way by providing neutral assistance at the joint request of affected rail service providers and infrastructure owners relating to operations and capacity analysis, capital requirements, operating costs, and other research and planning related to corridors shared by passenger or commuter rail service and freight rail operations.

#### “(h) PERFORMANCE GOALS AND REPORTS.—

(1) PERFORMANCE GOALS.—In conjunction with the objectives established and activities undertaken under section 103(e) of this title, the Administrator shall develop a schedule for achieving specific, measurable performance goals.

(2) RESOURCE NEEDS.—The strategy and annual plans shall include estimates of the funds and staff resources needed to accomplish each goal and the additional duties required under section 103(e).

(3) SUBMISSION WITH PRESIDENT'S BUDGET.—Beginning with fiscal year 2007 and each fiscal year thereafter, the Secretary shall submit to Congress, at the same time as the President's budget submission, the Administration's performance goals and schedule developed under paragraph (1), including an assessment of the progress of the Administration toward achieving its performance goals.”.

#### SEC. 305. RAIL COOPERATIVE RESEARCH PROGRAM.

(a) ESTABLISHMENT AND CONTENT.—Chapter 249 is amended by adding at the end the following:

#### “§ 24910. Rail cooperative research program

“(a) IN GENERAL.—The Secretary shall establish and carry out a rail cooperative research program. The program shall—

(1) address, among other matters, intercity rail passenger and freight rail services, including existing rail passenger and freight technologies and speeds, incrementally enhanced rail systems and infrastructure, and new high-speed wheel-on-rail systems and rail security;

(2) address ways to expand the transportation of international trade traffic by rail, enhance the efficiency of intermodal interchange at ports and other intermodal terminals, and increase capacity and availability of rail service for seasonal freight needs;

(3) consider research on the interconnectivity of commuter rail, passenger rail, freight rail, and other rail networks; and

(4) give consideration to regional concerns regarding rail passenger and freight transportation, including meeting research needs common to designated high-speed corridors, long-distance rail services, and regional intercity rail corridors, projects, and entities.

(b) CONTENT.—The program to be carried out under this section shall include research designed—

(1) to identify the unique aspects and attributes of rail passenger and freight service;

(2) to develop more accurate models for evaluating the impact of rail passenger and freight service, including the effects on highway and airport and airway congestion, environmental quality, and energy consumption;

(3) to develop a better understanding of modal choice as it affects rail passenger and freight transportation, including development of better models to predict utilization;

(4) to recommend priorities for technology demonstration and development;

(5) to meet additional priorities as determined by the advisory board established under subsection (c), including any recommendations made by the National Research Council;

(6) to explore improvements in management, financing, and institutional structures;

(7) to address rail capacity constraints that affect passenger and freight rail service through a wide variety of options, ranging from operating improvements to dedicated new infrastructure, taking into account the impact of such options on operations;

(8) to improve maintenance, operations, customer service, or other aspects of intercity rail passenger and freight service;

(9) to recommend objective methodologies for determining intercity passenger rail routes and services, including the establishment of new routes, the elimination of existing routes, and the contraction or expansion of services or frequencies over such routes;

(10) to review the impact of equipment and operational safety standards on the further development of high speed passenger rail operations connected to or integrated with non-high speed freight or passenger rail operations; and

(11) to recommend any legislative or regulatory changes necessary to foster further development and implementation of high speed passenger rail operations while ensuring the safety of such operations that are connected to or integrated with non-high speed freight or passenger rail operations.

#### “(c) ADVISORY BOARD.—

(1) ESTABLISHMENT.—In consultation with the heads of appropriate Federal departments and agencies, the Secretary shall establish an advisory board to recommend research, technology, and technology transfer activities related to rail passenger and freight transportation.

(2) MEMBERSHIP.—The advisory board shall include—

(A) representatives of State transportation agencies;

(B) transportation and environmental economists, scientists, and engineers; and

(C) representatives of Amtrak, the Alaska Railroad, freight railroads, transit operating agencies, intercity rail passenger agencies, railway labor organizations, and environmental organizations.

(d) NATIONAL ACADEMY OF SCIENCES.—The Secretary may make grants to, and enter into cooperative agreements with, the National Academy of Sciences to carry out such activities relating to the research, technology, and technology transfer activities described in subsection (b) as the Secretary deems appropriate.”.

(b) CLERICAL AMENDMENT.—The chapter analysis for chapter 249 is amended by adding at the end the following:

“24910. Rail cooperative research program”.

#### TITLE IV—PASSENGER RAIL SECURITY AND SAFETY

#### SEC. 401. SYSTEMWIDE AMTRAK SECURITY UPDATES.

(a) IN GENERAL—Subject to subsection (c) the Secretary of Homeland Security, in consultation with the Secretary of Transportation, is authorized to make grants to Amtrak—

- (1) to secure major tunnel access points and ensure tunnel integrity in New York, Baltimore, and Washington, DC;
- (2) to secure Amtrak trains;
- (3) to secure Amtrak stations;
- (4) to obtain a watch list identification system approved by the Secretary;
- (5) to obtain train tracking and interoperable communications systems that are coordinated to the maximum extent possible;
- (6) to hire additional police and security officers, including canine units;
- (7) to expand emergency preparedness efforts; and
- (8) for employee security training.

(b) CONDITIONS.—The Secretary of Transportation shall disburse funds to Amtrak provided under subsection (a) for projects contained in a systemwide security plan approved by the Secretary of Homeland Security. The plan shall include appropriate measures to address security awareness, emergency response, and passenger evacuation training.

(c) EQUITABLE GEOGRAPHIC ALLOCATION.—The Secretary shall ensure that, subject to meeting the highest security needs on Amtrak's entire system, stations and facilities located outside of the Northeast Corridor receive an equitable share of the security funds authorized by this section.

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

- (1) \$63,500,000 for fiscal year 2006;
- (2) \$30,000,000 for fiscal year 2007; and
- (3) \$30,000,000 for fiscal year 2008.

Amounts appropriated pursuant to this subsection shall remain available until expended.

#### SEC. 402. FIRE AND LIFE-SAFETY IMPROVEMENTS.

(a) LIFE-SAFETY NEEDS.—The Secretary of Transportation is authorized to make grants to Amtrak for the purpose of making fire and life-safety improvements to Amtrak tunnels on the Northeast Corridor in New York, NY, Baltimore, MD, and Washington, DC.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation for the purposes of carrying out subsection (a) the following amounts:

(1) For the 6 New York tunnels to provide ventilation, electrical, and fire safety technology upgrades, emergency communication and lighting systems, and emergency access and egress for passengers—

- (A) \$190,000,000 for fiscal year 2006;
- (B) \$190,000,000 for fiscal year 2007;
- (C) \$190,000,000 for fiscal year 2008;

(2) For the Baltimore & Potomac tunnel and the Union tunnel, together, to provide adequate drainage, ventilation, communication, lighting, and passenger egress upgrades—

- (A) \$19,000,000 for fiscal year 2006;
- (B) \$19,000,000 for fiscal year 2007;
- (C) \$19,000,000 for fiscal year 2008;

(3) For the Washington, DC, Union Station tunnels to improve ventilation, communication, lighting, and passenger egress upgrades—

- (A) \$13,333,000 for fiscal year 2006;
- (B) \$13,333,000 for fiscal year 2007;
- (C) \$13,333,000 for fiscal year 2008;

(c) INFRASTRUCTURE UPGRADES.—There are authorized to be appropriated to the Secretary of Transportation for fiscal year 2006 \$3,000,000 for the preliminary design of options for a new tunnel on a different alignment to augment the capacity of the existing Baltimore tunnels.

(d) AVAILABILITY OF APPROPRIATED FUNDS.—Amounts made available pursuant to this section shall remain available until expended.

(e) PLANS REQUIRED.—The Secretary may not make amounts available to Amtrak for obligation or expenditure under subsection (a)—

(1) until Amtrak has submitted to the Secretary, and the Secretary has approved, an engineering and financial plan for such projects; and

(2) unless, for each project funded pursuant to this section, the Secretary has approved a project management plan prepared by Amtrak addressing appropriate project budget, construction schedule, recipient staff organization, document control and record keeping, change order procedure, quality control and assurance, periodic plan updates, and periodic status reports.

(f) REVIEW OF PLANS.—The Secretary of Transportation shall complete the review of the plans required by paragraphs (1) and (2) of subsection (e) and approve or disapprove the plans within 45 days after the date on which each such plan is submitted by Amtrak. If the Secretary determines that a plan is incomplete or deficient, the Secretary shall notify Amtrak of the incomplete items or deficiencies and Amtrak shall, within 30 days after receiving the Secretary's notification, submit a modified plan for the Secretary's review. Within 15 days after receiving additional information on items previously included in the plan, and within 45 days after receiving items newly included in a modified plan, the Secretary shall either approve the modified plan, or, if the Secretary finds the plan is still incomplete or deficient, the Secretary shall identify in writing to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure the portions of the plan the Secretary finds incomplete or deficient, approve all other portions of the plan, obligate the funds associated with those other portions, and execute an agreement with Amtrak within 15 days thereafter on a process for resolving the remaining portions of the plan.

(g) FINANCIAL CONTRIBUTION FROM OTHER TUNNEL USERS.—The Secretary shall, taking into account the need for the timely completion of all portions of the tunnel projects described in subsection (a)—

(1) consider the extent to which rail carriers other than Amtrak use or plan to use the tunnels;

(2) consider the feasibility of seeking a financial contribution from those other rail carriers toward the costs of the projects; and

(3) obtain financial contributions or commitments from such other rail carriers at levels reflecting the extent of their use or planned use of the tunnels, if feasible.

#### SEC. 403. AMTRAK PLAN TO ASSIST FAMILIES OF PASSENGERS INVOLVED IN RAIL PASSENGER ACCIDENTS.

(a) IN GENERAL.—Chapter 243 of title 49, United States Code, is amended by adding at the end the following:

##### “§ 24316. Plans to address needs of families of passengers involved in rail passenger accidents

“(a) SUBMISSION OF PLAN.—Not later than 6 months after the date of the enactment of the Passenger Rail Investment and Improvement Act of 2005, Amtrak shall submit to the Chairman of the National Transportation Safety Board and the Secretary of Transportation a plan for addressing the needs of the families of passengers involved in any rail passenger accident involving an Amtrak intercity train and resulting in a loss of life.

“(b) CONTENTS OF PLANS.—The plan to be submitted by Amtrak under subsection (a) shall include, at a minimum, the following:

“(1) A process by which Amtrak will maintain and provide to the National Transpor-

tation Safety Board and the Secretary of Transportation, immediately upon request, a list (which is based on the best available information at the time of the request) of the names of the passengers aboard the train (whether or not such names have been verified), and will periodically update the list. The plan shall include a procedure, with respect to unreserved trains and passengers not holding reservations on other trains, for Amtrak to use reasonable efforts to ascertain the number and names of passengers aboard a train involved in an accident.

“(2) A plan for creating and publicizing a reliable, toll-free telephone number within 4 hours after such an accident occurs, and for providing staff, to handle calls from the families of the passengers.

“(3) A process for notifying the families of the passengers, before providing any public notice of the names of the passengers, by suitably trained individuals.

“(4) A process for providing the notice described in paragraph (2) to the family of a passenger as soon as Amtrak has verified that the passenger was aboard the train (whether or not the names of all of the passengers have been verified).

“(5) A process by which the family of each passenger will be consulted about the disposition of all remains and personal effects of the passenger within Amtrak's control; that any possession of the passenger within Amtrak's control will be returned to the family unless the possession is needed for the accident investigation or any criminal investigation; and that any unclaimed possession of a passenger within Amtrak's control will be retained by the rail passenger carrier for at least 18 months.

“(6) A process by which the treatment of the families of nonrevenue passengers will be the same as the treatment of the families of revenue passengers.

“(7) An assurance that Amtrak will provide adequate training to its employees and agents to meet the needs of survivors and family members following an accident.

“(c) USE OF INFORMATION.—The National Transportation Safety Board, the Secretary of Transportation, and Amtrak may not release to any person information on a list obtained under subsection (b)(1) but may provide information on the list about a passenger to the family of the passenger to the extent that the Board or Amtrak considers appropriate.

“(d) LIMITATION ON LIABILITY.—Amtrak shall not be liable for damages in any action brought in a Federal or State court arising out of the performance of Amtrak in preparing or providing a passenger list, or in providing information concerning a train reservation, pursuant to a plan submitted by Amtrak under subsection (b), unless such liability was caused by Amtrak's conduct.

“(e) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section may be construed as limiting the actions that Amtrak may take, or the obligations that Amtrak may have, in providing assistance to the families of passengers involved in a rail passenger accident.

“(f) FUNDING.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak \$500,000 for fiscal year 2006 to carry out this section. Amounts made available pursuant to this subsection shall remain available until expended.”.

“(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 243 of title 49, United States Code, is amended by adding at the end the following:

“24316. Plan to assist families of passengers involved in rail passenger accidents.”.

**SEC. 404. NORTHERN BORDER RAIL PASSENGER REPORT.**

Within 180 days after the date of enactment of this Act, the Secretary of Transportation, in consultation with the Secretary of Homeland Security, the Assistant Secretary of Homeland Security (Transportation Security Administration), heads of other appropriate Federal departments, and agencies and the National Railroad Passenger Corporation, shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure that contains—

(1) a description of the current system for screening passengers and baggage on passenger rail service between the United States and Canada;

(2) an assessment of the current program to provide preclearance of airline passengers between the United States and Canada as outlined in “The Agreement on Air Transport Preclearance between the Government of Canada and the Government of the United States of America”, dated January 18, 2001;

(3) an assessment of the current program to provide preclearance of freight railroad traffic between the United States and Canada as outlined in the “Declaration of Principle for the Improved Security of Rail Shipments by Canadian National Railway and Canadian Pacific Railway from Canada to the United States”, dated April 2, 2003;

(4) information on progress by the Department of Homeland Security and other Federal agencies towards finalizing a bilateral protocol with Canada that would provide for preclearance of passengers on trains operating between the United States and Canada;

(5) a description of legislative, regulatory, budgetary, or policy barriers within the United States Government to providing pre-screened passenger lists for rail passengers traveling between the United States and Canada to the Department of Homeland Security;

(6) a description of the position of the Government of Canada and relevant Canadian agencies with respect to preclearance of such passengers;

(7) a draft of any changes in existing Federal law necessary to provide for pre-screening of such passengers and providing pre-screened passenger lists to the Department of Homeland Security; and

(8) an analysis of the feasibility of reinstating United States Customs and Border Patrol rolling inspections onboard international Amtrak trains.

**SEC. 405. PASSENGER, BAGGAGE, AND CARGO SCREENING.**

(a) REQUIREMENT FOR STUDY AND REPORT.—The Secretary of Homeland Security, in cooperation with the Secretary of Transportation through the Assistant Secretary of Homeland Security (Transportation Security Administration) and other appropriate agencies, shall—

(1) study the cost and feasibility of requiring security screening for passengers, baggage, and cargo on passenger trains including an analysis of any passenger train screening pilot programs undertaken by the Department of Homeland Security; and

(2) report the results of the study, together with any recommendations that the Secretary of Homeland Security may have for implementing a rail security screening program to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure within 1 year after the date of enactment of this Act.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Homeland Security

\$1,000,000 for fiscal year 2006 to carry out this section.

**SA 2361.** Mr. TALENT submitted an amendment intended to be proposed by him to the bill S. 1932, to provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95); which was ordered to lie on the table; as follows:

On page 102, between lines 8 and 9, insert the following:

(g) PROHIBITION ON EXPORTS.—An oil or gas lease issued under this title shall prohibit the exportation of oil or gas produced under the lease.

**SA 2362.** Mr. WYDEN (for himself, Mr. TALENT, Mr. DORGAN, Mrs. FEINSTEIN, Mr. DAYTON, Mr. KOHL, and Mr. FEINGOLD) proposed an amendment to the bill S. 1932, to provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95); follows:

At the end of section 401, add the following:

(h) PROHIBITION ON EXPORTS.—An oil or gas lease issued under this title shall prohibit the exportation of oil or gas produced under the lease.

**SA 2363.** Mr. HARKIN (for himself, Mr. KOHL, Mr. OBAMA, Mr. BAYH, Mr. KERRY, Mr. JEFFORDS, Mr. KENNEDY, Mr. DURBIN, Mr. BINGAMAN, and Mr. SALAZAR) submitted an amendment intended to be proposed by him to the bill S. 1932, to provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95); which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_ SENSE OF THE SENATE.**

(a) FINDINGS.—The Senate makes the following findings:

(1) On October 26, 2005, the Committee on Ways and Means of the United States House of Representatives approved a budget reconciliation package that would significantly reduce the Federal Government's funding used to pay for the child support program established under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.) and would restrict the ability of States to use Federal child support incentive payments for child support program expenditures that are eligible for Federal matching payments.

(2) The child support program enforces the responsibility of non-custodial parents to support their children. The program is jointly funded by Federal, State and local governments.

(3) The Office of Management and Budget gave the child support program a 90 percent rating under the Program Assessment Rating Tool (PART), making it the highest performing social services program.

(4) The President's 2006 budget cites the child support program as “one of the highest rated block/formula grants of all reviewed programs government-wide. This high rating is due to its strong mission, effective management, and demonstration of measurable progress toward meeting annual and long term performance measures.”

(5) In 2004, the child support program spent \$5,300,000,000 to collect \$21,900,000,000 in sup-

port payments. Public investment in the child support program provides more than a four-fold return, collecting \$4.38 in child support for every Federal and State dollar that the program spends.

(6) In 2004, 17,300,000 children, or 60 percent of all children living apart from a parent, received child support services through the program. The percentage is higher for poor children—84 percent of poor children living apart from their parent receive child support services through the program. Families assisted by the child support program generally have low or moderate incomes.

(7) Children who receive child support from their parents do better in school than those that do not receive support payments. Older children with child support payments are more likely to finish high school and attend college.

(8) The child support program directly decreases the costs of other public assistance programs by increasing family self-sufficiency. The more effective the child support program in a State, the higher the savings in public assistance costs.

(9) Child support helps lift more than 1,000,000 Americans out of poverty each year.

(10) Families that are former recipients of assistance under the temporary assistance for needy families program (TANF) have seen the greatest increase in child support payments. Collections for these families increased 94 percent between 1999 and 2004, even though the number of former TANF families did not increase during this period.

(11) Families that receive child support are more likely to find and hold jobs, and less likely to be poor than comparable families without child support.

(12) The child support program saved costs in the TANF, Medicaid, Food Stamps, Supplemental Security Income, and subsidized housing programs.

(13) The Congressional Budget Office estimates that the funding cuts proposed by the Committee on Ways and Means of the House of Representatives would reduce child support collections by nearly \$7,900,000,000 in the next 5 years and \$24,100,000,000 in the next 10 years.

(14) That National Governor's Association has stated that such cuts are unduly burdensome and will force States to reevaluate several services that make the child support program so effective.

(15) The Federal Government has a moral responsibility to ensure that parents who do not live with their children meet their financial support obligations for those children.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the Senate will not accept any reduction in funding for the child support program established under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.), or any restrictions on the ability of States to use Federal child support incentive payments for child support program expenditures that are eligible for Federal matching payments, during this Congress.

**SA 2364.** Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill S. 1932, to provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95); which was ordered to lie on the table; as follows:

Strike section 7201 and insert the following:

**SEC. 7201. INCREASES IN PBGC PREMIUMS.**

Section 4006(a)(3)(A)(i) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1306(a)(3)(A)(i)) is amended to read as follows:

“(i) in the case of a single-employer plan, an amount equal to—

“(I) for plan years beginning after December 31, 1990, and before January 1, 2006, \$19, or

“(II) for plan years beginning after December 31, 2005, \$30.

plus the additional premium (if any) determined under subparagraph (E) for each individual who is a participant in such plan during the plan year;”.

**SA 2365.** Mr. BINGAMAN (for himself, Mr. ROCKEFELLER, Mrs. LINCOLN, Mr. PRYOR, and Mr. LEAHY) proposed an amendment to the bill S. 1932, to provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95); as follows:

On page 188, after line 24, add the following:

**SEC. 6037. LIMITATION ON SEVERE REDUCTION IN THE MEDICAID FMAP FOR FISCAL YEAR 2006.**

(a) **LIMITATION ON REDUCTION.**—In no case shall the FMAP for a State for fiscal year 2006 be less than the greater of the following:

(1) **2005 FMAP DECREASED BY THE APPLICABLE PERCENTAGE POINTS.**—The FMAP determined for the State for fiscal year 2005, decreased by—

(A) 0.1 percentage points in the case of Delaware and Michigan;

(B) 0.3 percentage points in the case of Kentucky; and

(C) 0.5 percentage points in the case of any other State.

(2) **COMPUTATION WITHOUT RETROACTIVE APPLICATION OF REBENCHMARKED PER CAPITA INCOME.**—The FMAP that would have been determined for the State for fiscal year 2006 if the per capita incomes for 2001 and 2002 that was used to determine the FMAP for the State for fiscal year 2005 were used.

(b) **SCOPE OF APPLICATION.**—The FMAP applicable to a State for fiscal year 2006 after the application of subsection (a) shall apply only for purposes of titles XIX and XXI of the Social Security Act (including for purposes of making disproportionate share hospital payments described in section 1923 of such Act (42 U.S.C. 1396r-4) and payments under such titles that are based on the enhanced FMAP described in section 2105(b) of such Act (42 U.S.C. 1397ee(b))) and shall not apply with respect to payments under title IV of such Act (42 U.S.C. 601 et seq.).

(c) **DEFINITIONS.**—In this section:

(1) **FMAP.**—The term “FMAP” means the Federal medical assistance percentage, as defined in section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)).

(2) **STATE.**—The term “State” has the meaning given such term for purposes of title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

(d) **REPEAL.**—Effective as of October 1, 2006, this section is repealed and shall not apply to any fiscal year after fiscal year 2006.

**SEC. 6038. EXTENSION OF PRESCRIPTION DRUG REBATES TO ENROLLEES IN MEDICAID MANAGED CARE ORGANIZATIONS.**

(a) **IN GENERAL.**—Section 1927(j)(1) (42 U.S.C. 1396r-8(j)(1)) is amended by striking “dispensed” and all that follows through the period and inserting “are not subject to the requirements of this section if such drugs are—

“(A) dispensed by health maintenance organizations that contract under section 1903(m); and

“(B) subject to discounts under section 340B of the Public Health Service Act (42 U.S.C. 256b).”

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall take effect on

the date of enactment of this Act and apply to rebate agreements entered into or renewed under section 1927 of the Social Security Act (42 U.S.C. 1396r-8) on or after such date.

**SA 2366.** Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 1932, to provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95); as follows:

On page 95, line 21, before the period at the end insert the following: “, of which \$1,000,000 shall be transferred to the Secretary of the Interior to make payments to producing States and coastal political subdivisions under section 31(b) of the Outer Continental Shelf Lands Act (43 U.S.C. 1356a(b))”.

**SA 2367.** Mr. BYRD proposed an amendment to the bill S. 1932, to provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95); as follows:

On page 810, strike line 17 and all that follows through page 816, lines 21, and insert the following:

**TITLE VIII—COMMITTEE ON THE JUDICIARY**

**SEC. 8001. FEES WITH RESPECT TO IMMIGRATION SERVICES FOR INTRACOMPANY TRANSFEREES.**

(a) **IN GENERAL.**—Section 214(c) of the Immigration and Nationality Act (8 U.S.C. 1184(c)) is amended by adding at the end the following:

“(15)(A) The Secretary of State shall impose a fee on an employer when an alien files an application abroad for a visa authorizing initial admission to the United States as a nonimmigrant described in section 101(a)(15)(L) in order to be employed by the employer, if the alien is covered under a blanket petition described in paragraph (2)(A).

“(B) The Secretary of Homeland Security shall impose a fee on an employer filing a petition under paragraph (1) to—

“(i) initially grant an alien nonimmigrant status under section 101(a)(15)(L); or

“(ii) extend, for the first time, the stay of an alien having such status.

“(C) The amount of each fee imposed under subparagraph (A) or (B) shall be \$1,500.

“(D) Fees imposed under subparagraphs (A) and (B)—

“(i) shall apply to principal aliens; and

“(ii) shall not apply to spouses or children who are accompanying or following to join such principal aliens.

“(E)(i) An employer may not require an alien who is the beneficiary of the visa or petition for which a fee is imposed under this paragraph to reimburse, or otherwise compensate, the employer for part or all of the cost of such fee.

“(ii) Any person or entity which is determined, after notice and opportunity for an administrative hearing, to have violated clause (i) shall be subject to the civil penalty described in section 274A(g)(2).”

(b) **CONFORMING AMENDMENT.**—Section 286(m) of the Immigration and Nationality Act (8 U.S.C. 1356(m)) is amended by inserting “, including those fees provided for in section 214(c)(15) of such Act,” after “all adjudication fees”.

(c) **EXPENDITURE LIMITATION.**—Amounts collected under section 214(c)(15) of the Immigration and Nationality Act, as added by subsection (a), may not be expended unless

specifically appropriated by an Act of Congress.

**SA 2368.** Mr. ENSIGN (for himself, Mr. DEMINT, Mr. SMITH, Mr. SUNUNU, and Mr. McCAIN) submitted an amendment intended to be proposed by him to the bill S. 1932, to provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95); as follows:

On page 94, line 7, strike “\$3,000,000,000” and insert “\$1,000,000,000”.

**SA 2369.** Mr. AKAKA submitted an amendment intended to be proposed by him to the bill S. 1932, to provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95); which was ordered to lie on the table; as follows:

After section 6036, insert the following:

**SEC. 6037. TREATMENT OF HAWAII AS A LOW-DSH STATE.**

Section 1923(f) (42 U.S.C. 1396r-4(f)) is amended—

(1) by redesignating paragraph (7) as paragraph (8); and

(2) by inserting after paragraph (6), the following:

“(7) **TREATMENT OF HAWAII AS A LOW-DSH STATE.**—The Secretary shall compute a DSH allotment of \$10,000,000 for the State of Hawaii for fiscal year 2006. For purposes of fiscal year 2007 and each fiscal year thereafter, such allotment shall be increased in the same manner as allotments for low DSH States are increased under clauses (ii) and (iii) of paragraph (5)(B).”

**SA 2370.** Mr. McCAIN (for himself, Mr. SUNUNU, and Mr. ROCKEFELLER) proposed an amendment to the bill S. 1932, to provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95); as follows:

On page 91, line 6, strike “April 7, 2009” and insert “April 7, 2008”.

**SA 2371.** Ms. SNOWE (for herself, Mr. WYDEN, Mr. McCAIN, and Ms. STABENOW) submitted an amendment intended to be proposed by her to the bill S. 1932, to provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95); which was ordered to lie on the table; as follows:

After section 6115, insert the following:

**SEC. 6116. NEGOTIATING FAIR PRICES FOR MEDICARE PRESCRIPTION DRUGS.**

(a) **IN GENERAL.**—Section 1860D-11 (42 U.S.C. 1395w-111) is amended by striking subsection (i) (relating to noninterference) and inserting the following:

“(i) **AUTHORITY TO NEGOTIATE PRICES WITH MANUFACTURERS.**—

“(1) **IN GENERAL.**—Subject to paragraph (4), in order to ensure that beneficiaries enrolled under prescription drug plans and MA-PD plans pay the lowest possible price, the Secretary shall have authority similar to that of other Federal entities that purchase prescription drugs in bulk to negotiate contracts with manufacturers of covered part D drugs, consistent with the requirements and in furtherance of the goals of providing quality care and containing costs under this part.

“(2) MANDATORY RESPONSIBILITIES.—The Secretary shall be required to—

“(A) negotiate contracts with manufacturers of covered part D drugs for each fallback prescription drug plan under subsection (g); and

“(B) participate in negotiation of contracts of any covered part D drug upon request of an approved prescription drug plan or MA-PD plan.

“(3) RULE OF CONSTRUCTION.—Nothing in paragraph (2) shall be construed to limit the authority of the Secretary under paragraph (1) to the mandatory responsibilities under paragraph (2).

“(4) NO PARTICULAR FORMULARY OR PRICE STRUCTURE.—In order to promote competition under this part and in carrying out this part, the Secretary may not require a particular formulary or institute a price structure for the reimbursement of covered part D drugs.”

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the enactment of section 101 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108-173).

**SA 2372.** Mrs. MURRAY (for herself, Mr. ROCKEFELLER, Mr. BINGAMAN, Mr. KENNEDY, Mrs. CLINTON, Mr. LAUTENBERG, and Mr. KOHL) proposed an amendment to the bill S. 1932, to provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95); as follows:

On page 188, after line 24, add the following:

**SEC. 6037. CONTINUING STATE COVERAGE OF MEDICAID PRESCRIPTION DRUG COVERAGE TO MEDICARE DUAL ELIGIBLE BENEFICIARIES FOR 6 MONTHS.**

(a) **SIX-MONTH TRANSITION.**—

(1) IN GENERAL.—Only with respect to prescriptions filled during the period beginning on January 1, 2006, and ending on June 30, 2006, for, or on behalf of an individual described in paragraph (2), section 1935(d) of the Social Security Act (42 U.S.C. 1396u-5(d)) shall not apply and, notwithstanding any other provision of law, a State (as defined for purposes of title XIX of such Act) shall continue to provide (and receive Federal financial participation for) medical assistance under such title with respect to prescription drugs as if such section 1935(d) had not been enacted.

(2) INDIVIDUAL DESCRIBED.—For purposes of paragraph (1), an individual described in this paragraph is a full-benefit dual eligible individual (as defined in section 1935(c)(6) of such Act (42 U.S.C. 1396u-5(c)(6))—

(A) who, as of January 1, 2006, is not enrolled in a prescription drug plan or an MA-PD plan under part D of title XVIII of the Social Security Act; or

(B) whose access to prescription drugs that were covered under a State Medicaid plan on December 31, 2005, is restricted or unduly burdened as a result of the individual's enrollment in a prescription drug plan or an MA-PD plan under part D of title XVIII of such Act.

(b) **APPLICATION.**—

(1) MEDICARE AS PRIMARY PAYER.—Nothing in subsection (a) shall be construed as changing or affecting the primary payer status of a prescription drug plan or an MA-PD plan under part D of title XVIII of the Social Security Act with respect to prescription drugs furnished to any full-benefit dual eligible individual (as defined in section 1935(c)(6) of such Act (42 U.S.C. 1396u-5(c)(6)) during the 6-month period described in such subsection.

(2) **THIRD PARTY LIABILITY.**—Nothing in subsection (a) shall be construed as limiting the authority or responsibility of a State under section 1902(a)(25) of the Social Security Act (42 U.S.C. 1396a(a)(25)) to seek reimbursement from a prescription drug plan, an MA-PD plan, or any other third party, of the costs incurred by the State in providing prescription drug coverage described in such subsection.

**SA 2373.** Mr. REED (for himself, Ms. COLLINS, Mr. KENNEDY, Mr. KERRY, Mr. ROCKEFELLER, Mr. SCHUMER, Mr. LIEBERMAN, Ms. MIKULSKI, Mr. KOHL, and Mr. SALAZAR) submitted an amendment intended to be proposed by him to the bill S. 1932, to provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95); which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_\_. TEMPORARY WINDFALL PROFITS TAX FOR LIHEAP FUNDING.**

(a) **IN GENERAL.**—Subtitle E of the Internal Revenue Code of 1986 (relating to alcohol, tobacco, and certain other excise taxes) is amended by adding at the end thereof the following new chapter:

**CHAPTER 56—TEMPORARY WINDFALL PROFITS ON CRUDE OIL**

“Sec. 5896. Imposition of tax.

“Sec. 5897. Windfall profit; removal price; adjusted base price; qualified investment.

“Sec. 5898. Special rules and definitions.

**SEC. 5896. IMPOSITION OF TAX.**

“(a) **IN GENERAL.**—In addition to any other tax imposed under this title, there is hereby imposed on any integrated oil company (as defined in section 291(b)(4)) an excise tax equal to the amount equal to the applicable percentage of the windfall profit from all barrels of taxable crude oil removed from the property during taxable years beginning in 2005.

“(b) **APPLICABLE PERCENTAGE.**—For purposes of subsection (a), the applicable percentage shall be determined by the Secretary such that the resulting revenues in the Treasury are sufficient to meet the expenditure requirements of section \_\_\_\_\_(d) (relating to appropriations for Low-Income Home Energy Assistance program).

“(c) **FRACTIONAL PART OF BARREL.**—In the case of a fraction of a barrel, the tax imposed by subsection (a) shall be the same fraction of the amount of such tax imposed on the whole barrel.

“(d) **TAX PAID BY PRODUCER.**—The tax imposed by this section shall be paid by the producer of the taxable crude oil.

**SEC. 5897. WINDFALL PROFIT; REMOVAL PRICE; ADJUSTED BASE PRICE.**

“(a) **GENERAL RULE.**—For purposes of this chapter, the term ‘windfall profit’ means the excess of the removal price of the barrel of taxable crude oil over the adjusted base price of such barrel.

“(b) **REMOVAL PRICE.**—For purposes of this chapter—

“(1) **IN GENERAL.**—Except as otherwise provided in this subsection, the term ‘removal price’ means the amount for which the barrel of taxable crude oil is sold.

“(2) **SALES BETWEEN RELATED PERSONS.**—In the case of a sale between related persons, the removal price shall not be less than the constructive sales price for purposes of determining gross income from the property under section 613.

“(3) **OIL REMOVED FROM PROPERTY BEFORE SALE.**—If crude oil is removed from the prop-

erty before it is sold, the removal price shall be the constructive sales price for purposes of determining gross income from the property under section 613.

“(4) **REFINING BEGUN ON PROPERTY.**—If the manufacture or conversion of crude oil into refined products begins before such oil is removed from the property—

“(A) such oil shall be treated as removed on the day such manufacture or conversion begins, and

“(B) the removal price shall be the constructive sales price for purposes of determining gross income from the property under section 613.

“(5) **PROPERTY.**—The term ‘property’ has the meaning given such term by section 614.

“(c) **ADJUSTED BASE PRICE DEFINED.**—For purposes of this chapter, the term ‘adjusted base price’ means \$40 for each barrel of taxable crude oil.

**SEC. 5898. SPECIAL RULES AND DEFINITIONS.**

“(a) **WITHHOLDING AND DEPOSIT OF TAX.**—The Secretary shall provide such rules as are necessary for the withholding and deposit of the tax imposed under section 5896 on any taxable crude oil.

“(b) **RECORDS AND INFORMATION.**—Each taxpayer liable for tax under section 5896 shall keep such records, make such returns, and furnish such information (to the Secretary and to other persons having an interest in the taxable crude oil) with respect to such oil as the Secretary may by regulations prescribe.

“(c) **RETURN OF WINDFALL PROFIT TAX.**—The Secretary shall provide for the filing and the time of such filing of the return of the tax imposed under section 5896.

“(d) **DEFINITIONS.**—For purposes of this chapter—

“(1) **PRODUCER.**—The term ‘producer’ means the holder of the economic interest with respect to the crude oil.

“(2) **CRUDE OIL.**—

“(A) **IN GENERAL.**—The term ‘crude oil’ includes crude oil condensates and natural gasoline.

“(B) **EXCLUSION OF NEWLY DISCOVERED OIL.**—Such term shall not include any oil produced from a well drilled after the date of the enactment of the chapter, except with respect to any oil produced from a well drilled after such date on any proven oil or gas property (within the meaning of section 613A(c)(9)(A)).

“(3) **BARREL.**—The term ‘barrel’ means 42 United States gallons.

“(e) **ADJUSTMENT OF REMOVAL PRICE.**—In determining the removal price of oil from a property in the case of any transaction, the Secretary may adjust the removal price to reflect clearly the fair market value of oil removed.

“(f) **REGULATIONS.**—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this chapter.”

(b) **CLERICAL AMENDMENT.**—The table of chapters for subtitle E of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

“CHAPTER 56. Temporary Windfall Profit on Crude Oil.”

(c) **DEDUCTIBILITY OF WINDFALL PROFIT TAX.**—The first sentence of section 164(a) of the Internal Revenue Code of 1986 (relating to deduction for taxes) is amended by inserting after paragraph (5) the following new paragraph:

“(6) The windfall profit tax imposed by section 5896.”

(d) **LOW INCOME HOME ENERGY ASSISTANCE PROGRAM APPROPRIATIONS.**—With respect to fiscal year 2006, in addition to amounts appropriated under any other provision of law, for making payments under title

XXVI of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 8621 et seq.), \$2,920,000,000, shall be appropriated to distribute funds to all the States in accordance with section 2604 of that Act (42 U.S.C. 8623) (other than subsection (e) of such section).

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning in 2005.

(2) SUBSECTION (d).—Subsection (d) shall take effect on the date of the enactment of this Act.

**SA 2374.** Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill S. 1932, to provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95); which was ordered to lie on the table; as follows:

Beginning on page 105, strike line 23 and all that follows through page 106, line 2, and insert the following:

“(IV) Chargebacks, rebates provided to a pharmacy (excluding a mail order pharmacy, a pharmacy at a nursing facility or home, and a pharmacy benefit manager), or any other direct or indirect discounts.

**SA 2375.** Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill S. 1932, to provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95); which was ordered to lie on the table; as follows:

After section 6115, insert the following:

**SEC. 6116. EXTENSION OF IMPLEMENTATION SCHEDULE FOR MEDICARE CONTRACTING REFORM.**

Notwithstanding any other provision of law, the Secretary of Health and Human Services shall extend the schedule for the implementation of the amendments made by section 911 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108-173; 117 Stat. 2378) until September 30, 2011.

**SA 2376.** Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill S. 1932, to provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95); which was ordered to lie on the table; as follows:

Beginning on page 123, strike line 1 and all that follows through page 124, line 3, and insert the following:

(A) January 1, 2009; or

(B) the date that is 6 months after the close of the first regular session of the State legislature that begins after the date of enactment of this Act.

(c) INTERIM UPPER PAYMENT LIMIT.—

(1) IN GENERAL.—With respect to a State program under title XIX of the Social Security Act, during the period that begins on January 1, 2006, and ends on the effective date applicable to such State under subsection (b)(3), the Secretary shall—

(A) apply the Federal upper payment limit established under section 447.332(b) of title 42, Code of Federal Regulations to the State by substituting “125 percent” for “150 percent”;

(B) in the case of covered outpatient drugs under title XIX of such Act that are marketed as of July 1, 2005, and are subject

to Federal upper payment limits that apply under section 447.332 of title 42, Code of Federal Regulations, use average wholesale prices, direct prices, and wholesale acquisition costs for such drugs that do not exceed such prices and costs as of such date to determine the Federal upper payment limits that apply under section 447.332 of title 42, Code of Federal Regulations to such drugs during such period; and

(C) analyze and report to Congress not later than July 1, 2008, on the impact of applying the pharmacy reimbursement limits for multiple source drugs under section 1927(e) of the Social Security Act (as amended by subsection (b) and taking into account the amendments made by subsection (a)), particularly with respect to whether such limits are consistent with acquisition costs for rural and urban pharmacies.

**SA 2377.** Mr. COLEMAN (for himself, Mr. KENNEDY, Mr. BAYH, and Mrs. CLINTON) submitted an amendment intended to be proposed by him to the bill S. 1932, to provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95); which was ordered to lie on the table; as follows:

On page 298, after line 25, insert the following:

“(5) REQUIREMENTS FOR MEASURES OF EFFICIENCY.—

“(A) IN GENERAL.—Any measure of efficiency selected by the Secretary under paragraph (3)(A) shall, to the extent feasible, reflect cost reductions resulting from—

“(i) improvements in quality of care, including the appropriate use of preventive and screening services and reductions in medical errors;

“(ii) changes in clinical processes that eliminate practices that are clearly not beneficial, as determined by a consensus of peer-reviewed medical literature or by the relevant medical specialty societies; or

“(iii) improvements in administrative processes, such as reductions in unnecessarily duplicative tests, reductions in the unnecessary use of hospital emergency departments, or the use of health information technology.

“(B) LIMITATIONS ON TYPES OF MEASURES SELECTED.—No measure of efficiency may be selected by the Secretary under paragraph (3)(A) that—

“(i) is based on cost comparisons between providers that do not identify clear, scientifically justified paths to reducing costs without compromising quality of care;

“(ii) is based on governmental judgments about the value of life, reduction in pain, or improvement of function;

“(iii) requires physicians to limit the choice by patients and physicians of advanced medical technologies based on individual needs; or

“(iv) would limit the adoption of new medical technologies.

“(C) SCIENTIFICALLY JUSTIFIED.—For purposes of subparagraph (B)(i), the term ‘scientifically justified’ means supported by—

“(i) the consensus recommendation of the relevant specialty or subspecialty society; or

“(ii) a consensus of the peer-reviewed literature.

“(D) APPLICATION TO ADDITIONAL MEASURES.—The provisions of subparagraphs (B), (C), and (D) shall apply to measures described in section 1860E-1(b)(1)(B)(iv).

**SA 2378.** Mr. SPECTER (for himself and Mr. LEAHY) submitted an amend-

ment intended to be proposed by him to the bill S. 1932, to provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95); which was ordered to lie on the table; as follows:

At the end of title VIII, insert the following:

**SEC. \_\_\_\_ JUSTICE PROGRAMS.**

(a) IN GENERAL.—The Secretary of the Treasury

(1) for fiscal year 2006, out of the funds in the Treasury not otherwise appropriated, shall pay to the Attorney General, by December 31, 2005, the amounts listed in subsection (b) that are to be provided for fiscal year 2006; and

(2) for each subsequent fiscal year provided in subsection (b) out of funds in the Treasury not otherwise appropriated shall pay to the Attorney General the amounts provided by November 1 of each such fiscal year.

(b) AMOUNTS PROVIDED.—The amounts referred to in subsection (a), which shall be in addition to funds appropriated for each fiscal year, are—

(1) \$8,000,000 for fiscal year 2006, \$17,000,000 for fiscal year 2007, \$15,000,000 for fiscal year 2008, \$10,000,000 for fiscal year 2009, and \$10,000,000 for fiscal year 2010, to fund the Bulletproof Vest Partnership Program as authorized under section 4 of Public Law 108-372.

(2) \$3,700,000 for fiscal year 2006, \$6,300,000 for fiscal year 2007, \$5,000,000 for fiscal year 2008, \$5,000,000 for fiscal year 2009, and \$5,000,000 for fiscal year 2010, to fund DNA Training and Education for Law Enforcement, Correctional Personnel, and Court Officers as authorized by section 303 of Public Law 108-405.

(3) \$8,000,000 for fiscal year 2006, \$12,000,000 for fiscal year 2007, \$10,000,000 for fiscal year 2008, \$10,000,000 for fiscal year 2009, and \$10,000,000 for fiscal year 2010, to fund DNA Research and Development as authorized by section 305 of Public Law 108-405.

(4) \$500,000 for fiscal year 2006, \$500,000 for fiscal year 2007, \$500,000 for fiscal year 2008, \$500,000 for fiscal year 2009, and \$500,000 for fiscal year 2010, to fund the National Forensic Science Commission as authorized by section 306 of Public Law 108-405.

(5) \$1,000,000 for fiscal year 2006, \$1,000,000 for fiscal year 2007, \$1,000,000 for fiscal year 2008, \$1,000,000 for fiscal year 2009, and \$1,000,000 for fiscal year 2010, to fund DNA Identification of Missing Persons as authorized by section 308 of Public Law 108-405.

(6) \$8,000,000 for fiscal year 2006, \$27,000,000 for fiscal year 2007, \$26,000,000 for fiscal year 2008, \$25,000,000 for fiscal year 2009, and \$25,000,000 for fiscal year 2010, to fund Capital Litigation Improvement Grants as authorized by sections 421, 422, and 426 of Public Law 108-405.

(7) \$2,500,000 for fiscal year 2006, \$3,000,000 for fiscal year 2007, \$2,500,000 for fiscal year 2008, \$2,500,000 for fiscal year 2009, and \$2,500,000 for fiscal year 2010, to fund the Kirk Bloodsworth Post-Conviction DNA Testing Grant Program as authorized by sections 412 and 413 of Public Law 108-405.

(8) \$1,000,000 for fiscal year 2006, \$1,000,000 for fiscal year 2007, \$1,000,000 for fiscal year 2008, \$1,000,000 for fiscal year 2009, and \$1,000,000 for fiscal year 2010, to fund Increased Resources for Enforcement of Crime Victims Rights, Crime Victims Notification Grants as authorized by section 1404D of the Victims of Crime Act of 1984 (42 D.S.C. 10603 d).

(c) OBLIGATION OF FUNDS.—THE ATTORNEY GENERAL SHALL—

(1) receive funds under this section for fiscal years 2006 through 2010; and

(2) accept such funds in the amounts provided which shall be obligated for the purposes stated in this section by March 1 of each fiscal year.

**SEC. —. COPYRIGHT PROGRAM.**

(a) IN GENERAL.—The Secretary of the Treasury—

(1) for fiscal year 2006, out of the funds in the Treasury not otherwise appropriated, shall pay to the Librarian of the Congress, by December 31, 2005, the amounts listed in subsection (b) that are to be provided for fiscal year 2006; and

(2) for each subsequent fiscal year provided in subsection (b) out of funds in the Treasury not otherwise appropriated shall pay to the Librarian of the Congress the amounts provided by November 1 of each such fiscal year.

(b) AMOUNTS PROVIDED.—The amounts referred to in subsection (a), which shall be in addition to funds appropriated for each fiscal year, are: \$1,300,000 for fiscal year 2006, \$1,300,000 for fiscal year 2007, \$1,300,000 for fiscal year 2008, \$1,300,000 for fiscal year 2009, and \$1,300,000 for fiscal year 2010, to fund the Copyright Royalty Judges Program as authorized under section 803(e)(1)(B) of title 17, United States Code.

(c) OBLIGATION OF FUNDS.—The Librarian of the Congress shall—

(1) receive funds under this section for fiscal years 2006 through 2010; and

(2) accept such funds in the amounts provided which shall be obligated for the purposes stated in this section by March 1 of each fiscal year.

**SA 2379.** Mrs. FEINSTEIN (for herself, Mrs. HUTCHISON, Mrs. BOXER, Mrs. MURRAY, Mr. LAUTENBERG, Mr. SCHUMER, Mr. CORZINE, and Ms. CANTWELL) submitted an amendment intended to be proposed by her to the bill S. 1932, to provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95); which was ordered to lie on the table; as follows:

On page 188, after line 24, add the following:

**SEC. 6037. AUTHORITY TO CONTINUE PROVIDING CERTAIN ADULT DAY HEALTH CARE SERVICES OR MEDICAL ADULT DAY CARE SERVICES.**

Notwithstanding any other provision of law, the Secretary shall not—

(1) withhold, suspend, disallow, or otherwise deny Federal financial participation under section 1903(a) of the Social Security Act (42 U.S.C. 1396b(a)) for adult day health care services or medical adult day care services, as defined under a State medicaid plan approved on or before 1982, if such services are provided consistent with such definition and the requirements of such plan; or

(2) withdraw Federal approval of any such State plan or part thereof regarding the provision of such services.

**SA 2380.** Mr. LIEBERMAN submitted an amendment intended to be proposed by him to the bill S. 1932, to provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95); which was ordered to lie on the table; as follows:

On page 368, between line 5 and 6, insert the following:

**SEC. 6116. QUALITY MEASUREMENT SYSTEMS AMENDMENTS.**

Section 1860E-1, as added by section 6110(a)(2), is amended—

(1) in subsection (b)(1)—

(A) in subparagraph (B)—

(i) in clause (vi), by striking “and” at the end;

(ii) in clause (vii), by striking the period at the end and inserting “; and”; and

(iii) by adding at the end the following new clause:

“(viii) measures that address conditions where there is the greatest disparity of health care provided and health outcomes between majority and minority groups.”; and

(B) in subparagraph (E)—

(i) in clause (v), by striking “and” at the end;

(ii) by redesignating clause (vi) as clause (vii); and

(iii) by inserting after clause (v) the following new clause:

“(vi) allows quality measures that are reported to be stratified according to patient group characteristics, such as gender, language spoken, insurance status, and race and ethnicity, using, at a minimum, the categories of race and ethnicity described in the 1997 Office of Management and Budget Standards for Maintaining, Collecting, and Presenting Federal Data on Race and Ethnicity; and”;

(2) in subsection (c)(4)—

(A) in subparagraph (B), by striking “and” at the end;

(B) in subparagraph (C), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following new subparagraph:

“(D) The report commissioned by Congress from the Institute of Medicine of the National Academy of Sciences, titled ‘Unequal Treatment: Confronting Racial and Ethnic Disparities in Health Care.’”; and

(3) in subsection (d)(2), by inserting “experts in minority health,” after “government agencies.”

**SA 2381.** Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill S. 1932, to provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95); which was ordered to lie on the table; as follows:

On page 368, between line 5 and 6, insert the following:

**SEC. 6116. CERTIFICATION PRIOR TO BENEFICIARY ENROLLMENT IN A PRESCRIPTION DRUG PLAN OR AN MA-PD PLAN THAT HAS A GAP IN THE COVERAGE OF PRESCRIPTION DRUGS UNDER PART D.**

(a) IN GENERAL.—The Secretary shall take appropriate measures to ensure that the process for enrollment established under section 1860D-1(b)(1) of the Social Security Act (42 U.S.C. 1395w-101) includes, in the case of a prescription drug plan or an MA-PD plan that contains an initial coverage limit (as described in section 1860D-2(b)(3) of such Act), a requirement that, prior to enrolling an individual in the plan, the plan must obtain a certification signed by the enrollee or the legal guardian of the enrollee that meets the requirements described in subsection (b) and includes the following text: “I understand that the Medicare Prescription Drug Plan or MA-PD Plan that I am signing up for may result in a gap in coverage during a given year. I understand that if subject to this gap in coverage, I will be responsible for paying 100 percent of the cost of my prescription drugs and will continue to be responsible for paying the plan’s monthly premium while subject to this gap in coverage. For specific information on the potential coverage gap under this plan, I understand that I should contact (insert name of the sponsor of the prescription drug plan or the sponsor

of the MA-PD plan) at (insert toll free phone number for such sponsor of such plan).”

(b) CERTIFICATION REQUIREMENTS DESCRIBED.—The certification required under subsection (a) shall meet the following requirements:

(1) The certification shall be printed in a typeface of not less than 18 points.

(2) The certification shall be printed on a single piece of paper separate from any matter not related to the certification.

(3) The certification shall have a heading printed at the top of the page in all capital letters and bold face type that states the following: “WARNING: POTENTIAL MEDICARE PRESCRIPTION DRUG COVERAGE GAP”.

**SA 2382.** Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill S. 1932, to provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95); which was ordered to lie on the table; as follows:

Beginning on page 123, strike line 1 and all that follows through page 124, line 10, and insert the following:

(A) January 1, 2009; or

(B) the date that is 6 months after the close of the first regular session of the State legislature that begins after the date of enactment of this Act.

**(c) INTERIM UPPER PAYMENT LIMIT.—**

(1) IN GENERAL.—With respect to a State program under title XIX of the Social Security Act, during the period that begins on January 1, 2006, and ends on the effective date applicable to such State under subsection (b)(3), the Secretary shall—

(A) apply the Federal upper payment limit established under section 447.332(b) of title 42, Code of Federal Regulations to the State by substituting “125 percent” for “150 percent”;

(B) in the case of covered outpatient drugs under title XIX of such Act that are marketed as of July 1, 2005, and are subject to Federal upper payment limits that apply under section 447.332 of title 42, Code of Federal Regulations, use average wholesale prices, direct prices, and wholesale acquisition costs for such drugs that do not exceed such prices and costs as of such date to determine the Federal upper payment limits that apply under section 447.332 of title 42, Code of Federal Regulations to such drugs during such period; and

(C) analyze and report to Congress not later than July 1, 2008, on the impact of applying the pharmacy reimbursement limits for multiple source drugs under section 1927(e) of the Social Security Act (as amended by subsection (b) and taking into account the amendments made by subsection (a)), particularly with respect to whether such limits are consistent with acquisition costs for rural and urban pharmacies.

(2) APPLICATION TO NEW DRUGS.—Paragraph (1)(A) shall apply to a covered outpatient drug under title XIX of the Social Security Act that is first marketed after July 1, 2005, but before January 1, 2007, and is subject to the Federal upper payment limit established under section 447.332(b) of title 42, Code of Federal Regulations.

(d) EXTENSION OF PRESCRIPTION DRUG DISCOUNTS TO ENROLLEES OF MEDICAID MANAGED CARE ORGANIZATIONS.—

(1) IN GENERAL.—Section 1903(m)(2)(A) (42 U.S.C. 1396b(m)(2)(A)) is amended—

(A) in clause (xi), by striking “and” at the end;

(B) in clause (xii), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following:

“(xiii) such contract provides that payment for covered outpatient drugs dispensed to individuals eligible for medical assistance who are enrolled with the entity shall be subject to the same rebate agreement entered into under section 1927 as the State is subject to and that the State shall have the option of collecting rebates for the dispensing of such drugs by the entity directly from manufacturers or allowing the entity to collect such rebates from manufacturers in exchange for a reduction in the prepaid payments made to the entity for the enrollment of such individuals.”.

(2) CONFORMING AMENDMENT.—Section 1927(j)(1) (42 U.S.C. 1396r–8(j)(91)) is amended by inserting “other than for purposes of collection of rebates for the dispensing of such drugs in accordance with the provisions of a contract under section 1903(m) that meets the requirements of paragraph (2)(A)(xiii) of that section” before the period.

(3) EFFECTIVE DATE.—The amendments made by this subsection take effect on the date of enactment of this Act and apply to rebate agreements entered into or renewed under section 1927 of the Social Security Act (42 U.S.C. 1396r–8) on or after such date.

**SA 2383.** Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill S. 1932, to provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95); which was ordered to lie on the table; as follows:

On page 110, after line 24, add the following:

(4) EXCLUSION OF DISCOUNTS PROVIDED TO MAIL ORDER AND NURSING FACILITY PHARMACIES FROM THE DETERMINATION OF AVERAGE MANUFACTURER PRICE.—

(A) IN GENERAL.—Section 1927(k)(1)(B)(ii)(IV) (42 U.S.C. 1396r–8(k)(1)(B)(ii)(IV)), as added by paragraph (1)(C), is amended to read as follows:

“(IV) Chargebacks, rebates provided to a pharmacy (excluding a mail order pharmacy, a pharmacy at a nursing facility or home, and a pharmacy benefit manager), or any other direct or indirect discounts.”.

(B) EFFECTIVE DATE.—Paragraph (3) shall apply to the amendment made by subparagraph (A).

(5) EXTENSION OF PRESCRIPTION DRUG DISCOUNTS TO ENROLLEES OF MEDICAID MANAGED CARE ORGANIZATIONS.—

(A) IN GENERAL.—Section 1903(m)(2)(A) (42 U.S.C. 1396b(m)(2)(A)) is amended—

(i) in clause (xi), by striking “and” at the end;

(ii) in clause (xii), by striking the period at the end and inserting “; and”; and

(iii) by adding at the end the following:

“(xiii) such contract provides that payment for covered outpatient drugs dispensed to individuals eligible for medical assistance who are enrolled with the entity shall be subject to the same rebate agreement entered into under section 1927 as the State is subject to and that the State shall have the option of collecting rebates for the dispensing of such drugs by the entity directly from manufacturers or allowing the entity to collect such rebates from manufacturers in exchange for a reduction in the prepaid payments made to the entity for the enrollment of such individuals.”.

(B) CONFORMING AMENDMENT.—Section 1927(j)(1) (42 U.S.C. 1396r–8(j)(91)) is amended by inserting “other than for purposes of collection of rebates for the dispensing of such drugs in accordance with the provisions of a contract under section 1903(m) that meets the requirements of paragraph (2)(A)(xiii) of that section” before the period.

(C) EFFECTIVE DATE.—The amendments made by this paragraph take effect on the date of enactment of this Act and apply to rebate agreements entered into or renewed under section 1927 of the Social Security Act (42 U.S.C. 1396r–8) on or after such date.

**SA 2384.** Mr. HARKIN submitted an amendment intended to be proposed by him to the bill S. 1932, to provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95); which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. 6116. ASSISTANCE TO COMBAT INFLUENZA AND NEWLY EMERGING PANDEMICS.**

(a) IN GENERAL.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated \$7,975,000,000 to enable the Secretary of Health and Human Services to carry out the pandemic influenza preparedness activities described in subsection (b).

(b) ACTIVITIES.—From amounts appropriated under subsection (a), the Secretary of Health and Human Services shall carry out the following activities:

(1) To stockpile antivirals and necessary medical supplies relating to pandemic influenza and public health infrastructure.

(2) To award grants to State and local public health agencies for emergency preparedness activities.

(3) To provide for risk communication and outreach to the public concerning pandemic influenza.

(4) To conduct research and improve the laboratory capacity of the Centers for Disease Control and Prevention relating to pandemic influenza.

(5) To conduct surveillance activities of migratory birds relating to the occurrence of influenza.

(6) To stockpile influenza vaccines.

(7) To create expanded domestic capacity for influenza vaccine manufacturing and vaccine-related research.

(8) To improve global surveillance related to a pandemic influenza.

(9) To improve hospital preparedness and surge capacity.

(10) To improve health information technology systems and networks to improve the detection of influenza outbreaks.

**SA 2385.** Mr. SUNUNU submitted an amendment intended to be proposed by him to the bill S. 1932, to provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95); which was ordered to lie on the table; as follows:

On page 95, line 12, strike “2010” and insert “2009”.

On page 95, line 12, after the period insert “Any amount in the Fund that is not to be transferred under subsection (d) and that has not been obligated under subsection (c) or section 3006 by such date shall be transferred to the general fund of the Treasury.”.

**SA 2386.** Mr. SUNUNU (for himself and Mr. ALLEN) submitted an amendment intended to be proposed by him to the bill S. 1932, to provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95); which was ordered to lie on the table; as follows:

On page 95, line 12, after the period insert “The Secretary may not obligate any amounts from the Fund until the proceeds of the auction authorized by section 309(j)(15)(C)(v) are actually deposited by the Commission pursuant to subsection (b).”.

**SA 2387.** Mr. SUNUNU submitted an amendment intended to be proposed by him to the bill S. 1932, to provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95); which was ordered to lie on the table; as follows:

On page 368, between line 5 and 6, insert the following:

**SEC. 6116. ELECTRONIC PRESCRIPTION INCENTIVES.**

Section 1860D–42 (42 U.S.C. 1395w–152) is amended by adding at the end the following new subsection:

(d) ELECTRONIC PRESCRIPTION INCENTIVES.—

(1) PHYSICIAN PAYMENTS.—For each electronic prescription written by a physician during the period beginning on January 1, 2006, and ending on December 31, 2009, the PDP sponsor of a prescription drug plan shall make a payment of an amount equal to—

“(A) \$1.00, minus

“(B) an amount equal to the percentage of total claims that consist of electronic claims, as determined under subparagraphs (A) and (B) of paragraph (3) (expressed in cents).

(2) DISPENSING FEE OFFSET REDUCTION.—For each non-electronic prescription written by a physician during the period described in paragraph (1), the PDP sponsor of a prescription drug plan shall reduce the dispensing fee established in accordance with section 1860D–4(c)(2)(E) by an amount equal to—

“(A) \$1.00, minus

“(B) an amount equal to the percentage of total claims that consist of non-electronic claims, as determined under subparagraphs (A) and (B) of paragraph (3) (expressed in cents).

(3) DATA USED.—

(A) INITIAL ESTIMATE.—Subject to the update required under subparagraph (B), in determining the percentage of total claims that consist of electronic claims and the percentage of total claims that consist of non-electronic claims, the Secretary shall use an estimate of the number of electronic claims and non-electronic claims that will be submitted as of January 1, 2006.

(B) UPDATE.—For each 6 month period beginning after January 1, 2006, the Secretary shall update the estimate of the number of electronic claims and non-electronic claims used to determine the percentage of total claims that consist of electronic claims and the percentage of total claims that consist of non-electronic claims.

To the extent feasible, the Secretary shall use the most recent data available, including real-time data on drug claims submitted under this part, to determine the percentage of total claims that consist of electronic claims and the percentage of total claims that consist of non-electronic claims.

(4) REGULATIONS.—The Secretary shall establish regulations and procedures for carrying out this subsection.

**SA 2388.** Mr. SUNUNU (for himself, Mr. ALLEN, and Mr. DEMINT) submitted an amendment intended to be proposed by him to the bill S. 1932, to provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 2006 (H. Con.

Res. 95); which was ordered to lie on the table; as follows:

On page 94, line 4, strike "shall" and insert "may".

On page 94, line 7, after "(1)" insert "not to exceed".

On page 94, line 13, after "(2)" insert "not to exceed".

On page 94, line 19, after "(3)" insert "not to exceed".

On page 95, line 1, after "(4)" insert "not to exceed".

On page 95, line 4, after "(5)" insert "not to exceed".

On page 95, beginning in line 10, strike "The amounts payable" and insert "Any amounts that are to be paid".

On page 95, line 12, after the period insert "Any amount in the Fund that is not obligated under subsection (c) by that date shall be transferred to the general fund of the Treasury".

**SA 2389.** Mr. WARNER (for himself, Mr. LIEBERMAN, Mr. ROBERTS, Mr. DURBIN, and Mr. ALLEN) submitted an amendment intended to be proposed by him to the bill S. 1932, to provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95); which was ordered to lie on the table; as follows:

On page 369, between lines 15 and 16, insert the following:

"(3) INCREASED PROGAP AWARD FOR SCIENCE, MATHEMATICS, ENGINEERING, AND FOREIGN LANGUAGES STUDENTS.—

"(A) INCREASED PROGAP AWARD.—Notwithstanding paragraph (1)(A), the Secretary shall increase the maximum and minimum award level for students who are eligible for a grant under this section and who, subject to subparagraph (C), are pursuing a degree with a major in, or a certificate or program of study relating to, engineering, mathematics, science (such as physics, chemistry, or computer science), or a foreign language, described in a list developed or updated under subparagraph (B).

"(B) LISTS OF QUALIFYING DEGREES, MAJORS, CERTIFICATES, OR PROGRAMS.—

"(I) ENGINEERING, MATHEMATICS, OR SCIENCE.—The Secretary, in consultation with the Secretary of Defense, the Secretary of the Department of Homeland Security, and the Director of the National Science Foundation, shall develop, update not less often than once every 2 years, and publish in the Federal Register, a list of engineering, mathematics, and science degrees, majors, certificates, or programs that if pursued by a student, enables the student to receive an increased ProGAP award under subparagraph (A). In developing and updating the list, the Secretaries and Director shall consider the following:

"(I) The current engineering, mathematics, and science needs of the United States with respect to national security, homeland security, and economic security.

"(II) Whether institutions of higher education in the United States are currently producing enough graduates with degrees to meet the national security, homeland security, and economic security needs of the United States.

"(III) The future expected workforce needs of the United States required to help ensure the Nation's national security, homeland security, and economic security.

"(IV) Whether institutions of higher education in the United States are expected to produce enough graduates with degrees to meet the future national security, homeland security, and economic security needs of the United States.

"(ii) FOREIGN LANGUAGES.—The Secretary, in consultation with the Secretary of Defense, the Secretary of the Department of Homeland Security, and the Secretary of State, shall develop, update not less often than once every 2 years, and publish in the Federal Register, a list of foreign language degrees, majors, certificates, or programs that if pursued by a student, enables the student to receive an increased ProGAP award under subparagraph (A). In developing and updating the list the Secretaries shall consider the following:

"(I) The foreign language needs of the United States with respect to national security, homeland security, and economic security.

"(II) Whether institutions of higher education in the United States are currently producing enough graduates with degrees to meet the national security, homeland security, and economic security needs of the United States.

"(III) The future expected workforce needs of the United States required to help ensure the Nation's national security, homeland security, and economic security.

"(IV) Whether institutions of higher education in the United States are expected to produce enough graduates with degrees to meet the future national security, homeland security, and economic security needs of the United States.

"(C) CONTINUATION OF ELIGIBILITY.—In the case of a student who receives an increased ProGAP award under subparagraph (A) for an academic year and whose degree, major, certificate, or program is subsequently removed from a list described in subparagraph (B), such student shall continue to be eligible for the increased ProGAP award in the subsequent academic years required for completion of such degree, major, certificate, or program.

**SA 2390.** Mr. SMITH (for himself and Mrs. CLINTON) submitted an amendment intended to be proposed by him to the bill S. 1932, to provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95); which was ordered to lie on the table; as follows:

On page 188, after line 24, add the following:

**SEC. 6037. DEMONSTRATION PROJECT REGARDING MEDICAID COVERAGE OF LOW-INCOME HIV-INFECTED INDIVIDUALS.**

(a) REQUIREMENT TO CONDUCT DEMONSTRATION PROJECT.—

(1) IN GENERAL.—The Secretary shall establish a demonstration project under which a State may apply under section 1115 of the Social Security Act (42 U.S.C. 1315) to provide medical assistance under a State medicaid program to HIV-infected individuals described in subsection (b) in accordance with the provisions of this section.

(2) LIMITATION ON NUMBER OF APPROVED APPLICATIONS.—The Secretary shall only approve as many State applications to provide medical assistance in accordance with this section as will not exceed the limitation on aggregate payments under subsection (d)(2)(A).

(3) AUTHORITY TO WAIVE RESTRICTIONS ON PAYMENTS TO TERRITORIES.—The Secretary shall waive the limitations on payment under subsections (f) and (g) of section 1108 of the Social Security Act (42 U.S.C. 1308) in the case of a State that is subject to such limitations and submits an approved application to provide medical assistance in accordance with this section.

(b) HIV-INFECTED INDIVIDUALS DESCRIBED.—For purposes of subsection (a), HIV-infected individuals described in this subsection are individuals who are not described in section 1902(a)(10)(A)(i) of the Social Security Act (42 U.S.C. 1396a(a)(10)(A)(i))—

(1) who have HIV infection;

(2) whose income (as determined under the State Medicaid plan with respect to disabled individuals) does not exceed 200 percent of the poverty line (as defined in section 2110(c)(5) of the Social Security Act (42 U.S.C. 1397jj(c)(5)); and

(3) whose resources (as determined under the State Medicaid plan with respect to disabled individuals) do not exceed the maximum amount of resources a disabled individual described in section 1902(a)(10)(A)(i) of such Act may have and obtain medical assistance under such plan.

(c) LENGTH OF PERIOD FOR PROVISION OF MEDICAL ASSISTANCE.—A State shall not be approved to provide medical assistance to an HIV-infected individual in accordance with the demonstration project established under this section for a period of more than 5 consecutive years.

(d) LIMITATIONS ON FEDERAL FUNDING.—

(1) APPROPRIATION.—

(A) IN GENERAL.—Out of any funds in the Treasury not otherwise appropriated, there is appropriated to carry out this section, \$450,000,000 for the period of fiscal years 2006 through 2010.

(B) BUDGET AUTHORITY.—Subparagraph (A) constitutes budget authority in advance of appropriations Act and represents the obligation of the Federal Government to provide for the payment of the amounts appropriated under that subparagraph.

(2) LIMITATION ON PAYMENTS.—In no case may—

(A) the aggregate amount of payments made by the Secretary to eligible States under this section exceed \$450,000,000; or

(B) payments be provided by the Secretary under this section after September 30, 2010.

(3) FUNDS ALLOCATED TO STATES.—The Secretary shall allocate funds to States with approved applications under this section based on their applications and the availability of funds.

(4) PAYMENTS TO STATES.—The Secretary shall pay to each State, from its allocation under paragraph (3), an amount each quarter equal to the enhanced Federal medical assistance percentage described in section 2105(b) of the Social Security Act (42 U.S.C. 1397ee(b)) of expenditures in the quarter for medical assistance provided to HIV-infected individuals who are eligible for such assistance under a State Medicaid program in accordance with the demonstration project established under this section.

(e) EVALUATION AND REPORT.—

(1) EVALUATION.—The Secretary shall conduct an evaluation of the demonstration project established under this section. Such evaluation shall include an analysis of the cost-effectiveness of the project and the impact of the project on the Medicare, Medicaid, and Supplemental Security Income programs established under titles XVIII, XIX, and XVI, respectively, of the Social Security Act (42 U.S.C. 1395 et seq., 1396 et seq., 1381 et seq.).

(2) REPORT TO CONGRESS.—Not later than December 31, 2010, the Secretary shall submit a report to Congress on the results of the evaluation of the demonstration project established under this section.

(f) EFFECTIVE DATE.—This section shall take effect on January 1, 2006.

**SEC. 6038. ADDITIONAL INCREASE IN REBATE FOR SINGLE SOURCE AND INNOVATOR MULTIPLE SOURCE DRUGS.**

Section 1927(c)(1)(B)(i)(VI) (42 U.S.C. 1396r-8(c)(1)(B)(i)(VI)), as added by section

6002(a)(3), is amended by striking “17” and inserting “17.8”.

**SA 2391.** Mr. HAGEL (for himself and Mr. SUNUNU) submitted an amendment intended to be proposed by him to the bill S. 1932, to provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95); which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. 1. REGISTRATION OF GSE SECURITIES.**

(a) **FANNIE MAE.**—

(1) **MORTGAGE-BACKED SECURITIES.**—Section 304(d) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1719(d)) is amended by striking the fourth sentence and inserting the following: “Securities issued by the corporation under this subsection shall not be exempt securities for purposes of the Securities Act of 1933.”

(2) **SUBORDINATE OBLIGATIONS.**—Section 304(e) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1719(e)) is amended by striking the fourth sentence and inserting the following: “Obligations issued by the corporation under this subsection shall not be exempt securities for purposes of the Securities Act of 1933.”

(3) **SECURITIES.**—Section 311 of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723c) is amended—

(A) in the section heading, by striking “ASSOCIATION”;

(B) by inserting “(a) IN GENERAL.” after “SEC. 311.”;

(C) in the second sentence, by inserting “by the Association” after “issued”; and

(D) by adding at the end the following:

“(b) **TREATMENT OF CORPORATION SECURITIES.**—

“(1) **IN GENERAL.**—Any stock, obligations, securities, participations, or other instruments issued or guaranteed by the corporation pursuant to this title shall not be exempt securities for purposes of the Securities Act of 1933.

“(2) **EXEMPTION FOR APPROVED SELLERS.**—Notwithstanding any other provision of this title or the Securities Act of 1933, transactions involving the initial disposition by an approved seller of pooled certificates that are acquired by that seller from the corporation upon the initial issuance of the pooled certificates shall be deemed to be transactions by a person other than an issuer, underwriter, or dealer for purposes of the Securities Act of 1933.

“(3) **DEFINITIONS.**—For purposes of this subsection, the following definitions shall apply:

“(A) **APPROVED SELLER.**—The term ‘approved seller’ means an institution approved by the corporation to sell mortgage loans to the corporation in exchange for pooled certificates.

“(B) **POOLED CERTIFICATES.**—The term ‘pooled certificates’ means single class mortgage-backed securities guaranteed by the corporation that have been issued by the corporation directly to the approved seller in exchange for the mortgage loans underlying such mortgage-backed securities.

“(4) **MORTGAGE RELATED SECURITIES.**—A single class mortgage-backed security guaranteed by the corporation that has been issued by the corporation directly to the approved seller in exchange for the mortgage loans underlying such mortgage-backed securities or directly by the corporation for cash shall be deemed to be a mortgage related security, as defined in section 3(a) of the Securities Exchange Act of 1934.”

(b) **FREDDIE MAC.**—Section 306(g) of the Federal Home Loan Mortgage Corporation

Act (12 U.S.C. 1455(g)) is amended to read as follows:

“(g) **TREATMENT OF SECURITIES.**—

“(1) **IN GENERAL.**—Any securities issued or guaranteed by the Corporation shall not be exempt securities for purposes of the Securities Act of 1933.

“(2) **EXEMPTION FOR APPROVED SELLERS.**—Notwithstanding any other provision of this title or the Securities Act of 1933, transactions involving the initial disposition by an approved seller of pooled certificates that are acquired by that seller from the Corporation upon the initial issuance of the pooled certificates shall be deemed to be transactions by a person other than an issuer, underwriter, or dealer for purposes of the Securities Act of 1933.

“(3) **DEFINITIONS.**—For purposes of this subsection, the following definitions shall apply:

“(A) **APPROVED SELLER.**—The term ‘approved seller’ means an institution approved by the Corporation to sell mortgage loans to the Corporation in exchange for pooled certificates.

“(B) **POOLED CERTIFICATES.**—The term ‘pooled certificates’ means single class mortgage-backed securities guaranteed by the Corporation that have been issued by the Corporation directly to the approved seller in exchange for the mortgage loans underlying such mortgage-backed securities.”.

(c) **NO EFFECT ON OTHER LAW.**—Nothing in this section or the amendments made by this section shall be construed to affect any exemption from the provisions of the Trust Indenture Act of 1939 provided to the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation.

(d) **REGULATIONS.**—The Securities and Exchange Commission may issue such regulations as may be necessary or appropriate to carry out this section and the amendments made by this section.

(e) **EFFECTIVE DATE.**—The amendments made by this section shall become effective 1 year after the date of enactment of this Act.

**SA 2392.** Mr. GREGG proposed an amendment to the bill S. 1932, to provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95); as follows:

On page 41 of the bill, strike lines 3 through 11.

**SA 2393.** Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill S. 1932, to provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95); which was ordered to lie on the table; as follows:

On page 1, lines 4 and 5, strike “Deficit Reduction Omnibus Reconciliation Act of 2005” and insert “Moral Disaster of Monumental Proportion Reconciliation Act”.

**SA 2394.** Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill S. 1932, to provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95); which was ordered to lie on the table; as follows:

On page 256, between lines 21 and 22, insert the following:

**CHAPTER 7—ADDITIONAL REFORMS**

**SEC. 6081. ENSURING FAIR TREATMENT OF MEDICAID SERVICES FURNISHED TO INDIANS.**

(a) **APPLICATION OF 100 PERCENT FMAP FOR SERVICES FURNISHED TO AN INDIAN BY AN URBAN INDIAN HEALTH PROGRAM.**

(1) **IN GENERAL.**—The third sentence of section 1905(b) (42 U.S.C. 1396d(b)) is amended by inserting before the period at the end the following: “, or through an urban Indian health program receiving funds under title V of the Indian Health Care Improvement Act”.

(2) **CONFORMING AMENDMENT.**—Section 1911(c) (42 U.S.C. 1396j(c)) is amended by inserting before the period the following: “, or through an urban Indian health program receiving funds under title V of the Indian Health Care Improvement Act”.

(b) **PROHIBITION ON IMPOSITION OF PREMIUMS, DEDUCTIBLES, COPAYMENTS, AND OTHER COST-SHARING ON INDIANS.**—Section 1916 (42 U.S.C. 1396o) is amended—

(1) in subsection (a)(3), by inserting “(other than such individuals who are Indians (as defined in section 4 of the Indian Health Care Improvement Act))” after “other such individuals”;

(2) in subsection (b), in the matter preceding paragraph (1), by inserting “or who are Indians (as defined in section 4 of the Indian Health Care Improvement Act)” after “section 1902(a)(10)”;

(3) in subsection (c)(1), by inserting “(other than such an individual who is an Indian (as defined in section 4 of the Indian Health Care Improvement Act))” after “section 1902(1)(1)”.

(c) **PROHIBITION ON RECOVERY AGAINST ESTATES OF INDIANS.**—Section 1917(b)(1) (42 U.S.C. 1396p(b)(1)) is amended, in the matter preceding subparagraph (A), by inserting “who is not an Indian (as defined in section 4 of the Indian Health Care Improvement Act)” after “an individual” the second place it appears.

(d) **REQUIREMENT FOR CONSULTATION WITH INDIAN TRIBES PRIOR TO APPROVAL OF SECTION 1115 WAIVERS.**—Section 1115 (42 U.S.C. 1315) is amended by adding at the end the following:

“(g) In the case of an application for a waiver of compliance with the requirements of section 1902 (or a renewal or extension of such a waiver) that is likely to affect members of an Indian tribe (as defined in section 4 of the Indian Health Care Improvement Act) or a tribal health program (whether operated by an Indian tribe or a tribal organization (as so defined) serving such members, the Secretary shall, prior to granting such a waiver under subsection (a) or renewing or extending such a waiver under subsection (e), consult with each such Indian tribe.”.

(e) **EFFECTIVE DATE.**—Except as provided in section 6026(e), the amendments made by this section shall apply to items or services furnished on or after October 1, 2006.

**SEC. 6082. INCREASED AFFORDABILITY OF INPATIENT DRUGS FOR MEDICAID AND SAFETY NET HOSPITALS.**

(a) **EXTENSION OF DISCOUNTS TO INPATIENT DRUGS.**—

(1) **IN GENERAL.**—Section 340B(b) of the Public Health Service Act (42 U.S.C. 256b(b)) is amended by inserting before the period the following: “, except that, notwithstanding the limiting definition set forth in section 1927(k)(3) of the Social Security Act, the terms ‘covered outpatient drug’ and ‘covered drug’ include any inpatient or outpatient drug purchased by a hospital described in subsection (a)(4)(L)”.

(2) **PAYMENT OF MEDICAID REBATES ON INPATIENT DRUGS.**—Section 340B(c) of such Act (42 U.S.C. 256b(c)) is amended to read as follows:

“(c) **PAYMENT OF MEDICAID REBATES ON INPATIENT DRUGS.**—

“(1) IN GENERAL.—For the cost reporting period covered by the most recently filed Medicare cost report, a hospital described in subsection (a)(4)(L) shall provide to each State with an approved State plan under title XIX of such Act—

“(A) a rebate on the estimated annual costs of single source and innovator multiple source drugs provided to Medicaid recipients for inpatient use; and

“(B) a rebate on the estimated annual costs of noninnovator multiple source drugs provided to Medicaid recipients for inpatient use.

“(2) CALCULATIONS OF REBATES.—

“(A) SINGLE SOURCE AND INNOVATOR MULTIPLE SOURCE DRUGS.—For purposes of paragraph (1)(A)—

“(i) the rebate under such paragraph shall be calculated by multiplying the estimated annual costs of single source and innovator multiple source drugs provided to Medicaid recipients for inpatient use by the minimum rebate percentage described in section 1927(c)(1)(B) of the Social Security Act;

“(ii) the estimated annual costs of single source drugs and innovator multiple source drugs provided to Medicaid recipients for inpatient use under clause (i) shall be equal to the product of—

“(I) the hospital's actual acquisition costs of all drugs purchased during the cost reporting period for inpatient use;

“(II) the Medicaid inpatient drug charges as reported on the hospital's most recently filed Medicare cost report divided by total inpatient drug charges reported on the cost report; and

“(III) the percent of the hospital's annual inpatient drug costs described in subclause (I) arising out of the purchase of single source and innovator multiple source drugs; and

“(iii) the terms ‘single source drug’ and ‘innovator multiple source drug’ have the meanings given such terms in section 1927(k)(7) of the Social Security Act.

“(B) NONINNOVATOR MULTIPLE SOURCE DRUGS.—For purposes of subparagraph (1)(B)—

“(i) the rebate under such paragraph shall be calculated by multiplying the estimated annual costs of noninnovator multiple source drugs provided to Medicaid recipients for inpatient use by the applicable percentage as defined in section 1927(c)(3)(B) of the Social Security Act;

“(ii) the estimated annual costs of noninnovator multiple source drugs provided to Medicaid recipients for inpatient use shall be equal to the product of—

“(I) the hospital's actual acquisition cost of all drugs purchased during the cost reporting period for inpatient use;

“(II) the Medicaid inpatient drug charges as reported on the hospital's most recently filed Medicare cost report divided by total inpatient drug charges reported on the cost report; and

“(III) the percent of the hospital's annual inpatient drug costs described in subclause (I) arising out of the purchase of noninnovator multiple source drugs; and

“(iii) the term ‘noninnovator multiple source drug’ has the meaning given such term in section 1927(k)(7) of the Social Security Act.

“(3) PAYMENT DEADLINE.—The rebates provided by a hospital under paragraph (1) shall be paid within 90 days of the filing of the hospital's most recently filed Medicare cost report.

“(4) OFFSET AGAINST MEDICAL ASSISTANCE.—Amounts received by a State under this subsection in any quarter shall be considered to be a reduction in the amount expended under the State plan in the quarter for medical as-

sistance for purposes of section 1903(a)(1) of the Social Security Act.”

(3) CLARIFICATION THAT GROUP PURCHASING PROHIBITION FOR CERTAIN HOSPITALS IS NOT APPLICABLE TO INPATIENT DRUGS.—Section 340B(a)(4)(L)(iii) of such Act (42 U.S.C. 256b(a)(4)(L)(iii)) is amended by inserting “(not including such drugs purchased for inpatient use)” after “covered outpatient drugs”.

(b) PROVIDING ACCESS TO DISCOUNTED DRUG PRICES FOR CRITICAL ACCESS HOSPITALS.—

(1) IN GENERAL.—Section 340B of the Public Health Service Act (42 U.S.C. 256b) is amended—

(A) in subsection (a)(4), by adding at the end the following:

“(M) An entity that—

“(i) is a critical access hospital (as determined under section 1820(c)(2) of the Social Security Act); and

“(ii) does not obtain covered outpatient drugs through a group purchasing organization or other group purchasing arrangement (not including such drugs purchased for inpatient use).”;

(B) in subsection (b), as amended by section 2(a), by inserting “or subsection (a)(4)(M)” after “subsection (a)(4)(L)”; and

(C) in subsection (c)(1), as added by inserting “or subsection (a)(4)(M)” after “subsection (a)(4)(L)”.

(2) EXCLUSION FROM MEDICAID BEST PRICE CALCULATIONS.—Section 1927(c)(1)(C)(i)(I) (42 U.S.C. 1396r-8(c)(1)(C)(i)(I)) is amended by inserting “and to critical access hospitals described in section 340B(a)(4)(M) of such Act” after “Public Health Service Act”.

(3) EFFECTIVE DATE.—The amendments made by this section shall apply to drugs purchased on or after January 1, 2006.

(c) ALLOWING QUALIFYING CHILDREN'S HOSPITALS TO PARTICIPATE IN THE 340B DRUG DISCOUNT PROGRAM.—

(1) IN GENERAL.—Section 340B(a)(4)(L) of the Public Health Service Act (42 U.S.C. 256b(a)(4)(L)) is amended—

(A) by inserting after “A subsection (d) hospital (as defined in section 1886(d)(1)(B) of the Social Security Act)” the following: “or a children's hospital described in section 1886(d)(1)(B)(iii) of such Act”; and

(B) in clause (ii), by inserting “or, in the case of such a children's hospital, as would be determined under such section if the hospital were such a subsection (d) hospital” after “section 1886(d)(5)(F) of the Social Security Act”.

(2) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to drugs purchased on or after the date of the enactment of this Act.

**SA 2395.** Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill S. 1932, to provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95); which was ordered to lie on the table; as follows:

On page 368, between lines 5 and 6, insert the following:

**SEC. 6116. MINIMUM UPDATE FOR PHYSICIANS' SERVICES FOR 2007.**

(a) MINIMUM UPDATE FOR 2007.—

(1) IN GENERAL.—Section 1848(d) (42 U.S.C. 1395w-4(d)), as amended by section 6105, is amended by adding at the end the following new paragraph:

“(8) UPDATE FOR 2007.—The update to the single conversion factor established in paragraph (1)(C) for 2007 shall be not less than 2.5 percent.”.

(2) CONFORMING AMENDMENT.—Section 1848(d)(4)(B) (42 U.S.C. 1395w-4(d)(4)(B)), as

amended by section 6105, is amended, in the matter preceding clause (i), by striking “and (7)” and inserting “(7), and (8)”.

(3) NOT TREATED AS CHANGE IN LAW AND REGULATION IN SUSTAINABLE GROWTH RATE DETERMINATION.—The amendments made by this subsection shall not be treated as a change in law for purposes of applying section 1848(f)(2)(D) of the Social Security Act (42 U.S.C. 1395w-4(f)(2)(D)).

(b) OFFSETS.—

(1) CARVE-OUT OF THE INDIRECT COSTS OF MEDICAL EDUCATION AND DISPROPORTIONATE SHARE PAYMENTS FROM THE ADJUSTED AVERAGE PER CAPITA COST FOR PURPOSES OF CALCULATING THE ANNUAL MEDICARE ADVANTAGE CAPITATION RATE.—Section 1853(c)(1)(D)(i) (42 U.S.C. 1395w-23(c)(1)(D)(i)) is amended by inserting “and (beginning with 2007) subparagraphs (B) and (F) of section 1886(d)(5)” before the period at the end.

(2) ELIMINATION OF ADD-ON PAYMENT UNDER PHASE-OUT OF RISK ADJUSTMENT BUDGET NEUTRALITY UNDER MEDICARE ADVANTAGE PROGRAM.—Section 1853(k), as added by section 6111(a) of this Act, is amended—

(A) in paragraph (1), in the matter preceding subparagraph (A), by striking “subject to paragraph (2);”;

(B) by striking paragraph (2);

(C) by redesignating paragraph (3) as paragraph (2); and

(D) in paragraph (2)(A), as so redesignated, by striking “Except for the adjustment provided for in paragraph (2), the” and inserting “The”.

**SA 2396.** Mr. REED (for himself, Mr. DODD, and Mr. CORZINE) submitted an amendment intended to be proposed by him to the bill S. 1932, to provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95); which was ordered to lie on the table; as follows:

On page 86, strike line 22 and all that follows through page 90, line 19.

**SA 2397.** Mr. SUNUNU submitted an amendment intended to be proposed by him to the bill S. 1932, to provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95); which was ordered to lie on the table; as follows:

Beginning on page 175, strike line 23 and all that follows through page 181, line 4, and insert the following:

(a) EMERGENCY HEALTH CARE RELIEF FOR EVACUEES OF HURRICANE KATRINA.—

(1) DEFINITIONS.—In this subsection:

(A) AFFECTED STATE.—The term “affected State” means Louisiana, Alabama, or Mississippi.

(B) DISASTER PARISHES AND COUNTIES.—The term “Disaster parishes and counties” means a parish in the State of Louisiana, or a county in the State of Mississippi or Alabama, for which a major disaster has been declared in accordance with section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170) as a result of Hurricane Katrina and which the President has determined, before September 14, 2005, warrants individual and public assistance from the Federal Government under such Act.

(C) EVACUEES OF HURRICANE KATRINA.—The term “Evacuees of Hurricane Katrina” means individuals who had a primary residence in a Disaster parish or county for the 30-day period immediately prior to August 24, 2005.

(D) STATE MEDICAID PLAN.—The term “State Medicaid plan” means a State plan for medical assistance under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.), including any medical assistance provided under a waiver of such plan.

(2) AUTHORITY TO ADJUST FEDERAL MATCHING PAYMENTS FOR AFFECTED STATES.—

(A) ADJUSTMENT RELATED TO AFFECTED STATES.—Notwithstanding section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)), during the period beginning on August 24, 2005, and ending on June 30, 2006, the Secretary may increase the Federal matching percentage otherwise applicable to an affected State under section 1903(a) of such Act (42 U.S.C. 1396b(a)) in order for such State to fund medical assistance consisting of medically necessary health care services and supplies, and associated administrative costs, for Evacuees of Hurricane Katrina present in the State who are determined eligible for temporary Medicaid eligibility status under a Hurricane Katrina Multistate demonstration waiver approved by the Secretary under section 1115 of the Social Security Act (42 U.S.C. 1315).

(B) ADJUSTMENTS FOR AFFECTED STATE FOR OBLIGATIONS FOR CARE PROVIDED TO EVACUEES OF HURRICANE KATRINA BY OTHER STATES.—Notwithstanding section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)), during the period beginning on August 24, 2005, and ending on June 30, 2006, if any affected State incurs an obligation for the State share of medical assistance for medically necessary services or supplies, and associated administrative costs, provided for Evacuees of Hurricane Katrina who are determined eligible for temporary Medicaid eligibility status under a Hurricane Katrina Multistate demonstration waiver approved under section 1115 of such Act for the affected State or another State, the Secretary may increase the Federal matching percentage otherwise applicable under section 1903(a) of such Act (42 U.S.C. 1396b(a)) to relieve such affected State from such obligation.

(3) UNCOMPENSATED CARE POOLS.—In the case of States with approved Hurricane Katrina Multistate demonstration waivers under section 1115 of the Social Security Act (42 U.S.C. 1315) that fund uncompensated health care, and associated administrative costs for Evacuees of Hurricane Katrina, the Secretary may provide reimbursement to such States for costs incurred during the period beginning on August 24, 2005, and ending on January 31, 2006, for—

(A) the cost of medically necessary health care services or supplies, and associated administrative costs provided for such Evacuees—

(i) who do not have health insurance coverage; or

(ii) who have been determined eligible for temporary Medicaid eligibility status under such a waiver but who receive medically necessary services or supplies that are not covered by the State Medicaid plan of the State in which such determination has been made; and

(B) monthly premium payments made directly to private health insurers on behalf of such Evacuees that have private health insurance coverage but are in need of financial assistance for the payment of such premiums.

(4) COMMUNITY HEALTH CENTER GRANTS.—

(A) IN GENERAL.—The Secretary may provide grants to existing health centers (within the meaning of section 330(a)(1) of the Public Health Service Act (42 U.S.C. 254b(a)(1)) located in Alabama, Arkansas, Georgia, Louisiana, Mississippi, and Texas for health care services provided to Evacuees of Hurricane Katrina.

(B) PREFERENCE.—In awarding grants under this paragraph, the Secretary shall give preference to health centers that are located in Disaster Parishes and Counties or which are serving a high percentage of Evacuees of Hurricane Katrina, as determined by the Secretary.

(5) FUNDING.—

(A) IN GENERAL.—Not later than 10 days after the date of enactment of this Act, the Secretary of Homeland Security shall transfer from amounts provided to the Department of Homeland Security under the Second Emergency Supplemental Appropriations Act to Meet Immediate Needs Arising from the Consequences of Hurricane Katrina, 2005 (Public Law 109-62, 119 Stat 1990, 1991) and designated “Disaster Relief” to the Secretary of Health and Human Services—

(i) the amount the Secretary of Health and Human Services determines is necessary for the purpose of carrying out paragraph (2); and

(ii) an amount, not to exceed \$800,000,000, the Secretary of Health and Human Services determines is necessary for the purpose of carrying out paragraphs (3) and (4).

(B) AVAILABILITY OF FUNDS.—Funds provided under subparagraph (A)(ii) for purposes of carrying out paragraphs (3) and (4) shall remain available for use by the Secretary until October 1, 2006, after which time, the unexpended balance, if any, shall revert to the Federal Treasury.

(b) FMAP ADJUSTMENT.—Notwithstanding the first

**SA 2398.** Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill S. 1932, to provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95); which was ordered to lie on the table; as follows:

On page 188, after line 24, add the following:

**SEC. 6037. LIMITATION ON SEVERE REDUCTION IN THE MEDICAID FMAP FOR FISCAL YEAR 2006.**

(a) LIMITATION ON REDUCTION.—

(1) IN GENERAL.—In no case shall the FMAP for a State for fiscal year 2006 be less than the greater of the following:

(A) 2005 FMAP DECREASED BY THE APPLICABLE PERCENTAGE POINTS.—The FMAP determined for the State for fiscal year 2005, decreased by—

(i) 0.1 percentage points in the case of Delaware and Michigan;

(ii) 0.3 percentage points in the case of Kentucky; and

(iii) 0.5 percentage points in the case of any other State.

(B) COMPUTATION WITHOUT RETROACTIVE APPLICATION OF REBENCHMARKED PER CAPITA INCOME.—The FMAP that would have been determined for the State for fiscal year 2006 if the per capita incomes for 2001 and 2002 that was used to determine the FMAP for the State for fiscal year 2005 were used.

(2) SCOPE OF APPLICATION.—The FMAP applicable to a State for fiscal year 2006 after the application of paragraph (1) shall apply only for purposes of titles XIX and XXI of the Social Security Act (including for purposes of making disproportionate share hospital payments described in section 1923 of such Act (42 U.S.C. 1396r-4) and payments under such titles that are based on the enhanced FMAP described in section 2105(b) of such Act (42 U.S.C. 1397ee(b))) and shall not apply with respect to payments under title IV of such Act (42 U.S.C. 601 et seq.).

(3) DEFINITIONS.—In this subsection:

(A) FMAP.—The term “FMAP” means the Federal medical assistance percentage, as

defined in section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)).

(B) STATE.—The term “State” has the meaning given such term for purposes of title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

(4) REPEAL.—Effective as of October 1, 2006, this subsection is repealed and shall not apply to any fiscal year after fiscal year 2006.

(b) DECREASE IN ADD-ON PAYMENT UNDER PHASE-OUT OF RISK ADJUSTMENT BUDGET NEUTRALITY UNDER MEDICARE ADVANTAGE PROGRAM.—Subparagraph (C) of section 1853(k)(2), as added by section 6111(a) of this Act, is amended to read as follows:

“(C) APPLICABLE PERCENT.—For purposes of subparagraph (A)(ii), the term ‘applicable percent’ means—

- “(i) for 2007, 55 percent;
- “(ii) for 2008, 25 percent;
- “(iii) for 2009, 15 percent; and
- “(iv) for 2010, 0 percent.”

**SA 2399.** Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill S. 1932, to provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95); which was ordered to lie on the table; as follows:

On page 181, strike lines 4 through 15 and insert the following:

(c) FMAP ADJUSTMENT.—Notwithstanding the first sentence of section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)), if, for purposes of titles XIX and XXI of the Social Security Act (42 U.S.C. 1396 et seq., 1397aa et seq.), the Federal medical assistance percentage determined for a State for fiscal year 2006 is less than the Federal medical assistance percentage determined for the State for fiscal year 2005, the Federal medical assistance percentage determined for the State for fiscal year 2005 shall be substituted for the Federal medical assistance percentage otherwise determined for the State for fiscal year 2006.

(d) DECREASE IN ADD-ON PAYMENT UNDER PHASE-OUT OF RISK ADJUSTMENT BUDGET NEUTRALITY UNDER MEDICARE ADVANTAGE PROGRAM.—Subparagraph (C) of section 1853(k)(2), as added by section 6111(a) of this Act, is amended to read as follows:

“(C) APPLICABLE PERCENT.—For purposes of subparagraph (A)(ii), the term ‘applicable percent’ means—

- “(i) for 2007, 55 percent;
- “(ii) for 2008, 15 percent;
- “(iii) for 2009, 0 percent; and
- “(iv) for 2010, 0 percent.”

**SA 2400.** Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill S. 1932, to provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95); which was ordered to lie on the table; as follows:

On page 101, strike lines 12 through 19 and insert the following:

(d) RECEIPTS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, of the amount of adjusted bonus, rental, and royalty receipts derived from oil and gas leasing and operations authorized under this section—

(A) 50 percent shall be paid to the State of Alaska; and

(B) the balance shall be deposited into the Treasury as miscellaneous receipts.

(2) JUDICIAL REVIEW.—

(A) IN GENERAL.—Any civil action brought by the State of Alaska to compel an increase

in the percentage of revenues to be paid under paragraph (1) shall be filed not later than 90 days after the date of enactment of this Act.

(B) LIMITATION.—

(i) IN GENERAL.—If a civil action is filed by the State of Alaska under subparagraph (A), until such time as a final nonappealable order is issued with respect to the civil action and notwithstanding any other provision of law—

(I) production of oil and gas from the Arctic National Wildlife Refuge is prohibited;

(II) no action shall be taken to establish or implement the competitive oil and gas leasing program authorized under this title; and

(III) no leasing or other development leading to the production of oil or gas from the Arctic National Wildlife Refuge shall be undertaken.

(ii) FINAL ORDER.—If the court issues a final nonappealable order with respect to a civil action filed under subparagraph (A) that increases the percentage of revenues to be paid to the State of Alaska—

(I) production of oil and gas from the Arctic National Wildlife Refuge is prohibited; and

(II) no leasing or other development leading to the production of oil or gas from the Arctic National Wildlife Refuge shall be undertaken.

**SA 2401.** Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 1932, to provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95); which was ordered to lie on the table; as follows:

On page 741, strike lines 1 and 2 and insert the following:

(5) in paragraph (7), as redesignated by paragraph (1), by striking “Act; and” and inserting “Act, and means a nonprofit private educational institution in the Middle East that meets the provisions of paragraphs (1), (3), (4), and (5) of section 101(a) as of the date of enactment of the Higher Education Amendments of 2005;”;

**AUTHORITIES FOR COMMITTEES TO MEET**

**COMMITTEE ON COMMERCE, SCIENCE AND TRANSPORTATION**

Mr. SUNUNU. Mr. President: I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Wednesday, November 2, 2005, at 2:30 p.m., in SH-216, on pending Committee business.

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

**COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS**

Mr. SUNUNU. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet on Wednesday, November 2 at 9:30 a.m. The Committee on Environment and Public Works will hold the second in a series of two hearings to receive testimony on the response to Hurricane Katrina.

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

**COMMITTEE ON FOREIGN RELATIONS**

Mr. SUNUNU. Mr. President, I ask unanimous consent that the Com-

mittee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, November 2, 2005, at 3 p.m. to hold a hearing on U.S.-India Nuclear Energy Cooperation.

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

**COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS**

Mr. SUNUNU. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet on Wednesday, November 2, 2005, at 9:30 a.m. for a hearing entitled, “Hurricane Katrina: Why Did the Levees Fail?”

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

**COMMITTEE ON INDIAN AFFAIRS**

Mr. SUNUNU. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Wednesday, November 2, 2005, at 9:30 a.m. in Room 216 of the Hart Senate Office Building to conduct an oversight hearing on the In Re Tribal Lobbying Matters, Et Al.

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

**SELECT COMMITTEE ON INTELLIGENCE**

Mr. SUNUNU. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meeting during the session of the Senate on Wednesday, November 2, 2005, at 2:30 p.m. to hold a closed hearing.

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

**SUBCOMMITTEE ON THE CONSTITUTION, CIVIL RIGHTS, AND PROPERTY RIGHTS**

Mr. SUNUNU. Mr. President, I ask unanimous consent that the Subcommittee on the Constitution, Civil Rights and Property Rights be authorized to meet to conduct a markup on Wednesday, November 2, 2005, at 2:30 p.m. in Dirksen 226.

**Agenda:**

S.J. Res. 1, the Marriage Protection Amendment.

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

**SUBCOMMITTEE ON PUBLIC LANDS AND FORESTS**

Mr. SUNUNU. Mr. President, I ask unanimous consent the Subcommittee on Public Lands and Forests be authorized to meet during the session of the Senate on Wednesday, November 2 at 2 p.m. The purpose of the hearing is to receive testimony on S. 1541, to protect, conserve, and restore public lands administered by the Department of the Interior or the Forest Service and adjacent land through cooperative cost-share grants to control and mitigate the spread of invasive species, and for other purposes; S. 1548, to provide for the conveyance of certain forest service land to the city of Coffman Cove, Alaska; S. 1552, to amend public law 97-

435 to extend the authorization for the Secretary of the Interior to release certain conditions contained in a patent

concerning certain lands conveyed by the United States to Eastern Washington University until December 31, 2009; H.R. 482, to provide for a land exchange involving Federal lands in the Lincoln National Forest in the State of New Mexico; and S. 405, a bill to provide for the conveyance of certain public land in Clark County, Nevada, for use as a heliport.

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

**PRIVILEGES OF THE FLOOR**

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that Senator JEFFORDS' staff member, Brian Keefe, be granted floor privileges during the debate on the Cantwell Arctic Refuge amendment.

I thank the Chair and yield the floor.

Mr. GRASSLEY. Madam President, I ask unanimous consent that the following Senate Finance Committee interns and fellows be granted the privileges of the floor during consideration of the Deficit Reduction Omnibus Reconciliation Act of 2005: Brad Behan, Melissa Atkinson, and Catriona Johnson.

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

Mr. HARKIN. Mr. President, I ask unanimous consent that Matt Ryno of my staff be granted floor privileges for the duration of today's session.

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

Mr. SMITH. Mr. President, I ask unanimous consent that Paul Ross of my staff be given floor privileges.

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

**EXPRESSING THE SENSE OF THE SENATE ON THE ARREST OF SANJAR UMAROV IN UZBEKISTAN**

Mr. BENNETT. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of S. Res. 295, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 295) expressing the sense of the Senate on the arrest of Sanjar Umarov in Uzbekistan.

There being no objection, the Senate proceeded to consider the resolution.

Mr. BENNETT. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

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

The resolution (S. Res. 295) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows: